

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 138

TUESDAY, 15 MARCH 2011

1. Meeting of Council

The Council assembled at 3.00pm pursuant to Temporary Orders.

The President, Hon Barry House, took the Chair and read prayers.

2. Messages from His Excellency the Governor - Assent to Bills

The President reported the receipt of Messages from His Excellency the Governor assenting to the following Bills -

1 March 2011 - Message No. 128	Act No.
Health, Safety and Civil Liability (Children in Schools and Child Care Services) Bill 2010	1 of 2011
1 March 2011 - Message No. 129	Act No.
Telecommunications (Interception) Western Australia Amendment Bill 2010	2 of 2011
Dangerous Sexual Offenders Amendment Bill 2011	3 of 2011
2 March 2011 - Message No. 130	Act No.
Heritage and Planning Legislation Amendment Bill 2010	4 of 2011
Child Support (Adoption of Laws) Amendment Bill 2009	5 of 2011

3. Ministerial Statement - Strategic Energy Initiative - Energy 2031

The Minister for Energy made a Ministerial Statement with respect to the release of the Strategic Energy Initiative: Energy 2031 directions paper proposing strategies for secure energy supplies for Western Australia.

The Minister for Energy tabled a document entitled *Energy2031 Strategic Energy Initiative Directions Paper* (March 2011). (Tabled paper 3100).

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

4. Papers

The following Papers were laid on the Table by -

Leader of the House

Management Plans -

Fish Resources Management Act 1994 (West Coast Rock Lobster Management Plan Amendment 2011 [1008] G.G. 11/03/2011)..... 3073

Regulations -

Fish Resources Management Act 1994 (Fish Resources Management Amendment Regulations 2011 G.G. 01/03/2011, Fish Resources Management Amendment Regulations (No. 2) 2011 G.G. 01/03/2011 and Fish Resources Management Amendment Regulations (No. 3) 2011 G.G. 01/03/2011)..... 3074

Mining Act 1978 (Mining Amendment Regulations (No. 2) 2011 G.G. 01/03/2011)..... 3075

Minister for Finance

Agreements -

Extension and Variation of Acacia Prison Services Agreement - Between State of Western Australia and Serco Australia Pty Ltd (2011)..... 3076

Explanatory Memorandums -

Energy Safety Business Plan 2011-12 (Date received 3/03/2011) 3077

Notices -

Financial Management Act 2006, Under Section 82 - Question Without Notice No. 792 asked in the Legislative Council on 13 October 2010..... 3078

Regulations -

Associations Incorporation Act 1987 (Associations Incorporation Amendment Regulations 2011 G.G. 25/02/2011)..... 3079

Road Traffic Act 1974 (Road Traffic (Authorisation to Drive) Amendment Regulations 2011 G.G. 25/02/2011, Road Traffic (Licensing) Amendment Regulations 2011 G.G. 25/02/2011 and Road Traffic (Vehicle Standards) Amendment Regulations 2011 G.G. 25/02/2011)..... 3080

Reports -

Broome Port Authority - Statement of Corporate Intent (2010-2011) (Date received 8/03/2011)..... 3081

Energy Safety Division Business Plan 2011-2012 (December 2010) (Date received 3/03/2011)..... 3082

Government of Western Australia, Quarterly Financial Results Report 2010-2011 (December 2010) (Date Received 14/03/2011)..... 3083

Western Australian Treasury Corporation, Quarterly Report (for the quarter ended 31 December 2010) (Date Received 14/03/2011) 3084

Minister for Child Protection

Local Laws -

Local Government Act 1995 (City of Nedlands Standing Orders Amendment Local Law 2011 G.G. 08/03/2011)..... 3085

Regulations -

Rottneest Island Authority Act 1987 (Rottneest Island Amendment Regulations 2011 G.G. 04/03/2011)..... 3086

Minister for Mental Health*Annual Reports -*

National Environment Protection Council (2009-2010) (Date received 8/03/2011) 3087

By-laws -

Water Agencies (Powers) Act 1984 (Water Agencies (Water Use) Amendment By-laws 2011
G.G. 08/03/2011)..... 3088

