

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 6

THURSDAY, AUGUST 22 2002

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### 1. Meeting of Council

The Council assembled at 11.00am pursuant to order.

The President, Hon John Cowdell, took the Chair and read prayers.

### 2. Ministerial Statement - Visit to the Republic of Croatia by Hon Ljiljana Ravlich

The Parliamentary Secretary to the Minister for Health made a Ministerial Statement with respect to the visit to the Republic of Croatia by Hon Ljiljana Ravlich.

The Parliamentary Secretary to the Minister for Health, by leave, tabled a report on the visit to the Republic of Croatia by Hon Ljiljana Ravlich. (Tabled paper 146).

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

### 3. Papers

The following Papers were laid on the Table by -

#### **Minister for Housing and Works**

##### *Local Laws -*

Local Government Act 1995 (Shire of Donnybrook-Balingup Local Law - Eating Areas in Streets and Other Public Places G.G. 13/08/2002)..... 136

#### **Minister for Racing and Gaming**

##### *Regulations -*

Associations Incorporation Act 1987 (Associations Incorporation Amendment Regulations 2002 G.G. 16/08/2002)..... 137

Motor Vehicle Dealers Act 1973 (Car Market Amendment Regulations 2002 G.G. 13/08/2002, Motor Vehicle Dealers (Infringements) Regulations 2002 G.G. 13/08/2002, Motor Vehicle Dealers (Licensing) Amendment Regulations (No. 2) 2002 G.G. 13/08/2002 and Motor Vehicle Dealers (Sales) Amendment Regulations 2002 G.G. 13/08/2002) ..... 138

Vocational Education and Training Act 1996 (Vocational Education and Training Amendment Regulations 2002 G.G. 16/08/2002).....	139
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### **Parliamentary Secretary to the Minister for Health**

#### *Local Laws -*

Health Act 1911 (Health Local Laws 2002 G.G. 13/08/2002).....	140
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#### *Regulations -*

Health Act 1911 (Health (Asbestos) Amendment Regulations 2002 G.G. 13/08/2002 and Health (Meat Hygiene) Amendment Regulations (No. 2) 2002 G.G. 13/08/2002)) .....	141
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Health Act 1911 (Health (Infectious Diseases (Inspection of Persons)) Repeal Regulations 2002 G.G. 13/08/2002).....	142
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Poisons Act 1964 (Poisons Amendment Regulations 2002 G.G. 13/08/2002) .....	143
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### **Parliamentary Secretary to the Minister for Planning and Infrastructure**

#### *Regulations -*

Road Traffic Act 1974 (Road Traffic (Animal Drawn Vehicles) Regulations 2002 G.G. 12/08/2002 and Road Traffic (Vehicle Standards) Rules 2002 G.G. 12/08/2002)) .....	144
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#### *Statutes -*

University of Western Australia Act 1911 (Amending Statute No. 1 of 2002 G.G. 13/08/2002).....	145
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## **4. North West Shelf Joint Venture Contract**

The Leader of the House pursuant to notice, moved -

That this House congratulates the North West Shelf Joint Venture in winning the \$25 billion contract to sell liquefied natural gas to China but calls for a major revamp of the Federal Government's Commonwealth Grants Commission process due to the inherent way it disadvantages Western Australians in the sharing of benefits from major resource projects between the Commonwealth and this State.

Debate ensued.

*Interruption of Debate* [SO 195].

## **5. Parliamentary Service Committee - Membership**

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 2

The Legislative Assembly acquaints the Legislative Council that it has agreed that for the present Session the Parliamentary Service Committee shall consist of the Speaker, the Member of Ballajura, the Member for Geraldton, the Member for Greenough, the Member for Kimberley and the Member for Murray-Wellington.

Hon Fred Riebeling  
Speaker

Legislative Assembly Chamber  
Perth, 21 August 2002

## 6. Yallingup Foreshore Land Bill 2002

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 3

The Legislative Assembly acquaints the Legislative Council that in response to Legislative Council Message No 1, in relation to the *Yallingup Foreshore Land Bill 2002*, the Legislative Assembly -

- (a) notes that the message forwarding the Bill was sent from the Legislative Assembly to the Legislative Council on Tuesday, 25 June 2002 and that this message and Bill remain in the possession of the Legislative Council or its officers;
- (b) further notes that the Legislative Council completed its final sitting for the session at 1.21am on Friday 28 June 2002;
- (c) declares that the transmission of a Bill from one House to the other is an integral stage of the passage of a Bill through the legislative process; and
- (d) requests the Legislative Council instate the Bill by requiring the report of the message and Bill for the Legislative Council's consideration.

Hon Fred Riebeling  
Speaker

Legislative Assembly Chamber  
Perth, 21 August 2002

Ordered - That consideration of Message No. 3 be made an Order of the Day for the next sitting.

