

WESTERN AUSTRALIA

# LEGISLATIVE ASSEMBLY

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## VOTES AND PROCEEDINGS

No. 173

FIRST SESSION OF THE FORTIETH PARLIAMENT

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TUESDAY, 10 DECEMBER 2019

### 1. Meeting of Assembly

The Assembly met at 12.00 noon pursuant to adjournment.

The Speaker took the Chair.

An Acknowledgement of Country and Prayers were read.

### 2. Petitions

Bus Route 352 – Ms M.M. Quirk presented a petition from 136 people asking the Legislative Assembly to consider the retention of the existing bus route 352, which includes bus stops in Regency Avenue in Madeley (P. 166).

Western Beach at Port Geographe – Ms L. Mettam presented a petition from 1,047 people asking the Legislative Assembly to call on the State Government and the Department of Transport to commence removal of the unnaturally trapped seagrass wrack currently present at the western beach at Port Geographe and implement measures to ensure the trapping of seagrass wrack is minimised in future years. (P. 167).

### 3. Papers

The following papers were presented and ordered to lie upon the Table of the House –

By the Clerk –

Auditor General, Office of the – Fee-Setting by the Department of Primary Industries and Regional Development and Western Australia Police Force (Received by the Clerk of the Legislative Assembly and deemed tabled on 4 December 2019) (3065).

Building and Construction Industry Training Fund and Levy Collection Act 1990 – Statutory Review October 2019 (3066).

Communities, Department of – Disability Access and Inclusion Plan (DAIP) Progress report for 2018–19 (3067).

Fish Resources Management Act 1994 – Regulations (Fish Resources Management Amendment Regulations (No. 3) 2019 G.G. 29/11/2019) (3068).

Government of Western Australia – Quarterly Financial Results Report, September 2019 (3069).

Industrial Relations Act 1979 – Regulations (Industrial Relations Commission Amendment Regulations (No. 2) 2019 G.G. 29/11/2019) (3070).

Justice, Department of – Review of the Criminal Property Confiscation Act 2000 (WA) by the Hon Wayne Martin AC QC – May 2019 (3071).

Justice, Department of – Statutory Review of the Criminal Organisations Control Act 2012 – Final Report 4 October 2019 (3072).

Liquor Control Act 1988 – Regulations (Liquor Control (Bayulu Restricted Area) Amendment Regulations (No. 2) 2019 G.G. 29/11/2019) (3073).

Liquor Control Act 1988 – Regulations (Racing and Gaming Regulations Amendment (Liquor Control) Regulations (No. 2) 2019 G.G. 29/11/2019) (3074).

Mines, Industry Regulation and Safety, Department of – Inquiry into Wage Theft in Western Australia – June 2019 (3075).

Mines, Industry Regulations and Safety, Department of – Government Response to the inquiry into Wage Theft in Western Australia (Government Response) (3076).

Official Travel – Report of Overseas Air Travel undertaken by Ministers, Parliamentary Secretaries and Government Officers on Official Business for the Three Months Ended 30 June 2019 (3078).

Official Travel – Report of Overseas Air Travel undertaken by Ministers, Parliamentary Secretaries and Government Officers on Official Business for the Three Months Ended 31 March 2019 (3077).

Police Act 1892 – Regulations (Police (Medical Retirement) Regulations 2019 G.G. 29/11/2019) (3079).

Police Act 1892 – Regulations (Police Force Amendment Regulations (No. 3) 2019 G.G. 29/11/2019) (3080).

Professional Standard Council of WA – Financial Statements for the year ended 30 June 2019 (3081).

Public Sector Commission – State of the Western Australian Government Sector Workforce 2018–19 (3083).

#### **4. Correction to Tabled Paper**

The Speaker announced that he had authorised corrections to the following Tabled Paper tabled on 25 September 2019 –

Premier and Cabinet, Department of – Annual Report 2018–2019 (2799).

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#### *Paper*

The following paper was presented and ordered to lie upon the Table of the House –

By the Speaker –

Premier and Cabinet, Department of – Annual Report 2018–2019 – Erratum (3084).

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#### **5. Removal of Orders of the Day**

The Speaker advised that Private Members' Business Order of the Day, McGowan Government's First Two Parliamentary Years, and Government Business Order of the Day, Mining Amendment (Procedures and Validation) Bill 2018, had not been debated for more than 12 calendar months and had been removed from the Notice Paper.

The Speaker further advised that a bill removed under this Standing Order may be restored by motion to the point it had reached prior to its removal.