Regulations -

Tobacco Products Control Act 2006 (Tobacco Products Control Amendment Regulations 2011
G.G. 01/03/2011)..... 3089

Parliamentary Secretary to the Attorney General*Regulations -*

Children's Court of Western Australia Act 1988 (Children's Court (Fees) Amendment
Regulations 2011 G.G. 08/03/2011)..... 3090

Civil Judgments Enforcement Act 2004 (Civil Judgments Enforcement Amendment Regulations
2011 G.G. 08/03/2011) 3091

Coroners Act 1996 (Coroners Amendment Regulations 2011 G.G. 08/03/2011)..... 3092

District Court of Western Australia Act 1969 (District Court (Fees) Amendment Regulations
2011 G.G. 08/03/2011) 3093

Evidence Act 1906 (Evidence (Video and Audio Links Fees and Expenses) Amendment Regulations
2011 G.G. 08/03/2011) 3094

Magistrates Court Act 2004 (Magistrates Court (Fees) Amendment Regulations 2011
G.G. 08/03/2011)..... 3095

Prohibited Behaviour Orders Act 2010 (Prohibited Behaviour Orders Regulations 2011
G.G. 23/02/2011)..... 3096

State Administrative Tribunal Act 2004 (State Administrative Tribunal Amendment Regulations
2011 G.G. 08/03/2011) 3097

Supreme Court Act 1935 (Supreme Court (Fees) Amendment Regulations 2011 G.G. 08/03/2011)..... 3098

Parliamentary Secretary to the Minister for Regional Development*Regulations -*

Valuation of Land Act 1978 (Valuation of Land Amendment Regulations 2011 G.G. 04/03/2011) 3099

5. Coal Seam Gas Exploration and Mining - Moratorium

Hon Alison Xamon: To move on the next day of sitting -

That this House demands that the Government place a moratorium on all coal seam gas exploration and mining in Western Australia until such time as it can be assured that such activities will -

- (1) Have no impact on local land users, including -
 - (a) no reduction of available agricultural land;
 - (b) no reduction in local groundwater levels;
 - (c) no saltwater contamination of groundwater;
 - (d) no chemical contamination of groundwater; and
 - (e) no uncontrolled methane leakage from drilled locations.

- (2) Be governed by Government regulations that ensure that -
- (a) absolute transparency is provided to the public about which chemicals are used in all coal seam gas drilling and hydraulic fracturing ('fracking') activities;
 - (b) rigorous independent testing is conducted on all chemicals before they are used in coal seam gas exploration, drilling and fracking operations to ensure no adverse impacts on groundwater, human health and the environment; and
 - (c) that any liability for contamination of ground water, land or community assets be borne by the company conducting the operations rather than the State and people of Western Australia.

6. Order of Business

Ordered - That Order of the Day No. 2, *Regulation 13(4) of the Animal Welfare (Pig Industry) Regulations 2010 - Disallowance*, be taken after Order of the Day No. 25, *Standing Committee on Environment and Public Affairs - Report No. 19 - Prayer for Relief*. (Leader of the House).

7. Shire of Plantagenet Cemeteries Amendment Local Law 2010 - Disallowance - Discharge from Notice Paper

The Order of the Day having been called, Hon Robin Chapple moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 1, *Shire of Plantagenet Cemeteries Amendment Local Law 2010 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

8. Criminal Code Amendment (Infringement Notices) Bill 2010

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

The Minister for Energy representing the Minister for Police moved, That the Bill be now read a third time.

The 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.

9. Criminal Investigation Amendment Bill 2010

The Order of the Day having been read for the consideration of the Committee's report upon this Bill.

The Minister for Energy representing the Minister for Police moved, without notice -

That the *Criminal Investigation Amendment Bill 2010* be recommitted for the purposes of reconsidering Clause 4 and considering a proposed New Clause 4A.

Debate ensued.

Question - put and passed.

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 4.

Debate ensued.

The Minister for Energy representing the Minister for Police moved -

Page 2, lines 12 to 19 — To delete the lines and insert —

(a) in item 4 delete “Doctor” and insert:

Doctor, or a qualified person who is a nurse, midwife or other prescribed person

(b) in item 6 delete “Doctor” and insert:

Doctor, or a qualified person who is a nurse, midwife or other prescribed person

Amendment - put and passed.

Clause, as amended, agreed to.

New Clause 4A.

The Minister for Energy representing the Minister for Police moved -

Page 2, after line 9 — To insert —

4A. Section 73 amended

In section 73 insert in alphabetical order:

midwife means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* whose name is entered on the Register of Midwives kept under that Law;

New Clause - put and passed.

The President resumed the Chair.

Bill reported with further amendments.

Ordered - That consideration of the Committee’s Report be made an Order of the Day for the next sitting.

10. Road Traffic Legislation Amendment (Information) Bill 2010

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

Debate resumed.

11. Questions Without Notice

Questions without notice were taken.

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to the proposed Osmington Coalmine - Margaret River, and copies of written notices issued pursuant to section 38A(1) of the *Environmental Protection Act 1986*, in response to a question without notice asked by Hon Adele Farina. (Tabled paper 3101).

The Minister for Energy representing the Minister for Police tabled the WA Police Manual Policy FR-1.6 in relation to taser use, in response to question on notice No. 3265 asked by Hon Giz Watson. (Tabled paper 3102).

The Minister for Child Protection tabled answers in tabular format in relation to details in reference to total funded full time equivalent (FTE) employee allocation, by directorate and district, in response to question on notice No. 3476 asked by Hon Sue Ellery. (Tabled paper 3104).

The Minister for Child Protection representing the Minister for Agriculture and Food tabled a checklist in relation to an audit checklist for the Department of Agriculture and Food in regards to GM Canola, in response to question on notice No. 3243 asked by Hon Giz Watson. (Tabled paper 3103).

The Minister for Mental Health representing the Minister for Environment tabled two aerial photographs in relation to maps in reference to cleared monitoring bores (on pending tenure), in response to question on notice No. 3216 asked by Hon Robin Chapple. (Tabled paper 3105).

12. Road Traffic Legislation Amendment (Information) Bill 2010

Debate resumed on the second reading of this Bill (cf item 10 above).

Question - put and passed.

Bill read a second time.

The Deputy President left the Chair.

In Committee

(Hon Brian Ellis in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 5 agreed to.

Clause 6.

Debate ensued.

Clause agreed to.

Clauses 7 to 9 agreed to.

Clause 10.

Debate ensued.

Hon Ken Travers moved -

Page 15, line 12 — To delete “must” and insert —

may

Amendment - put and negatived.

Hon Ken Travers moved -

Page 15, line 15 — To insert after “written law” —

, if the Director General is satisfied that there is compelling reason in the public interest for disclosure of the photographs

Amendment - put and negatived.

The Minister for Finance representing the Minister for Transport moved -

Page 15, line 20 — To delete “may” and insert —

may, with the prior approval of the Commissioner of Police,

Amendment - put and passed.

The Minister for Finance representing the Minister for Transport moved -

Page 15, line 26 to page 16, line 7 — To delete the lines and insert —

44AC. Disclosure to executor or administrator

If the person shown in a photograph has died, the Director General may disclose the photograph to an executor or administrator of the person’s estate.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 11 agreed to.

Clause 12.

Debate ensued.

Clause agreed to.

Clauses 13 to 25 agreed to.

Clause 26.

Debate ensued.

The Minister for Finance representing the Minister for Transport moved -

Page 32, line 1 — To delete “may” and insert —

may, with the prior approval of the Commissioner of Police,

Page 32, lines 7 to 19 — To delete the lines and insert —

11D. Disclosure to executor or administrator

If the person shown in a photograph has died, the CEO may disclose the photograph to an executor or administrator of the person’s estate.

Amendments - put and passed.

Clause, as amended, agreed to.

Clause 27 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments.

Ordered - That consideration of the Committee's Report be made an Order of the Day for the next sitting.

13. Conservation Legislation Amendment Bill 2010

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

Debate Resumed.

Interruption pursuant to Temporary Orders.

14. Members' Statements

Statements were taken.

15. Adjournment

The House adjourned at 10.22pm until Wednesday, 16 March 2011 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Jon Ford and Hon Giz Watson.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council