

WESTERN AUSTRALIA  
**LEGISLATIVE COUNCIL**  
**MINUTES OF PROCEEDINGS**  
**No. 37**  
**THURSDAY, 9 NOVEMBER 2017**

**1. Meeting of Council**

The Council assembled at 10.00am pursuant to order.

The President, Hon Kate Doust, took the Chair and read prayers.

**2. Statement by President — Visit to the Supreme Court**

The President made the following Statement —

Members, I draw your attention to the invitation extended to Members of the Parliament of Western Australia by the Chief Justice of Western Australia, Hon Wayne Martin, AC, to visit the Supreme Court. The visit will include an opportunity to observe a sentencing hearing and to participate in a discussion on sentencing principles with the Chief Justice during an informal light lunch. The visit will take place on Monday, 27 November 2017 from 11.15 am in the Supreme Court, Stirling Gardens. Members are asked to confirm participation and any dietary requirements by 20 November 2017 with the executive assistant to the Clerk.

**3. Papers**

The following Papers was laid on the Table by —

The following Papers were laid on the Table by —

**Minister for Environment**

*Reports —*

Perry Lakes Redevelopment Project — (30 June 2017) (Final Report)..... 860

**Minister for Regional Development**

*Notices —*

Financial Management Act 2006 (section 82) — Notice from the Minister for Tourism  
in regards to Standing Committee on Estimates and Financial Operations  
Supplementary Question No. C3 (16 October 2017) ..... 861

**4. Standing Committee on Estimates and Financial Operations — Report No. 72 — 2016-17 Annual Report Hearings**

Hon Alanna Clohesy presented Report No. 72 of the Standing Committee on Estimates and Financial Operations, *2016-17 Annual Report Hearings*. (Tabled Paper 862).

**5. Environmental Protection Amendment (Clearing for Fire Risk Reduction) Bill 2017**

Hon Dr Steve Thomas: To move on the next day of sitting —

That a Bill for “An Act to amend the *Environmental Protection Act 1986*.” be introduced and read a first time.

**6. Shire of Bridgetown-Greenbushes Cemeteries Amendment Local Law 2017 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Bridgetown-Greenbushes Cemeteries Amendment Local Law 2017* published in the *Gazette* on 1 September 2017 and tabled in the Legislative Council on 5 September 2017 under the *Cemeteries Act 1986* and the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper 438)

**7. Shire of Victoria Plains Bush Fire Brigades Local Law 2017 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Victoria Plains Bush Fire Brigades Local Law 2017* published in the *Gazette* on 29 August 2017 and tabled in the Legislative Council on 5 September 2017 under the *Bush Fires Act 1954* and the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper 444)

**8. Conservation and Land Management Amendment Regulations 2017 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Conservation and Land Management Amendment Regulations 2017* published in the *Gazette* on 1 September 2017 and tabled in the Legislative Council on 5 September 2017 under the *Conservation and Land Management Act 1984*, be and are hereby disallowed. (Tabled paper 448)

**9. Police and Emergency Services Portfolio**

Non-Government Business No. 1 having been called, Hon Martin Aldridge moved, without notice —

That this House express concern with the McGowan Government's handling of the Police and Emergency Services portfolio, including (but not limited to) —

- (a) the Government's inability to resolve the industrial dispute with Western Australia Police;
- (b) the reduction in support and recognition of emergency service volunteers by a 50 percent cut to the Emergency Services Volunteer Fuel Card;
- (c) the uncertainty surrounding the future of a Rural Fire Service in Western Australia;
- (d) the haphazard approach taken by the Government in relation to funding certainty and the continuation of the South West Emergency Rescue Helicopter; and
- (e) the impact 'Machinery of Government' reforms will have on frontline services including response capacity.

Debate ensued.

*Motion lapsed.*

**10. Occupational Safety and Health Amendment Bill 2017**

The Acting President reported the receipt of Message No. 37 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Regional Development representing the Minister for Commerce and Industrial Relations moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Regional Development representing the Minister for Commerce and Industrial Relations moved, That the Bill be read a second time.

The Minister for Regional Development representing the Minister for Commerce and Industrial Relations tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 863).

Debate stands adjourned.

#### **11. Mines Safety and Inspection Amendment Bill 2017**

The Acting President reported the receipt of Message No. 38 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Regional Development representing the Minister for Mines and Petroleum moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Regional Development representing the Minister for Mines and Petroleum moved, That the Bill be read a second time.

The Minister for Regional Development representing the Minister for Mines and Petroleum tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 864).

Debate stands adjourned.