#### **6. Voluntary Assisted Dying Bill 2019**

Message No. 99 dated 5 December 2019 from the Legislative Council was reported as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Voluntary Assisted Dying Bill 2019* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

*Schedule indicating the amendments made by the Legislative Council in the Voluntary Assisted Dying Bill 2019*

**No. 1**

Clause 4, page 3, after line 16 — To insert:

- (ha) a person who is a regional resident is entitled to the same level of access to voluntary assisted dying as a person who lives in the metropolitan region;

**No. 2**

Clause 4, page 3, line 18 — To delete “abuse;” and insert:

abuse or coercion;

**No. 3**

Clause 5, page 6, after line 6 — To insert:

***metropolitan region*** has the meaning given in the *Planning and Development Act 2005* section 4(1);

**No. 4**

Clause 5, page 6, after line 10 — To insert:

***palliative care and treatment*** means care and treatment that —

- (a) is provided to a person who is diagnosed with a disease, illness or medical condition that is progressive and life-limiting; and
- (b) is directed at preventing, identifying, assessing, relieving or treating the person’s pain, discomfort or suffering in order to improve their comfort and quality of life;

**No. 5**

Clause 5, page 7, after line 20 — To insert:

***regional resident*** means a person who ordinarily resides in an area of Western Australia that is outside the metropolitan region;

**No. 6**

New Clause 9A, page 10, after line 5 — To insert:

9A. Health care worker not to initiate discussion about voluntary assisted dying

- (1) In this section —

***health care worker*** means —

- (a) a registered health practitioner; or

- (b) any other person who provides health services or professional care services.
- (2) A health care worker who provides health services or professional care services to a person must not, in the course of providing the services to the person —
  - (a) initiate discussion with the person that is in substance about voluntary assisted dying; or
  - (b) in substance, suggest voluntary assisted dying to the person.
- (3) Nothing in subsection (2) prevents a medical practitioner or nurse practitioner from doing something referred to in subsection (2)(a) or (b) if, at the time it is done, the medical practitioner or nurse practitioner also informs the person about the following —
  - (a) the treatment options available to the person and the likely outcomes of that treatment; and
  - (b) the palliative care and treatment options available to the person and the likely outcomes of that care and treatment.
- (4) Nothing in subsection (2) prevents a health care worker from providing information about voluntary assisted dying to a person at the person's request.
- (5) A contravention of subsection (2) by a registered health practitioner is unprofessional conduct for the purposes of the *Health Practitioner Regulation National Law (Western Australia)*.
- (6) Subsection (5) overrides section 10(1).
- (7) A contravention of subsection (2) by a provider, as defined in the *Health and Disability Services (Complaints) Act 1995* section 3(1), is taken to be unreasonable conduct described in section 25(1)(c) of that Act.

## No. 7

Clause 11, page 10, line 16 — To delete “commit” and insert:

die by

## No. 8

Clause 16, page 13, line 19 to page 14, line 2 — To delete the lines and insert:

- (2) A medical practitioner is eligible to act as a coordinating practitioner or consulting practitioner for a patient if —
  - (a) the medical practitioner —
    - (i) holds specialist registration, has practised the medical profession for at least 1 year as the holder of specialist registration and meets the requirements approved by the CEO for the purposes of this subparagraph; or
    - (ii) holds general registration, has practised the medical profession for at least 10 years as the holder of general registration and meets the requirements approved by the CEO for the purposes of this subparagraph; or
    - (iii) is an overseas-trained specialist who holds limited registration or provisional registration and meets the requirements approved by the CEO for the purposes of this subparagraph;

and

- (b) the medical practitioner is not a family member of the patient; and
- (c) the medical practitioner does not know or believe that the practitioner —
  - (i) is a beneficiary under a will of the patient; or
  - (ii) may otherwise benefit financially or in any other material way from the death of the patient, other than by receiving reasonable fees for the provision of services as the coordinating practitioner or consulting practitioner for the patient.

**No. 9**

Clause 16, page 14, line 4 — To delete “subsection (2)(a), (b) and (c)” and insert:

subsection (2)(a)(i), (ii) and (iii)

**No. 10**

Clause 17, page 14, after line 11 — To insert:

- (aa) made during a medical consultation; and

**No. 11**

Clause 23, page 17, after line 12 — To insert:

- (3) Nothing in this section prevents the coordinating practitioner from having regard to relevant information about the patient that has been prepared by, or at the instigation of, another registered health practitioner.