## 7. Volunteers (Protection from Liability) Bill 2002 and Home Building Contracts Amendment Bill 2002

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 4

The Legislative Assembly acquaints the Legislative Council that in response to Legislative Council Message No 1, in relation to the *Volunteers (Protection from Liability) Bill 2002* and the *Home Building Contracts Amendment Bill 2002*, the Legislative Assembly -

- (a) advises the Legislative Council that on Friday, 28 June 2002, those Bills were passed by the Legislative Assembly and sent to the Legislative Council; and
- (b) has required that each of those Bills be restored to the position they had reached in the previous session and forwards herewith a further copy of the Bills for the Legislative Council's consideration.

Hon Fred Riebeling  
Speaker

Legislative Assembly Chamber  
Perth, 21 August 2002

Ordered - That consideration of Message No. 4 be made an Order of the Day for the next sitting.

## 8. Restoration of Bills

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 5

The Legislative Assembly requests the Legislative Council to amend its procedures to ensure that they reflect the intention of both Houses of Parliament that all Bills which have been partially considered by the Parliament in one Session are capable of restoration to that point in

the next Session of the same Parliament.

Hon Fred Riebeling  
Speaker

Legislative Assembly Chamber  
Perth, 21 August 2002

Ordered - That consideration of Message No. 5 be made an Order of the Day for the next sitting.

### **9. Statement by President - Messages, Revision of Procedures**

The President made the following Statement -

I announce that procedures will be revised to ensure that all Messages are read without delay. It has been the practice in the past that Messages may be delayed for reasons such as the preparation of revised second reading speeches. This will no longer occur. Second reading speeches may be made an Order of the Day for the next day's sitting if necessary.

### **10. Consideration of Committee Reports**

The Order of the Day having been read for the consideration of Committee reports.

The President left the Chair.

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#### **In Committee**

(Hon George Cash in the Chair)

*Standing Committee on Uniform Legislation and General Purposes - Second Report - Work of the Committee during the First Session of the Thirty-Sixth Parliament - May 1 2001 to August 9 2002*

Hon Adele Farina moved, That the Report be noted.

Debate ensued.

Question - put and passed.

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The President resumed the Chair.

The Chairman of Committees reported that the Committee of the Whole House had considered the -

Standing Committee on Uniform Legislation and General Purposes - Second Report - Work of the Committee during the First Session of the Thirty-Sixth Parliament - May 1 2001 to August 9 2002 and had noted same.

Report adopted.

*The President left the Chair at 12.42pm*

*The Deputy President resumed the Chair at 2.00pm*

### **11. Address-In-Reply**

The Order of the Day having been read for the adjourned debate on the Address-in-Reply.

Debate resumed.

On the motion of Hon Bruce Donaldson the debate was adjourned to the next sitting.

### **12. Planning Appeals Amendment Bill 2001**

The Order of the Day for the further consideration of this Bill, in Committee, having been read.

The Deputy President left the Chair.

#### **In Committee**

(Hon Jon Ford in the Chair)

Clauses 15 to 19 agreed to.

Clause 20.

Hon Barry House moved -

Page 38, lines 24 and 25 - To delete the lines and insert instead -

“

- (3) If regulations made under subsection (1) and published in the *Gazette* are expressed to take effect on a day that is earlier than the day on which they are published, the regulations have effect accordingly.

”.

Debate ensued.

Amendment - put and passed.

Hon Peter Foss moved -

Page 39, line 4 - To insert -

“

- (5) This section expires on the first anniversary of the *Planning Appeals Amendment Act 2001* being assented to.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 21 to 24 agreed to.

Clause 25.

Hon Peter Foss moved -

Page 42, lines 7 to 17 - To delete the lines.

Page 42, line 18 - To delete the number “(9)”.

*Point of Order*

Hon Graham Giffard raised the following Point of Order -

I seek the Deputy Chairman’s ruling on whether the amendment before us in order. The amendments moved by Hon Peter Foss relate to part 4 of the Bill, which is headed “Consequential Amendments”. The amendments will have the effect of deleting section 33 of the *Metropolitan Region Town Planning Scheme Act 1959*.

*The Deputy Chairman of Committees left the Chair at 3.17pm*

*The Deputy Chairman of Committees resumed the Chair at 3.22pm*

*Deputy Chairman of Committee’s Ruling*

The Deputy Chairman of Committees ruled as follows -

Hon Peter Foss has moved to delete certain lines in clause 25 on page 42 of the Bill that deal with amendments to the *Metropolitan Region Town Planning Scheme Act 1959*. The amendment would substitute amendments being made to section 33A of the Act for outright repeal of the section. I must decide whether the proposed amendment is in order. I have heard the Parliamentary Secretary’s description of what the amendments in Clause 25 are intended to achieve. Essentially, there is a need to amend section 33A because of the changes that the Bill makes in relation to the existing right of appeal to the Minister. The Bill, for most purposes, extinguishes that avenue and channels appeals to the tribunal. As it stands, section 33A provides for a reference to the Appeals Committee from the Minister. Such a reference is inconsistent with the abolition of the dual system for which the Bill provides.

