

WESTERN AUSTRALIA  
**LEGISLATIVE COUNCIL**  
**MINUTES OF PROCEEDINGS**  
**No. 35**  
**TUESDAY, 7 NOVEMBER 2017**

**1. Meeting of Council**

The Council assembled at 2.00pm pursuant to order.

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

**2. Petition**

Hon Robin Chapple presented a petition from 85 petitioners requesting the Legislative Council to request the Government of Western Australia to appeal the sentence and demand the court impose a more severe penalty in relation to the death of Elijah Doughty. (Tabled Paper 846).

**3. Papers**

The following Papers were laid on the Table by —

**President**

*Auditor General's Papers —*

Financial Controls — Focus Area Audits (2016-2017) (Report No. 20)  
(November 2017) ..... 839

Audit Results Report — Annual (2016-2017) Financial Audits (Report No. 21)  
(November 2017) ..... 840

**Leader of the House**

*Regulations —*

Education and Care Services National Law (WA) Act 2012 (Education and Care Services  
National Amendment Regulations 2017 G.G. 03/11/2017) ..... 841

*Schemes —*

Professional Standards Act 1997 (The Australian Property Institute Valuers Limited Scheme  
Amendment 2017 G.G. 31/10/2017) ..... 842

**Minister for Environment**

*Orders —*

Planning and Development Act 2005 section 76 (5) — relating to Lot 50 Adelma road  
and Lots 367-368 and 371-378 Philip road Dalkeith ..... 843

*Regulations —*

Road Traffic Act 1974 (Road Traffic Code Amendment Regulations (No. 5) 2017 G.G. 31/10/2017  
and Road Traffic Code Amendment Regulations (No. 6) 2017 G.G. 31/10/2017) ..... 844

## Minister for Regional Development

Notices —

|   |     |
|---|-----|
| Fair Trading Act 2010 (Consumer Goods (Baby Bath Aids) Safety Standard 2017 G.G. 03/11/2017 and Consumer Goods (Sunglasses and Fashion Spectacles) Safety Standard 2017 G.G. 03/11/2017)..... | 845 |
|---|-----|

### 4. Joint Standing Committee on Delegated Legislation — Report No. 5 — Legal Profession (Law Library Fees) Rules 2017 (Report No. 5) (November 2017)

Hon Robin Chapple presented Report No. 5 of the Joint Standing Committee on Delegated Legislation, *Legal Profession (Law Library Fees) Rules 2017 (Report No. 5) (November 2017)*. (Tabled Paper 847).

### 5. Personal Explanation

The Minister for Regional Development, by leave, made a personal explanation in relation to donors to candidates in local government elections being required to disclose their donations if those donations exceed \$200.

### 6. 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*, 6, *Bunbury-Harvey Regional Council Standing Orders Local Law 2017 — Disallowance*, 7, *Police Regulations Amendment (Fees and Charges) Regulations 2017 — Disallowance*, 8, *City of Kalgoorlie-Boulder Cat Amendment Local Law 2017 — Disallowance*, 9, *Town of East Fremantle Plastic Bag Reduction Local Law 2017 — Disallowance*, 10, *Commerce Regulations Amendment (Fees and Charges) Regulations 2017 — Disallowance*, 11, *Shire of Northampton Dogs Local Law 2017 — Disallowance*, 12, *Shire of Chittering Repeal Local Law 2017 — Disallowance*, 13, *Commercial Tenancy (Retail Shops) Agreements Amendment Regulations 2017 — Disallowance*, 14, *Shire of Northampton Local Government Property Local Law 2017 — Disallowance*, 15, *Biosecurity and Agriculture Management Act 2007 Notice Under Section 130(1) — Disallowance*, and 16, *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*. (Leader of the House).

### 7. Estimates of Revenue and Expenditure — Consolidated Account Estimates 2017–2018

The Order of the Day having been read for the adjourned debate on the motion of the Minister for Environment representing the Treasurer as follows —

That pursuant to Standing Order 69(1) the Legislative Council take note of Tabled Paper 469A-D (2017–2018 Budget Statements), laid upon the Table of the House on Thursday, 7 September 2017.

Debate resumed.

Question — put and passed.

### 8. Dangerous Sexual Offenders Legislation Amendment Bill 2017

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

Debate resumed.

### 9. Questions Without Notice

Questions without notice were taken.

The Leader of the House representing the Attorney General tabled the Integrity Coordinating Group's *Conflict of Interests — Guidelines for the Western Australian Public Sector* (June 2011), in response to a question without notice asked by Hon Peter Collier. (Tabled Paper 848).

