

WESTERN AUSTRALIA

**LEGISLATIVE COUNCIL**

**MINUTES OF PROCEEDINGS**

**No. 21**

**WEDNESDAY, 23 AUGUST 2017**

**1. Meeting of Council**

The Council assembled at 1.00pm pursuant to order.

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

**2. Ministerial Statement — Growing Apprenticeships and Traineeships in Western Australia**

The Minister for Education and Training made a Ministerial Statement with respect to extensive industry consultations being undertaken by the State Training Board over the coming months to increase the take up of apprenticeships and traineeships in Western Australia.

**3. Electoral Amendment (Access to Ministers) Bill 2017**

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

That a Bill for “An Act to amend the *Electoral Act 1907*.” be introduced and read a first time.

**4. Select Committee on Elder Abuse**

Hon Nick Goiran: To move on the next day of sitting —

Pursuant to Standing Order 61(a), I give notice of an amended form of Motion No. 3 — *Select Committee on Elder Abuse* as follows —

- (1) A Select Committee into Elder Abuse in Western Australia is established;
- (2) The Select Committee is to inquire into elder abuse with particular reference to —
  - (a) determine an appropriate definition of elder abuse;
  - (b) identify its prevalence;
  - (c) identify the forms of elder abuse, including but not limited to neglect;
  - (d) identify the risk factors;
  - (e) assess and review the legislative and policy frameworks;
  - (f) assess and review service delivery and agency responses;
  - (g) the capacity of the WA Police to identify and respond to allegations of elder abuse;
  - (h) identify initiatives to empower older persons to better protect themselves from risks of elder abuse as they age;
  - (i) consider new proposals or initiatives which may enhance existing strategies for safeguarding older persons who may be vulnerable to abuse; and
  - (j) consider any other relevant matter.
- (3) The Select Committee is to report by no later than 12 months after the motion is agreed to.

- (4) The Select Committee shall comprise the following members:
- (a) Hon Nick Goiran, Chair;
  - (b) Hon Alison Xamon, Deputy Chair;
  - (c) Hon Matthew Swinbourn; and
  - (d) Hon Tjorn Sibma.

## 5. Suspension of Standing Orders

The Leader of the House moved, without notice —

That so much of Standing Orders be suspended so that —

- (a) I may speak for a total of 45 minutes in reply to my motion regarding the establishment of the Joint Select Committee on End of Life Choices; and
- (b) when the Order of the Day for the motion is called, any Members who have yet to speak to the motion and who wish to do so, shall be able to speak before I resume my speech in reply.

Debate ensued.

The motion requiring the concurrence of an absolute majority.

Question — put.

The 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.

## 6. Motion No. 12 made Order of the Day

The Leader of the House moved, without notice —

That Motion No. 12, *Temporary Orders*, be made an Order of the Day for the next day's sitting.

Question — put and passed.

## 7. Western Australia's Finances

The Order of the Day having been read for the adjourned debate on the motion of Hon Sally Talbot, as follows —

That this House condemns the former Liberal-National Government for its reckless mismanagement of the State's finances.

Question — put.

The Council divided.

### Ayes (18)

|                        |  |
|------------------------|--|
| Hon Robin Chapple      | Hon Robin Scott                        |
| Hon Alanna Clohesy     | Hon Charles Smith                      |
| Hon Stephen Dawson     | Hon Aaron Stonehouse                   |
| Hon Sue Ellery         | Hon Matthew Swinbourn                  |
| Hon Diane Evers        | Hon Dr Sally Talbot                    |
| Hon Adele Farina       | Hon Colin Tincknell                    |
| Hon Laurie Graham      | Hon Darren West                        |
| Hon Alannah MacTiernan | Hon Pierre Yang                        |
| Hon Samantha Rowe      | Hon Martin Pritchard ( <i>Teller</i> ) |

### Noes (12)

|                     |                                  |
|---------------------|----------------------------------|
| Hon Martin Aldridge | Hon Colin Holt                   |
| Hon Jim Chown       | Hon Rick Mazza                   |
| Hon Peter Collier   | Hon Michael Mischin              |
| Hon Colin de Grussa | Hon Tjorn Sibma                  |
| Hon Donna Faragher  | Hon Dr Steve Thomas              |
| Hon Nick Goiran     | Hon Ken Baston ( <i>Teller</i> ) |

Question thus passed.

## 8. Sale of the Western Australian TAB

Motion No. 2 having been called, Hon Colin Holt, pursuant to notice, moved —

That this House calls on the McGowan government to immediately ‘test the market’ for the sale of the WA TAB, and if favourable to the industry proceed with the sale and ensure all proceeds of the sale are returned to the racing industry.

*Interruption pursuant to order.*

## 9. Standing Committee on Estimates and Financial Operations — Report No. 71 — 2017-18 Budget Estimates Hearings

Hon Alanna Clohesy presented Report No. 71 of the Standing Committee on Estimates and Financial Operations, *2017-18 Budget Estimates Hearings*. (Tabled Paper 432).

## 10. Order of Business

Ordered — That Orders of the Day Nos 1, *Firearms Amendment Regulations 2017 — Disallowance*, 2, *Road Traffic Regulations Amendment (Pilot Vehicle Drivers) