



# LEGISLATIVE COUNCIL

## MINUTES OF THE PROCEEDINGS

### Nos. 70 and 71

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#### No. 70 — Tuesday, 15 September 2020

- 1 The President took the Chair at 11.36 a.m., read the Prayer and made an Acknowledgement of Country.
- 2 **ASSENT TO ACT** — The President read a Message from the Governor informing the Council that she had, on 8 September 2020, given the Royal Assent to the following Act presented to her by the Clerk of the Parliaments:  
*Public Health and Wellbeing Amendment (State of Emergency Extension and Other Matters) Act 2020.*
- 3 **JOINT SITTING — SENATE VACANCY** — The President read a Message from the Assembly informing the Council that they had agreed to meet the Council on Friday, 4 September 2020 for the purpose of sitting and voting together to choose a person to hold the place in the Senate rendered vacant by the resignation of Senator Richard Di Natale.  
The President reported that the House met with the Legislative Assembly on Friday, 4 September 2020 to choose a person to hold the seat in the Senate rendered vacant by the resignation of Senator Richard Di Natale and that Ms Lidia Thorpe was chosen to hold the vacant place in the Senate.
- 4 **PUBLIC HEALTH AND WELLBEING AMENDMENT (STATE OF EMERGENCY EXTENSION AND OTHER MATTERS) BILL 2020** — The President read a Message from the Assembly informing the Council that they have agreed to this Bill without amendment.
- 5 **COVID-19 COMMERCIAL AND RESIDENTIAL TENANCIES LEGISLATION AMENDMENT (EXTENSION) BILL 2020** — The President read a Message from the Assembly presenting *A Bill for an Act to amend the COVID-19 Omnibus (Emergency Measures) Act 2020 and the Residential Tenancies Act 1997 and to make consequential amendments to other Acts and for other purposes* and requesting the agreement of the Council.  
On the motion of Ms Pulford, the Bill was read a first time and, by leave, ordered to be read a second time later this day.
- 6 **TEMPORARY ORDERS — BUSINESS OF THE HOUSE** — Ms Symes moved, by leave, That Standing and Sessional Orders be suspended to the extent necessary to allow the following temporary arrangements to come into effect immediately and remain in place until the House resolves otherwise —
  1. **Definition of Chamber**
    - (1) The lower public galleries and lower side galleries and upper galleries (excluding the media gallery) are taken to be part of the Legislative Council Chamber.
    - (2) Protective Services Officers are permitted to enter the upper galleries and will not be considered a 'stranger' for the purposes of Standing Order 22.01.

## 2. Discretion in ringing the bells to form a quorum

- (1) At the start of each day a quorum of 14 Members must be present in the Chamber in order for the President to take the Chair and the sitting to proceed.
- (2) To assist with social distancing, the House gives the Chair further discretion in ringing the bells to form a quorum during the course of the sitting day under Standing Order 4.03(2), provided the Chair is confident that a quorum is present within the parliamentary precinct.

## 3. Order of Business today

The Order of Business today will be —

- Messages
- Formal Business
- Members' Statements (up to 15 Members)
- Questions
- Answers to Questions on Notice
- Constituency Questions (up to 15 Members)
- Government Business
- At 10.00 p.m.** Adjournment (up to 20 Members).

## 4. Order of Business on a Tuesday

The Order of Business on a Tuesday will be —

- Messages
- Formal Business
- Members' Statements (up to 15 Members)
- Government Business
- At 12.00 noon** Questions
- Answers to Questions on Notice
- Constituency Questions (up to 15 Members)
- Government Business (continues)
- At 10.00 p.m.** Adjournment (up to 20 Members).

## 5. Business that may be incorporated in Hansard

- (1) If a Member wishes to incorporate:
  - (a) Members' statements;
  - (b) constituency questions; and/or
  - (c) adjournment debate matters —they may provide them electronically to the Clerk (by email to [council@parliament.vic.gov.au](mailto:council@parliament.vic.gov.au)) by the adjournment of the House.
- (2) The Clerk may only accept matters up to the number usually given in the House and as allocated between the parties and independents, in conjunction with any matters verbally given in the House each day.
- (3) The House authorises and requires matters to be published in Hansard at the point in the proceedings/order of business that the item would have occurred and after any matters (if any) that have been given in the House.
- (4) All incorporated material to be published in Hansard is subject to the Hansard editorial policy.
- (5) If any submitted incorporated material contains unbecoming expressions or does not comply with the rules of debate, the President may direct that the matter be removed or amended before it is published.

## 6. Members may incorporate their speeches for Bills

- (1) If a Member wishes to incorporate their speech for the debate of the second reading of any Bills debated they must electronically provide their speech to the Clerk (by email to [council@parliament.vic.gov.au](mailto:council@parliament.vic.gov.au)) by the time the House adjourns on the day the Bill was debated.

- (2) Incorporated speeches will be published in Hansard after all second reading speeches made in the House (if any) for each Bill and before the Minister's reply (if any).
- (3) If any matter contains unbecoming expressions or does not comply with the rules of debate, the President may direct that the matter be removed or amended before it is published.

#### 7. Next sitting of the House

That the Council, at its rising on Wednesday, 16 September 2020, adjourn until Tuesday, 13 October 2020, at a time to be determined by the President, or an earlier or later day and hour to be fixed by the President in the week commencing Monday, 12 October 2020, and the President will notify Members of any changes to the next sitting date.

Debate ensued.

Question — put and agreed to.

#### 7 PETITIONS —

**REMOTE LEARNING FOR VCE STUDENTS DURING COVID-19 PANDEMIC** — Mr Atkinson presented a Petition bearing 17 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Department of Education and Training and the Department of Health and Human Services to take action to eliminate the potential risk of exposure to COVID-19 by continuing remote learning for all students, including VCE students, after the Stage 4 restrictions are lifted, until the threat of COVID-19 has passed completely and it is safe for students to return to face-to-face learning.

Ordered to lie on the Table.

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**ALLOW VICTIM-SURVIVORS TO SHARE THEIR STORIES** — Mr Atkinson presented a Petition bearing 1,191 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to further amend the *Judicial Proceedings Reports Act 1958* to allow victim-survivors to share their stories.

Ordered to lie on the Table.

On the motion of Mr Atkinson, the petition was ordered to be taken into consideration on the next day of meeting.

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**RECLASSIFY BEAUTY THERAPY AS AN ESSENTIAL SERVICE** — Dr Bach presented a Petition bearing 1,316 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to reclassify beauty salons and clinics as an essential service and allow these businesses to open in line with other essential businesses permitted to reopen under Stage 3 restrictions.

Ordered to lie on the Table.

On the motion of Dr Bach, the petition was ordered to be taken into consideration on the next day of meeting.

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**GUN LICENCES CANCELLATION DUE TO COVID-19 BREACHES** — Mr Bourman presented a Petition bearing 1,594 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to seek an explanation from Victoria Police as to who authorised the cancellation of gun licences of lawful firearm owners who have breached COVID-19 directives and why these breaches are being treated the same as a violent crime.

Ordered to lie on the Table.

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**COVID-SAFE PLAN FOR REOPENING GYMS** — Mr Finn presented a Petition bearing 10,539 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to create and implement a COVID-19 Safe Plan for Victorians to attend gyms in a safe and secure manner.

Ordered to lie on the Table.

On the motion of Mr Finn, the petition was ordered to be taken into consideration on the next day of meeting.

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**KIEWA VALLEY KINDERGARTEN COVID-19 FEE SUPPORT** — Ms Maxwell presented a Petition bearing 252 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to provide funding to Kiewa Valley Kindergarten under the School Readiness Funding initiative, to ensure they can continue to deliver early childhood education to their students during the COVID-19 pandemic.

Ordered to lie on the Table.

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**STOP CONVENIENCE KILLING OF VICTORIAN SHELTER ANIMALS** — Mr Meddick presented a Petition bearing 27,545 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to introduce legislation that implements mandatory public reporting of shelter animal euthanasia statistics, provides for mandatory rescue group access to all animals in pounds and shelters, and further prohibits euthanasia of animals in pounds and shelters where a rescue group is willing to take on its care, unless the animal is irremediably suffering or highly aggressive.

Ordered to lie on the Table.

- 8 PARLIAMENTARY COMMITTEES AMENDMENT (SARC PROTECTION AGAINST RIGHTS CURTAILMENT BY URGENT BILLS) BILL 2020** — Mr Davis introduced *A Bill for an Act to amend the Parliamentary Committees Act 2003 to enhance the role of the Scrutiny of Acts and Regulations Committee, and for other purposes.*

On the motion of Mr Davis, the Bill was read a first time and ordered to be read a second time on the next day of meeting.

**9 PAPERS** —

**SCRUTINY OF ACTS AND REGULATIONS COMMITTEE — ALERT DIGEST** — Pursuant to section 35 of the *Parliamentary Committees Act 2003*, Mr Gepp presented Alert Digest No. 8 of 2020 (including Appendices) from the Scrutiny of Acts and Regulations Committee.

Ordered to be published.

Mr Gepp moved, That the Council take note of the Report.

Debate ensued.

Question — put and agreed to.

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**PAPERS PURSUANT TO STATUTE** — The following Papers, pursuant to the directions of several Acts of Parliament, were laid on the Table by the Clerk:

Advancing the Treaty Process with Aboriginal Victorians Act 2018 — pursuant to section 43 of the Act —

Advancing the Victorian Treaty Process — Report, 2019-20.

First Peoples' Assembly of Victoria — Report, 2020.

Emergency Management Act 1986 — Report to Parliament on declaration of State of Disaster – Coronavirus (COVID-19) pandemic – Report 2, pursuant to section 23(7) of the Act.

Interpretation of Legislation Act 1984 — Notice pursuant to section 32(3) in relation to Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020 (Statutory Rule No. 48) (*Gazette No. G31, 6 August 2020*).

National Parks Act 1975 — Minister's notice of consent of 20 July 2020, pursuant to section 40 of the Act, in relation to LV Blue Metal Proprietary Limited to conduct operations within Tyers Park to search for stone under the *Mineral Resources (Sustainable Development) Act 1990*.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes —

Ballarat Planning Scheme — Amendment C211.

Banyule, Cardinia, Frankston, Hume, Manningham, Mornington Peninsula, Nillumbik and Whittlesea Planning Schemes — Amendment GC158.

- Bass Coast Planning Scheme — Amendment C153.  
Baw Baw Planning Scheme — Amendment C141.  
Campaspe Planning Scheme — Amendment C111.  
Casey Planning Scheme — Amendments C207 (Part 2) and C265.  
Central Goldfields Planning Scheme — Amendment C32.  
Glen Eira Planning Scheme — Amendment C205.  
Golden Plains Planning Scheme — Amendment C89.  
Greater Geelong Planning Scheme — Amendment C394.  
Greater Shepparton Planning Scheme — Amendment C221.  
Greater Shepparton, Hume, Mitchell, Strathbogie and Whittlesea Planning Schemes — Amendment GC135.  
Hepburn Planning Scheme — Amendment C79.  
Latrobe Planning Scheme — Amendment C92.  
Macedon Ranges Planning Scheme — Amendment C132.  
Maroondah Planning Scheme — Amendment C138.  
Melbourne Planning Scheme — Amendments C369, C372 and C397.  
Mitchell, Moyne, Pyrenees and Yarra Ranges Planning Schemes — Amendment GC171.  
Moonee Valley Planning Scheme — Amendments C193 and C210.  
Moorabool Planning Scheme — Amendment C86.  
Port Phillip Planning Scheme — Amendment C176.  
Stonnington Planning Scheme — Amendment C309.  
Whittlesea Planning Scheme — Amendment C233.  
Wyndham Planning Scheme — Amendments C219 and C239.  
Yarra Planning Scheme — Amendments C220 and C283.
- Statutory Rules under the following Acts of Parliament —  
City of Melbourne Act 2001 — Local Government Act 2020 — No. 92.  
Gambling Regulation Act 2003 — No. 90.  
Long Service Benefits Portability Act 2018 — No. 91.  
Supreme Court Act 1986 — Administration and Probate Act 1958 — No. 89.  
Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule Nos. 91 and 92.

**10 PRODUCTION OF DOCUMENTS — ORDERS MADE UNDER THE PUBLIC HEALTH AND WELLBEING ACT 2008** — The Clerk laid on the Table a letter from the Attorney-General, dated 14 September 2020, in response to the Resolution of the Council of 2 September 2020, relating to briefs relating to the public health and other orders made under the *Public Health and Wellbeing Act 2008* and other Acts, advising that there was insufficient time to respond and that a final response to the Order would be provided as soon as possible.

On the motion of Mr Davis, the Attorney-General's letter was ordered to be taken into consideration on the next day of meeting.

**11 BUSINESS OF THE COUNCIL** — Mr Davis moved, by leave, That precedence be given to the following General Business on Wednesday, 16 September 2020 —

- (1) Order of the Day for the second reading of the Parliamentary Committees Amendment (SARC Protection Against Rights Curtailment by Urgent Bills) Bill 2020;
- (2) Order of the Day for the resumption of debate on the Victorian Law Reform Commission Amendment Bill 2020;
- (3) the notice of motion given this day by Mr Grimley in relation to reporting of sexual offences;
- (4) the notice of motion given this day by Mr Limbrick in relation to opening schools to all students at the start of Term 4;
- (5) the notice of motion given this day by Mr Quilty in relation to COVID-19 restrictions in regional Victoria;
- (6) the notice of motion given this day by Mr Davis in relation to the production of documents relating to the decision to impose a curfew; and

(7) the notice of motion given this day by Mr Davis in relation to the impact of COVID-19 restrictions on small businesses.

Question — put and agreed to.

**12 MEMBERS' STATEMENTS** — Statements were made by Members pursuant to Standing Order 5.13 and further statements were received from Members for incorporation in Hansard pursuant to an Order of the Council earlier this day.

**13 QUESTIONS AND MINISTERS' STATEMENTS** — Questions without notice were taken and Ministers' Statements were made pursuant to Sessional Order 13.

Answers to certain questions on notice were circulated pursuant to Standing Order 8.12.

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**QUESTIONS DIRECTED FOR WRITTEN RESPONSE** — The President directed further written responses be provided to questions without notice pursuant to Standing Order 8.07 as follows:

- **Gun licence cancellations** — substantive and supplementary questions asked by Mr Bourman — response from Ms Tierney due Thursday, 17 September 2020.
- **Rural and regional Victoria – driving tests waitlist** — substantive and supplementary questions asked by Mr Grimley — response from Ms Pulford due Thursday, 17 September 2020.
- **Police actions enforcing COVID-19 restrictions** — substantive and supplementary questions asked by Mr Quilty — response from Ms Tierney due Thursday, 17 September 2020.

**14 CONSTITUENCY QUESTIONS** — Constituency questions were taken pursuant to Standing Order 8.08 and further questions were received from Members for incorporation in Hansard pursuant to an Order of the Council earlier this day.

**15 BUSINESS POSTPONED** — Ordered — That the consideration of Notices of Motion, Government Business, Nos. 268 to 276 be postponed until later this day.

**16 COVID-19 COMMERCIAL AND RESIDENTIAL TENANCIES LEGISLATION AMENDMENT (EXTENSION) BILL 2020** — Mr Leane laid on the Table the statement of compatibility as required by the *Charter of Human Rights and Responsibilities Act 2006*.

On the motion of Mr Leane, the second reading speech was incorporated into Hansard.

Mr Leane moved, That the Bill be now read a second time, and by leave, debate be taken forthwith.

Question — That debate be taken forthwith — put and agreed to.

Debate ensued.

Amendments proposed to be moved in Committee by Ms Patten were circulated.

Question — put and agreed to.

Bill read a second time and committed to a Committee of the whole.

House in Committee.

Bill reported without amendment, the Report was adopted.

Ms Pulford moved, That the Bill be now read a third time.

Question — That the Bill be now read a third time and do pass — put.

The Council divided — The President in the Chair.

AYES, 33

Mr Atkinson; Dr Bach; Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Mr Davis; Mr Elasmarr; Mr Erdogan; Mr Finn; Ms Garrett; Mr Gepp; Mr Grimley; Mr Hayes; Dr Kieu; Mr Leane; Ms Lovell; Ms Maxwell; Mr Meddick; Mr Melhem; Ms Mikakos; Mr O'Donohue; Mr Ondarchie; Ms Patten; Ms Pulford; Mr Rich-Phillips; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Vaghela.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

NOES, 3

Dr Cumming; Mr Limbrick; Mr Quilty.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

Question agreed to.

Bill read a third time.

Bill returned to the Assembly with a Message informing them that the Council have agreed to the Bill without amendment.

**17 BUSINESS POSTPONED** — Ordered — That the consideration of Orders of the Day, Government Business, Nos. 1 to 5, be postponed until later this day.

**18 RETAIL LEASES AMENDMENT BILL 2019** — Debate resumed on the question, That the Bill be now read a second time.

Bill read a second time and, by leave, read a third time and passed.

Bill returned to the Assembly with a Message informing them that the Council have agreed to the Bill without amendment.

**19 ADJOURNMENT** — Ms Pulford moved, That the House do now adjourn.

Debate ensued and responses to certain Adjournment matters were circulated pursuant to Standing Order 4.13.

And then the Council, at 5.59 p.m., adjourned until tomorrow.

ANDREW YOUNG  
*Clerk of the Legislative Council*

## No. 71 — Wednesday, 16 September 2020

**1** The President took the Chair at 9.36 a.m., read the Prayer and made an Acknowledgement of Country.

**2 PAPERS PURSUANT TO STATUTE** — The following Papers, pursuant to the directions of several Acts of Parliament, were laid on the Table by the Clerk:

Improving Cancer Outcomes Act 2014 — Victorian cancer plan 2020-2024 – Improving cancer outcomes for all Victorians, pursuant to section 18(3) of the Act.

Ombudsman — Investigation into review of parking fines by the City of Melbourne, September 2020 (*Ordered to be published*).

Public Health and Wellbeing Act 2008 — Report to Parliament on the Extension of the Declaration of a State of Emergency, pursuant to section 198(8) of the Act.

Victorian Law Reform Commission — Report on Committals, March 2020 (*Ordered to be published*).

**3 MEMBERS' STATEMENTS** — Statements were made by Members pursuant to Standing Order 5.13 and further statements were received from Members for incorporation in Hansard pursuant to an Order of the Council of 15 September 2020.

**4 PARLIAMENTARY COMMITTEES AMENDMENT (SARC PROTECTION AGAINST RIGHTS CURTAILMENT BY URGENT BILLS) BILL 2020** — Mr Davis laid on the Table the statement of compatibility as required by the *Charter of Human Rights and Responsibilities Act 2006*.

Mr Davis moved, That the Bill be now read a second time.

On the motion of Ms Stitt, the debate was adjourned for two weeks.

**5 VICTORIAN LAW REFORM COMMISSION AMENDMENT BILL 2020** — Debate resumed on the question, That the Bill be now read a second time.

Question — put.

The Council divided — The President in the Chair.

AYES, 20

Mr Atkinson; Dr Bach; Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Grimley; Mr Hayes; Mr Limbrick; Ms Lovell; Ms Maxwell; Mr Meddick; Mr O'Donohue; Mr Ondarchie; Ms Patten; Mr Quilty; Mr Rich-Phillips.  
(*Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020*)

## NOES, 16

Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Melhem; Ms Pulford; Ms Shing; Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Vaghela.

*(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)*

Question agreed to.

Bill read a second time and ordered to be committed to a Committee of the whole on the next day of meeting.

**6 BUSINESS POSTPONED** — Ordered — That the consideration of Notice of Motion, General Business, No. 367 be postponed until later this day.

**7 OPEN SCHOOLS TO ALL STUDENTS FROM THE START OF TERM 4** — Mr Limbrick moved, That this House notes that —

- (1) during the Public Accounts and Estimates Committee hearing on 25 August 2020, the Minister for Education and Training, the Hon James Merlino MP, stated “In moving to stage 4 restrictions, probably the most difficult decision was remote and flexible learning for our youngest learners in early childhood education ... As with schools, this is not because services are unsafe, but we simply could not have so many families moving around the community”;
  - (2) the move to remote learning was not undertaken to protect the well-being of children;
  - (3) closing schools has caused significant harm to children, including long-term harm;
  - (4) the Government has not explicitly quantified these harms;
- and calls on the Government to open schools to all students at the start of Term 4.

Debate ensued.

*Business having been interrupted at 12.00 noon pursuant to Sessional Orders —*

**8 QUESTIONS AND MINISTERS’ STATEMENTS** — Questions without notice were taken and Ministers’ Statements were made pursuant to Sessional Order 13.

**HOTEL QUARANTINE MANAGEMENT GUIDELINES** — Ms Mikakos having given answers to a question without notice and supplementary question relating to hotel quarantine management guidelines —

On the motion of Ms Crozier, the Minister’s answers were ordered to be taken into consideration on the next day of meeting.

**QUESTIONS** — Questions without notice and Ministers’ Statements continued and answers to certain questions on notice were circulated pursuant to Standing Order 8.12.

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**QUESTION DIRECTED FOR WRITTEN RESPONSE** — The President directed a written response be provided to a question without notice pursuant to Standing Order 8.07 as follows:

- **Support for non-employed sole traders during pandemic** — substantive question asked by Mr Barton — response from Ms Pulford due Friday, 18 September 2020.

**9 CONSTITUENCY QUESTIONS** — Constituency questions were taken pursuant to Standing Order 8.08 and further questions were received from Members for incorporation in Hansard pursuant to an Order of the Council of 15 September 2020.

**10 OPEN SCHOOLS TO ALL STUDENTS FROM THE START OF TERM 4** — Debate continued on the question, That this House notes that —

- (1) during the Public Accounts and Estimates Committee hearing on 25 August 2020, the Minister for Education and Training, the Hon James Merlino MP, stated “In moving to stage 4 restrictions, probably the most difficult decision was remote and flexible learning for our youngest learners in early childhood education ... As with schools, this is not because services are unsafe, but we simply could not have so many families moving around the community”;
- (2) the move to remote learning was not undertaken to protect the well-being of children;
- (3) closing schools has caused significant harm to children, including long-term harm;



- (4) the Government has not explicitly quantified these harms;  
and calls on the Government to open schools to all students at the start of Term 4.

Question — put.

The Council divided — The President in the Chair.

AYES, 15

Mr Atkinson; Dr Bach; Ms Bath; Mr Bourman; Ms Crozier; Dr Cumming; Mr Davis;  
Mr Finn; Mr Hayes; Mr Limbrick; Ms Lovell; Mr O'Donohue; Mr Ondarchie; Mr Quilty;  
Mr Rich-Phillips.

*(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)*

NOES, 21

Mr Barton; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Grimley; Dr Kieu;  
Mr Leane; Ms Maxwell; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Ms Shing;  
Ms Stitt; Ms Symes; Mr Tarlamis; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Vaghela.

*(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)*

Question negatived.

**11 BUSINESS POSTPONED** — Ordered — That the consideration of Notice of Motion, General Business, No. 371 be postponed until later this day.

**12 PRODUCTION OF DOCUMENTS — DECISION TO IMPOSE A COVID-19 CURFEW** —  
Mr Davis moved, That this House —

(1) notes —

- (a) the decision by the Government to impose a curfew, commencing at 8.00 p.m. on Sunday, 2 August 2020, was not based on health advice;
- (b) the Chief Health Officer, Professor Brett Sutton, has said “The curfew came in as part of the State of Disaster ... It wasn't a State of Emergency requirement ... I was consulted on it, but it was a separate decision-making pathway”;
- (c) that the Premier, the Hon Daniel Andrews MP, has not explained where the advice to impose a curfew came from;

(2) requires, in accordance with Standing Order 11.01, the Leader of the Government in the Legislative Council to table in the Council, by 2.00 p.m. Friday, 18 September 2020, copies of the briefs and other materials upon which the decision to impose a curfew was based; and

(3) calls on the Government to immediately lift the curfew due to the unjustified imposition on our liberties and freedoms.

Debate ensued.

*The Acting President advised that the total time allocated for debate, pursuant to Sessional Order 8, had elapsed —*

Question — put and agreed to.