#### **12. Order of Business**

Ordered — That Orders of the Day Nos 1, *Town of Cambridge Local Government and Public Property Local Law 2016 — Disallowance*, 2, *Legal Profession (Law Library Fees) Rules 2017 — Disallowance*, 3, *Shire of Chittering Waste Local Law 2017 — Disallowance*, 4, *City of Gosnells Waste Local Law 2016 — Disallowance*, 5, *City of Joondalup Animals Amendment Local Law 2016 — Disallowance*, 6, *Police Regulations Amendment (Fees and Charges) Regulations 2017 — Disallowance*, 7, *City of Kalgoorlie-Boulder Cat Amendment Local Law 2017 — Disallowance*, 8, *Town of East Fremantle Plastic Bag Reduction Local Law 2017 — Disallowance*, 9, *Shire of Northampton Dogs Local Law 2017 — Disallowance*, 10, *Shire of Chittering Repeal Local Law 2017 — Disallowance*, 11, *Commercial Tenancy (Retail Shops) Agreements Amendment Regulations 2017 — Disallowance*, 12, *Shire of Northampton Local Government Property Local Law 2017 — Disallowance*, 13, *Biosecurity and Agricultural Management Act 2007 Notice Under Section 130(1) — Disallowance*, and 14, *Water Services (Water Corporations Charges) Amendment Regulations 2017 — Disallowance*, be taken after Order of the Day No. 36, *Standing Committee on Procedure and Privileges – Report No. 45 – Outstanding Matters from the 39<sup>th</sup> Parliament*. (Minister for Environment).

#### **13. Cognate Debate — Appropriation (Recurrent 2017-18) Bill 2017 and Appropriation (Capital 2017-18) Bill 2017**

The Minister for Environment sought leave of the Council to debate Order of the Day No. 22, *Appropriation (Recurrent 2017-18) Bill 2017*, and Order of the Day No. 26, *Appropriation (Capital 2017-18) Bill 2017*, cognately [SO 127].

Leave granted.

#### **14. Appropriation (Recurrent 2017-18) Bill 2017 and Appropriation (Capital 2017-18) Bill 2017**

The Orders of the Day having been read for the adjourned debate on the second reading of these Bills cognately.

Debate resumed.

Question — That the *Appropriation (Recurrent 2017-18) Bill 2017* be read a second time — put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading.

The Minister for Environment representing the Treasurer moved, That the *Appropriation (Recurrent 2017-18) Bill 2017*, be read a third time.

Question — put and passed.

Bill read a third time and passed.

Question — That the *Appropriation (Capital 2017-18) Bill 2017* be read a second time — put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading.

The Minister for Environment representing the Treasurer moved, That the *Appropriation (Capital 2017–18) Bill 2017* be read a third time.

Question — put and passed.

Bill read a third time and passed.

### 15. Order of Business

Ordered — That Orders of the Day Nos 1, *Town of Cambridge Local Government and Public Property Local Law 2016 — Disallowance*, 2, *Legal Profession (Law Library Fees) Rules 2017 — Disallowance*, 3, *Shire of Chittering Waste Local Law 2017 — Disallowance*, 4, *City of Gosnells Waste Local Law 2016 — Disallowance*, and 5, *City of Joondalup Animals Amendment Local Law 2016 — Disallowance*, in that order, be taken forthwith. (Minister for Environment).

### 16. Town of Cambridge Local Government and Public Property Local Law 2016 — Disallowance

The Order of the Day having been called for the motion of Hon Robin Chapple moved *pro forma* as follows —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Town of Cambridge Local Government and Public Property Local Law 2016* published in the *Gazette* on 24 January 2017 and tabled in the Legislative Council on 17 May 2017 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper No. 76).

Debate ensued.

Question — put and passed.

### 17. Legal Profession (Law Library Fees) Rules 2017 — Disallowance

The Order of the Day having been called for the motion of Hon Robin Chapple moved *pro forma* as follows —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Legal Profession (Law Library Fees) Rules 2017* published in the *Gazette* on 13 January 2017 and tabled in the Legislative Council on 17 May 2017 under the *Legal Profession Act 2008*, be and are hereby disallowed. (Tabled paper No. 104).

Hon Charles Smith moved to amend the motion as follows —

to insert after “Delegated Legislation,” —

rules 6(1)(a) and (b), 6(2), 6(3), 6(4) and 6(5) of

Debate ensued.

Amendment — put.

The Council divided.

### Ayes (19)

Hon Martin Aldridge  
Hon Jacqui Boydell  
Hon Robin Chapple  
Hon Tim Clifford  
Hon Peter Collier  
Hon Colin de Grussa  
Hon Diane Evers  
Hon Donna Faragher  
Hon Nick Goiran  
Hon Rick Mazza

Hon Michael Mischin  
Hon Simon O’Brien  
Hon Robin Scott  
Hon Tjorn Sibma  
Hon Charles Smith  
Hon Aaron Stonehouse  
Hon Colin Tincknell  
Hon Alison Xamon  
Hon Ken Baston (*Teller*)

**Noes (10)**

Hon Alanna Clohesy  
 Hon Stephen Dawson  
 Hon Adele Farina  
 Hon Laurie Graham  
 Hon Alannah MacTiernan

Hon Kyle McGinn  
 Hon Samantha Rowe  
 Hon Matthew Swinbourn  
 Hon Darren West  
 Hon Martin Pritchard (*Teller*)

Amendment thus passed.

Debate resumed on the motion, as amended.

Question — put and passed.

**18. Shire of Chittering Waste Local Law 2017 — Disallowance**

The Order of the Day having been called for the motion of Hon Robin Chapple moved *pro forma* as follows —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Chittering Waste Local Law 2017* published in the *Gazette* on 23 March 2017 and tabled in the Legislative Council on 17 May 2017 under the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper No. 115).

Debate ensued.

Question — put and passed.

**19. City of Gosnells Waste Local Law 2016 — Disallowance**

The Order of the Day having been called for the motion of Hon Robin Chapple moved *pro forma* as follows —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Gosnells Waste Local Law 2016* published in the *Gazette* on 1 December 2016 and tabled in the Legislative Council on 17 May 2017 under the *Waste Avoidance and Resource Recovery Act 2007* and the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper No. 113).

Debate ensued.

Question — put and passed.

**20. City of Joondalup Animals Amendment Local Law 2016 — Disallowance**

The Order of the Day having been called for the motion of Hon Robin Chapple moved *pro forma* as follows —

That That the *City of Joondalup Animals Amendment Local Law 2016* published in the *Gazette* on 10 January 2017 and tabled in the Legislative Council on 17 May 2017 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper No. 76).

Debate ensued.

Question — put and passed.

**21. Message from Her Excellency the Governor — Assent to Bill**

The President reported the receipt of a Message from Her Excellency the Governor assenting to the following Bill —

**8 November 2017 — Message No. 21**

Domestic Violence Orders (National Recognition) Bill 2017

**Act No.**

10 of 2017

**22. First Home Owner Grant Amendment Bill 2017**

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

The President left the Chair.

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**In Committee**

(Hon Laurie Graham in the Chair)

Clause 14.

Debate resumed.

Question — put and passed.

Clause 15.

The Minister for Environment representing the Treasurer moved —

Page 8, line 15 — To insert after “pay the”:

reasonable

Amendment — put and passed.

The Minister for Environment representing the Treasurer moved —

Page 8, after line 22 — To insert:

- (3) A third party payer, as defined in the *Legal Profession Act 2008* section 252, cannot apply for a costs assessment under Part 10 Division 8 of that Act in relation to the legal costs.

Debate ensued.

Amendment — put.

The Committee divided.

**Ayes (10)**

Hon Alanna Clohesy  
 Hon Stephen Dawson  
 Hon Adele Farina  
 Hon Laurie Graham  
 Hon Kyle McGinn

Hon Samantha Rowe  
 Hon Matthew Swinbourn  
 Hon Dr Sally Talbot  
 Hon Darren West  
 Hon Martin Pritchard (*Teller*)

**Noes (20)**

Hon Martin Aldridge  
 Hon Jacqui Boydell  
 Hon Robin Chapple  
 Hon Tim Clifford  
 Hon Peter Collier  
 Hon Colin de Grussa  
 Hon Diane Evers  
 Hon Donna Faragher  
 Hon Nick Goiran  
 Hon Rick Mazza

Hon Michael Mischin  
 Hon Simon O'Brien  
 Hon Robin Scott  
 Hon Tjorn Sibma  
 Hon Charles Smith  
 Hon Aaron Stonehouse  
 Hon Dr Steve Thomas  
 Hon Colin Tincknell  
 Hon Alison Xamon  
 Hon Ken Baston (*Teller*)

Amendment thus negatived.

### 23. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary to the Minister for Education and Training on behalf of the Minister for Education and Training tabled Department of Finance — Building Condition Assessment Quotes (2017), in response to a question without notice asked by Hon Donna Faragher. (Tabled Paper 865).

The Minister for Environment representing the Minister for Housing tabled documents in relation to nitrate levels in the reticulated water supply to the 13 communities identified in the Auditor General's 2015 *Report into the reliability of power and water supplies in remote Aboriginal communities*, in response to a question without notice asked by Hon Robin Chapple. (Tabled Paper 866).