Clause 25, as it stands, complies with the requirements of Standing Orders Nos 221(c) and 222; that each provision in a Bill be relevant to the scope and purpose of each of the other

provisions, and that each provision accords with the long title of the Bill as introduced. The nexus required between the scope and purpose of the Bill and the amendment made by Clause 25 is established. Section 33A requires amendment to align it with the law as it will be when the Bill becomes law.

The amendment is subject to the strictures applied to any amendment by Standing Order No. 237(a), which speaks in terms of amendments that are relevant to the subject matter of the Bill. Standing Order No. 3 defines subject matter of a Bill as the Bill agreed to on its second reading. The subject matter of this Bill is sufficiently understood that I do not need to restate it.

I am unable to see the relevance of the amendment to the scope and purpose of the legislation. Clause 25 is a provision of the Bill by reason only of the need to align section 33A with the law that the Bill enacts. Repeal of section 33A is not a consequence of the changes being made to the law. It stands in its own right and with its own policy intent. Its legislative effect goes well beyond and arguably destroys the current intent of Clause 25.

I rule that the amendment is out of order and cannot proceed.

Question - That the Clause stand as printed - put and passed.

Clauses 26 to 29 agreed to.

New Clause 20.

The Parliamentary Secretary to the Minister for Planning and Infrastructure moved -

Page 38, after line 10 - To insert the following new Clause -

“

**20. Submissions under *Metropolitan Region Town Planning Scheme Act 1959***

On the coming into operation of section 25 of this Act, any submission received by the Minister under section 33A of the *Metropolitan Region Town Planning Scheme Act 1959*, and not reported on under section 33A(5) of that Act, is to be dealt with by the Commission as if the submission had been received by the Commission under section 33A of the *Metropolitan Region Town Planning Scheme Act 1959* as amended by this Act.

”.

Debate ensued.

**13. Distinguished Visitors**

The President drew attention to the presence in the gallery of the Kenyan delegation, and, on behalf of Honourable Members, extended a warm welcome to members of the delegation.

**14. Questions Without Notice**

Questions without notice were taken.

The Minister for Housing and Works tabled documents in relation to Kalgoorlie Cement Works in response to a question without notice asked by Hon Robin Chapple. (Tabled paper 147).

Minister for Housing and Works, by leave, incorporated into *Hansard* the answer to question without notice asked by Hon Robin Chapple.

## 15. Planning Appeals Amendment Bill 2001

The President left the Chair.

### In Committee

(Hon Jon Ford in the Chair)

New Clause 20.

Debate resumes on amendment moved by the Parliamentary Secretary to the Minister for Planning and Infrastructure as follows -

Page 38, after line 10 - To insert the following new Clause -

“

### 20. Submissions under *Metropolitan Region Town Planning Scheme Act 1959*

On the coming into operation of section 25 of this Act, any submission received by the Minister under section 33A of the *Metropolitan Region Town Planning Scheme Act 1959*, and not reported on under section 33A(5) of that Act, is to be dealt with by the Commission as if the submission had been received by the Commission under section 33A of the *Metropolitan Region Town Planning Scheme Act 1959* as amended by this Act.

”.

New Clause - put and passed.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments.

Leave was granted to proceed forthwith through all remaining stages of the Bill at this day's sitting.

The Parliamentary Secretary to the Minister for Planning and Infrastructure moved, That the report be adopted.

Question - put and passed.

The Parliamentary Secretary to the Minister for Planning and Infrastructure moved, That the Bill be now read a third time.

The Deputy President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Question - put and passed.

Bill read a third time and passed.

## 16. Child Welfare Amendment Bill 2001

The Order of the Day having been read for the debate on the second reading of this Bill.

Debate resumed.

Question - put and passed.

Bill read a second time.

## 17. Extension of Sitting Time

The Leader of the House moved, That the House continue to sit beyond 5.00pm.

Question - put and passed.

**18. Child Welfare Amendment Bill 2001**

Pursuant to the Order of the House.

The Order of the Day having been read for the third reading of this Bill.

The Parliamentary Secretary to the Minister for Community Development, Women's Interests, Seniors and Youth moved, That the Bill be now read a third time.

Debate ensued.

The Deputy President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Question - put and passed.

Bill read a third time and passed.

**19. Special Adjournment**

The Leader of the House moved, without notice -

That the House at its rising adjourn until Tuesday, September 10 2002.

Question - put and passed.

**20. Adjournment**

The Leader of the House moved, That the House do now adjourn.

Debate ensued.

Question - put and passed.

The House adjourned at 5.32pm until Tuesday, September 10 2002 at 3.30pm.

**Members present during the day's proceedings**

Attendance: Present all Members except Hon Paddy Embry and Hon Christine Sharp.

**L B MARQUET**  
Clerk of the Legislative Council

**HON JOHN COWDELL**  
President of the Legislative Council