The Minister for Education and Training, by leave, incorporated into *Hansard* information in relation to the number of staff who did not hold a valid Working with Children Check card, in response to a question without notice asked by Hon Nick Goiran.

The Minister for Environment representing the Minister for Lands tabled a plan of City Beach Senior High School (Reserve 29923), in response to a question without notice asked by Hon Donna Faragher. (Tabled Paper 849).

The Minister for Environment representing the Minister for Emergency Services, by leave, incorporated into *Hansard* information in relation to Bushfire-prone local governments submitting hazard management plans, in response to a question without notice asked by Hon Ken Baston.

The Minister for Environment representing the Minister for Planning tabled documents in relation to Shenton Park Rehabilitation Hospital, *LandCorp — Department of Health, Shenton Park Site Flora and Fauna Assessment (April 2015)*, and *PGV Environmental — Shenton Park Rehabilitation Hospital — Significance Test for Commonwealth Matters of National Environmental Significance (15 January 2015)*, in response to question on notice No. 374 asked by Hon Alison Xamon. (Tabled Paper 850).

#### **10. President's Ruling — Minister for Environment — Meetings — South Metropolitan Region**

The President ruled as follows —

Last Thursday, 2 November 2017, Hon Nick Goiran requested a ruling on the appropriateness of the Minister for Environment's answer to question on notice No. 345, asked in the Legislative Council on 5 September 2017. Part of the question requested the names of individuals who attended meetings, events or functions with the Minister, and the tabling of documents connected to them. I quote the Minister's reply —

The documents prepared contained names of private individuals and are considered to be personal. If the Honourable Member requires this information he is encouraged to submit a Freedom of Information Application so that the consultation and decision making processes mandated by the *Freedom of Information Act 1992* can be followed.

The basic rule for a Presiding Officer regarding parliamentary questions is that it is not the Chair's responsibility to tell Ministers, or indeed any Member, how they should respond to questions, provided an answer is within the Standing Orders. It is also not the Presiding Officer's role to determine whether an answer is correct. Those of us who have been here for some time have heard on many occasions the expression from this chair: "You may not like the answer that is provided, but that is the answer you have been given." There is no obligation for a Minister to provide an answer to a question and the Presiding Officer cannot require a Minister to provide an answer. However, if an answer is given, it must comply with the Standing Orders and the established practices and customs of the House. The basic requirements in the Standing Orders are that answers must be concise and relevant. The answer provided complies with these requirements.

Former President Hon Barry House made a statement to this House on 17 September 2015 affirming the rules I have referred to above but also encouraging Ministers not to frame their answers in a way that gives the impression that the tabling of documents requested by a Member is dependent upon the outcome of an FOI application. This statement reflected the position that the FOI Act was intended to operate in addition to the accountability function provided by Parliament, rather than as a substitute for it. If a Minister refuses to table documents for any reason, including the privacy concerns of individuals, it is within any inquirer's rights to take advantage of laws that provide an avenue to access that information by another means. The inclusion in an answer of the fact that this avenue is available to the Member does not result in the answer being out of order.

#### **11. Dangerous Sexual Offenders Legislation Amendment Bill 2017**

Debate resumed on the second reading of this Bill (*see item 8 above*).

On the motion of the Leader of the House the debate was adjourned to the next sitting.

**12. Paper**

The following Paper was laid on the Table by —

**President**

*Reports —*

Inspector of Custodial Services, Office of the — 2017 Inspection of Broome Regional  
Prison (Report No. 112) (August 2017)..... 851

**13. Pay-roll Tax Amendment (Debt and Deficit Remediation) Bill 2017**

The President reported the receipt of Message No. 34 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House on behalf of the Minister for Environment representing the Treasurer moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House on behalf of the Minister for Environment representing the Treasurer moved, That the Bill be read a second time.

The Leader of the House on behalf of the Minister for Environment representing the Treasurer tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 852).

Debate stands adjourned.

**14. Members' Statements**

Statements were taken.

**15. Pay-roll Tax Assessment Amendment (Debt and Deficit Remediation) Bill 2017**

The President reported the receipt of Message No. 35 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House on behalf of the Minister for Environment representing the Treasurer moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House on behalf of the Minister for Environment representing the Treasurer moved, That the Bill be read a second time.

The Leader of the House on behalf of the Minister for Environment representing the Treasurer tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 853).

Debate stands adjourned.

**16. Adjournment**

The Council adjourned at 10.28pm until Wednesday, 8 November at 1.00pm.

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

Attendance: Present all Members except Hon Colin Holt.

**NIGEL PRATT**

Clerk of the Legislative Council

**HON KATE DOUST MLC**

President of the Legislative Council