**No. 12**

Clause 25, page 18, after line 8 — To insert:

- (5) A registered health practitioner or other person to whom the patient is referred under subsection (2) or (3) must not be —
  - (a) a family member of the patient; or
  - (b) a person who knows or believes that they —
    - (i) are a beneficiary under a will of the patient; or
    - (ii) may otherwise benefit financially or in any other material way from the death of the patient, other than by receiving reasonable fees for the provision of services in connection with the referral.

**No. 13**

Clause 26, page 19, line 13 — To delete “or,” and insert:

and,

**No. 14**

Clause 28, page 20, after line 7 — To insert:

- (2A) As soon as practicable after completing the first assessment report form, the coordinating practitioner must give a copy of it to the patient.

**No. 15**

Clause 28, page 20, after line 14 — To insert:

- (v) whether the patient's first language is a language other than English;
- (vi) whether the coordinating practitioner engaged an interpreter in accordance with section 160(2) to communicate the information in section 26 to the patient;

**No. 16**

Clause 28, page 20, line 27 — To delete "referral;" and insert:

referral (including a copy of any report given by the registered health practitioner or other person to whom the patient was referred);

**No. 17**

Clause 28, page 20, after line 27 — To insert:

- (ia) if the patient was assisted by an interpreter when having the first assessment, the name, contact details and accreditation details of the interpreter;

**No. 18**

Clause 28, page 20, after line 27 — To insert:

- (ia) the palliative care and treatment options available to the patient and the likely outcomes of that care and treatment;

**No. 19**

Clause 34, page 23, after line 10 — To insert:

- (3) For the purposes of subsection (1), the consulting practitioner must independently of the coordinating practitioner form their own opinions on the matters to be decided.

**No. 20**

Clause 34, page 23, after line 10 — To insert:

- (4) Nothing in this section prevents the consulting practitioner from having regard to relevant information about the patient that has been prepared by, or at the instigation of, another registered health practitioner.

**No. 21**

Clause 36, page 24, after line 5 — To insert:

- (5) A registered health practitioner or other person to whom the patient is referred under subsection (2) or (3) must not be —
  - (a) a family member of the patient; or
  - (b) a person who knows or believes that they —
    - (i) are a beneficiary under a will of the patient; or
    - (ii) may otherwise benefit financially or in any other material way from the death of the patient, other than by receiving reasonable fees for the provision of services in connection with the referral.

**No. 22**

Clause 39, page 25, after line 2 — To insert:

- (2A) As soon as practicable after completing the consulting assessment report form, the consulting practitioner must give a copy of it to the patient.

**No. 23**

Clause 39, page 25, line 25 — To delete “referral;” and insert:

referral (including a copy of any report given by the registered health practitioner or other person to whom the patient was referred);

**No. 24**

Clause 39, page 25, after line 25 — To insert:

- (ka) if the patient was assisted by an interpreter when having the consulting assessment, the name, contact details and accreditation details of the interpreter;

**No. 25**

Clause 39, page 25, after line 25 — To insert:

- (ka) the palliative care and treatment options available to the patient and the likely outcomes of that care and treatment;

**No. 26**

Clause 41, page 26, after line 25 — To insert:

- (ia) if the patient was assisted by an interpreter, the name, contact details and accreditation details of the interpreter;

**No. 27**

Clause 41, page 27, line 7 — To delete “declaration.” and insert:

- declaration; and
- (iii) is not the coordinating practitioner or consulting practitioner for the patient making the declaration.

**No. 28**

Clause 49, page 30, after line 31 — To insert:

- (ea) if the patient was assisted by an interpreter when making the final request, the name, contact details and accreditation details of the interpreter;

**No. 29**

Clause 50, page 31, after line 29 — To insert:

- (da) if the patient was assisted by an interpreter, the name, contact details and accreditation details of the interpreter;

**No. 30**

Clause 53, page 33, line 17 — To delete “training.” and insert:

- training; and
- (c) the person is not a family member of the patient; and
- (d) the person does not know or believe that they —
  - (i) are a beneficiary under a will of the patient; or
  - (ii) may otherwise benefit financially or in any other material way from the death of the patient, other than by receiving reasonable fees for the provision of services as the administering practitioner for the patient.