The Minister for Environment representing the Treasurer, by leave, incorporated into *Hansard* information in relation to comparison to trend revenue growth from 1993-94 to 2016-17 inclusive, in response to a question without notice asked by Hon Dr Steve Thomas.

The Minister for Environment representing the Minister for Housing tabled documents in relation to test results on the nitrate levels in the reticulated water supply to Pandanus Park, in response to a question without notice asked by Hon Aaron Stonehouse. (Tabled Paper 867).

The Parliamentary Secretary to the Minister for Education and Training on behalf of the Minister for Education and Training tabled documents in relation to Healthcare and Social Assistance Workforce Qualifications listed on the State Priority Occupation list and Priority Industry Qualifications list, in response to question on notice No. 380 asked by Hon Alison Xamon. (Tabled Paper 868).

### 24. First Home Owner Grant Amendment Bill 2017

Resumption of consideration of this Bill in Committee of the Whole House (*see item 22 above*).

The President left the Chair.

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#### In Committee

(Hon Simon O'Brien in the Chair)

Clause 15.

Hon Nick Goiran moved —

Page 8, after line 22 — To insert:

- (3) If the notice covers legal costs as defined in the *Legal Profession Act 2008* section 3 —
  - (a) the notice must include or be accompanied by a written statement setting out the applicant's right under the *Legal Profession Act 2008* to apply for an assessment of those costs; and
  - (b) the Commissioner must not commence proceedings to recover those costs until at least 30 days after the date on which the notice is given to the applicant.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 16 to 18 agreed to.

Title agreed to.

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The Acting President resumed the Chair.

Bill reported with amendments.

The Minister for Environment representing the Treasurer moved, without notice —

That the *First Home Owner Grant Amendment Bill 2017* be recommitted for the purposes of considering proposed New clauses 11A, 12A and 12B.

Question — put and passed.  
The Acting President left the Chair.

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**In Committee**

(Hon Simon O'Brien in the Chair)

New clause 11A.

The Minister for Environment representing the Treasurer moved —

Page 5, after line 30 — To insert:

**11A. Section 26 amended**

In section 26 in the definition of *decision on the application*:

(a) in paragraph (d) delete “(3);” and insert:

(3); and

(b) after paragraph (d) insert:

(e) a requirement under section 52A(1) to pay an amount of legal costs incurred by the Commissioner.

Debate ensued.

New clause — put and passed.

New clause 12A.

The Minister for Environment representing the Treasurer moved —

Page 6, after line 17 — To insert:

**12A. Section 30 amended**

After section 30(5) insert:

(6) If, as the result of a decision on an objection, an amount of legal costs paid by an applicant is to be repaid to the applicant, the following amounts are payable to the applicant —

(a) the amount of legal costs to be repaid;

(b) any interest paid by the applicant in respect of a written arrangement approved by the Commissioner under section 52 that relates to an amount referred to in paragraph (a);

(c) interest at the prescribed rate on the amounts payable to the applicant under paragraphs (a) and (b) from the date the amount was paid by the applicant to the date approved for the repayment.

New clause — put and passed.



New clause 12B.

The Minister for Environment representing the Treasurer moved —

Page 6, after line 17 — To insert:

**12B. Section 32 amended**

After section 32(4) insert:

- (5) If, as the result of an application for a review of a decision, an amount of legal costs paid by an applicant is to be repaid to the applicant, the following amounts are payable to the applicant —
  - (a) the amount of legal costs to be repaid;
  - (b) any interest paid by the applicant in respect of a written arrangement approved by the Commissioner under section 52 that relates to an amount referred to in paragraph (a);
  - (c) interest at the prescribed rate on the amounts payable to the applicant under paragraphs (a) and (b) from the date the amount was paid by the applicant to the date approved for the repayment.

New clause — put and passed.

Title agreed to.

The Acting President resumed the Chair.

Bill reported with amendments.

The Minister for Environment representing the Treasurer, by leave, moved, That the report be adopted.  
Report adopted.

The Minister for Environment representing the Treasurer moved, without notice —

That so much of Standing Orders be suspended so as to enable the *First Home Owner Grant Amendment Bill 2017* to be read a third time.

The motion requiring the concurrence of an absolute majority.

Question — put.

The Acting President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

The Minister for Environment representing the Treasurer moved, That the Bill be read a third time.

The Acting President announced that the Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Question — put and passed.

Bill read a third time and passed.

**25. Members' Statements**

Statements were taken.

**26. Adjournment**

The Council adjourned at 5.55pm until Tuesday, 28 November 2017 at 2.00pm.

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

Attendance: Present all Members except Hon Sue Ellery, Hon Colin Holt and Hon Pierre Yang.

**NIGEL PRATT**

Clerk of the Legislative Council

**HON KATE DOUST MLC**

President of the Legislative Council