**13 IMPACT OF COVID-19 RESTRICTIONS ON SMALL BUSINESSES** — Mr Finn (for Mr Davis) moved, That this House —

- (1) notes the very significant impact of the Government's enhanced and broad-brush Stage 4 lockdown on businesses, especially small businesses, across many sectors; and
- (2) calls on the Government to meet with relevant peak bodies and other representatives of individual business sectors, to work through the early evidence-based lifting of complete closures, sector by sector, where appropriate COVID-19 management plans are in place and it is safe to do so.

*Business having been interrupted at 5.15 p.m. pursuant to Sessional Orders, the debate stood adjourned in the name of Mr Finn.*

**14 STATEMENTS ON REPORTS, PAPERS AND PETITIONS** — Statements on reports, papers and petitions were made by Members pursuant to Sessional Order 16.

**15 ADJOURNMENT** — Ms Pulford moved, That the House do now adjourn.

Debate ensued and a response to an Adjournment matter was circulated pursuant to Standing Order 4.13.

And then the Council, at 6.14 p.m., adjourned until Tuesday, 13 October 2020.

ANDREW YOUNG  
*Clerk of the Legislative Council*

# COMMITTEE OF THE WHOLE COUNCIL

## Supplement to Minutes Nos. 70 and 71

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### COVID-19 COMMERCIAL AND RESIDENTIAL TENANCIES LEGISLATION AMENDMENT (EXTENSION) BILL 2020

*Committed Tuesday, 15 September 2020*

*Amendments circulated: Ms Patten (pp. 542-3)*

**Clauses 1 to 15** — put and agreed to.

**Bill reported without amendment.**

## AMENDMENTS CIRCULATED IN RELATION TO —

### 1. COVID-19 COMMERCIAL AND RESIDENTIAL TENANCIES LEGISLATION AMENDMENT (EXTENSION) BILL 2020

#### Amendments circulated by Ms Patten

1. Clause 3, line 9, after "waiver" insert ", reduction".
2. Clause 5, line 27, before "In" insert "(1)".
3. Clause 5, page 4, lines 1 to 5, omit all words and expressions on these lines and insert—
  - ""(na) the making of orders (**binding orders**)—
    - (i) directing landlords under eligible leases to give or agree to give specified rent relief to tenants under eligible leases, including in the case of a waiver or reduction of rent payable under eligible leases, rent relief that results in the rent payable under eligible leases conforming with the current market rent;
    - (ii) directing landlords under eligible leases to waive their rights to the payment of fees or liquidated damages (however described) under eligible leases in cases where tenants under eligible leases terminate them;
  - (naa) the content of binding orders;"
4. Clause 5, page 4, line 8, omit "**rent**".
5. Clause 5, page 4, line 9, omit "rent".
6. Clause 5, page 4, line 10, omit "rent".
7. Clause 5, page 4, line 12, omit "rent".
8. Clause 5, page 4, line 14, omit "rent".
9. Clause 5, page 4, line 17, omit "rent".
10. Clause 5, page 4, line 20, omit "rent".
11. Clause 5, page 4, line 22, omit "rent".
12. Clause 5, page 5, after line 21 insert—
  - '(2) After section 15(2) of the **COVID-19 Omnibus (Emergency Measures) Act 2020** insert—
    - "(2A) For the purposes of subsection (1)(na), current market rent is taken to be the rent obtainable at the time of the making of the binding order in a free and open market between a willing landlord and willing tenant in an arm's length transaction having regard to these matters—
      - (a) the provisions of the eligible lease;
      - (b) the rent that would reasonably be expected to be paid for the premises or part of the premises if they were unoccupied and offered for lease for the same, or a substantially similar, use to which that premises or part of premises may be put under an eligible lease;
      - (c) the landlord's outgoings to the extent to which the tenant is liable to contribute to those outgoings;
      - (d) rent concessions and other benefits offered to prospective tenants of unoccupied premises for lease under eligible leases—

but the current market rent is not to take into account the value of goodwill created by the tenant's occupation or the value of the tenant's fixtures and fittings.

- (2B) Regulations made under subsection (1)(ne) must include, as a criterion to be applied in determining relief applications relating to specified rent relief, the financial hardship that may be suffered by a landlord as a consequence of the making of a binding order directing them to give, or agree to give, specified rent relief.".'. .