**No. 31**

Clause 55, page 34, line 22 — To insert after “assisted”:

dying

**No. 32**

Clause 56, page 36, after line 12 — To insert:

- (ea) if the patient was assisted by an interpreter when revoking the administration decision, the name, contact details and accreditation details of the interpreter;

**No. 33**

Clause 59, page 39, after line 12 — To insert:

- (fa) if the patient was assisted by an interpreter when making the administration decision, the name, contact details and accreditation details of the interpreter;

**No. 34**

Clause 60, page 40, lines 9 and 10 — To delete the lines and insert:

- (d) the date, time and location where the prescribed substance was administered;
- (da) the date and time of the patient's death;
- (db) the period of time that lapsed between the administration of the prescribed substance and the patient's death;
- (dc) details of any complications relating to the administration of the prescribed substance;

**No. 35**

Clause 61, page 41, line 5 — To insert after “appeared to be”:

free, voluntary and

**No. 36**

Clause 62, page 41, line 17 — To insert after “unable”:

or unwilling

**No. 37**

Clause 65, page 44, line 3 — To delete “disposer);” and insert:

disposer and the penalties for offences under that section);

**No. 38**

Clause 65, page 44, after line 3 — To insert:

- (ea) if the patient was assisted by an interpreter when making the appointment, the name, contact details and accreditation details of the interpreter;

**No. 39**

Clause 65, page 44, line 11 — To delete “patient.” and insert:

patient if —

- (a) the patient directs the person to complete the contact person appointment form; and
- (b) the person has reached 18 years of age.

**No. 40**

Clause 68, page 45, after line 20 — To insert:

(1A) In this section —

*Schedule 4 poison* and *Schedule 8 poison* have the meanings given in the *Medicines and Poisons Act 2014* section 3.

**No. 41**

Clause 68, page 45, after line 24 — To insert:

- (aa) the Schedule 4 poison or Schedule 8 poison, or combination of those poisons, constituting the substance;

**No. 42**

Clause 68, page 46, after line 4 — To insert:

- (da) the method by which the substance will be self-administered;
- (db) the expected effects of self-administration of the substance;
- (dc) the period within which the patient is likely to die after self-administration of the substance;
- (dd) the potential risks of self-administration of the substance;

**No. 43**

Clause 68, page 46, after line 14 — To insert:

- (aa) the Schedule 4 poison or Schedule 8 poison, or combination of those poisons, constituting the substance;

**No. 44**

Clause 68, page 46, after line 16 — To insert:

- (ab) the method by which the substance will be administered;
- (ac) the expected effects of administration of the substance;

- (ad) the period within which the patient is likely to die after administration of the substance;
- (ae) the potential risks of administration of the substance;

**No. 45**

Clause 72, page 49, lines 6 and 7 — To delete “patient to whom it is supplied or their contact person.” and insert:

contact person for the patient to whom it is supplied.

**No. 46**

Clause 96, page 64, after line 23 — To insert:

- (da) a former coordinating practitioner or consulting practitioner for the patient if the person is not a party to the proceeding;

**No. 47**

Clause 96, page 64, lines 25 and 26 — To delete “the administering practitioner for the patient.” and insert:

a person to whom the role has been transferred.

**No. 48**

Clause 106, page 70, after line 18 — To insert:

- (da) a former coordinating practitioner or consulting practitioner for the patient if the person is not a party to the proceeding;

**No. 49**

Clause 106, page 70, lines 20 and 21 — To delete “the administering practitioner for the patient.” and insert:

a person to whom the role has been transferred.

**No. 50**

Clause 107, page 70, after line 27, the Table the 1<sup>st</sup> row the 1<sup>st</sup> column — To delete:

s. 21(1)
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**No. 51**

Clause 113, page 74, line 12 — To delete “faith,” and insert:

faith and with reasonable care and skill,

**No. 52**

Clause 151, page 87, after line 12 — To insert:

- (ba) participation in the request and assessment process, and access to voluntary assisted dying, by patients who are regional residents;

**No. 53**

Clause 154, page 88, after line 19 — To insert:

- (ba) the number of any referrals made by the Board under section 117(c); and

**No. 54**

Clause 154, page 88, after line 27 — To insert:

- (f) information about the extent to which regional residents had access to voluntary assisted dying, including statistical information recorded and retained under section 151(1)(ba), and having regard to the access standard under section 154A.

**No. 55**

New Part 9A, page 89, after line 11 — To insert:

**Part 9A — Access standard**

**154A. Standard about access to voluntary assisted dying**

- (1) The CEO must issue a standard (the *access standard*) setting out how the State intends to facilitate access to voluntary assisted dying for persons ordinarily resident in Western Australia, including how the State intends to facilitate those persons' access to —
  - (a) the services of medical practitioners and other persons who carry out functions under this Act; and
  - (b) prescribed substances; and
  - (c) information about accessing voluntary assisted dying.
- (2) The access standard must specifically set out how the State intends to facilitate access to voluntary assisted dying for regional residents.
- (3) The CEO may modify or replace the access standard.
- (4) The CEO must publish the access standard on the Department's website.

Pursuant to motion, consideration in detail of Legislative Council Message No. 99 considered in detail forthwith.

## CONSIDERATION IN DETAIL

*Statement by the Minister for Health*

The Minister for Health advised he had requested that a marked up copy of the Voluntary Assisted Dying Bill 2019 incorporating the Legislative Council's amendments be made available to members. The Clerk made an internal working document of the Legislative Council available, but on the understanding that no guarantee could be given as to its accuracy and that Parliamentary Counsel's Office had made a cursory check of this version of the Bill and had identified some minor typographical and formatting errors.

The Minister for Health moved, That amendment No. 1 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 2 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 3 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 4 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 5 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 6 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 7 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 8 be agreed to.

Debate interrupted by the Chair and adjourned until a later stage of the sitting.

## 7. Questions

Questions without Notice were taken.

Questions on Notice Nos 5850 to 5944 were asked.

Questions on Notice Nos 5468, 5469, 5501, 5592, 5632, 5647, 5654, 5658 and 5660 were answered.

Paper tabled by the Minister for Water –

Question on Notice No. 5632 – Water Corporation – PRA Business Case, June 2019 (3082).

## 8. Unanswered Questions on Notice

The following members asked why no answer had been received in respect of their Questions on Notice –

Mr W.R. Marmion – Questions on Notice Nos 5487 to 5495, 5524 and 5526 to 5573.

Ms M.J. Davies – Questions on Notice Nos 5709 to 5713.

Mr V.A. Catania – Question on Notice No. 5706.

Mr D.C. Nalder – Question on Notice No. 5714.

Mr P.A. Katsambanis – Question on Notice No. 5704.

## 9. Variation to the Order of Business

Ordered, That consideration of Legislative Council Message No. 99 be resumed.

# **10. Voluntary Assisted Dying Bill 2019**

The Order of the Day for the further consideration in detail of Legislative Council Message No. 99 was read.

## *CONSIDERATION IN DETAIL*

The Minister for Health had moved, That amendment No. 8 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 9 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 10 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 11 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 12 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 13 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 14 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 15 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 16 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 17 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 18 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 19 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 20 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 21 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 22 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 23 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 24 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 25 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 26 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendment No. 27 be agreed to.

Amendment agreed to.

The Minister for Health moved, That amendments Nos 28 and 29 be agreed to.

Amendments agreed to.

The Minister for Health moved, That amendment No. 30 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendment No. 31 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendments Nos 32 and 33 be agreed to.  
Amendments agreed to.

The Minister for Health moved, That amendment No. 34 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendment No. 35 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendment No. 36 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendment No. 37 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendment No. 38 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendment No. 39 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendments Nos 40 to 44 be agreed to.  
Amendments agreed to.

The Minister for Health moved, That amendment No. 45 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendments Nos 46 to 49 be agreed to.  
Amendments agreed to.

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*Speaker's Statement – Media Presence*

The Speaker advised members that he had approved a media presence in the Chamber to take photographs and footage for the remainder of the consideration of the Legislative Council Message.

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The Minister for Health moved, That amendment No. 50 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendment No. 51 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendment No. 52 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendment No. 53 be agreed to.  
Amendment agreed to.

The Minister for Health moved, That amendments Nos 54 and 55 be agreed to.  
Amendments agreed to.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

## **11. Special Adjournment**

Mr D.R. Michael moved, That the House at its rising adjourn until Tuesday, 11 February 2020 at 2.00 pm.

Debate ensued.

Question put and passed.

**12. Adjournment**

Mr D.R. Michael moved, That the House do now adjourn.

Question put and passed.

The Assembly adjourned accordingly at 6.05 pm until Tuesday, 11 February 2020 at 2.00 pm.

*Members present during any part of the day's proceedings* – All the members except Mr I.C. Blayney, Ms J. Farrer, Mr R.S. Love and Mrs M.H. Roberts.

**KIRSTEN M. ROBINSON**  
Clerk of the Legislative Assembly

**HON. PETER WATSON**  
Speaker of the Legislative Assembly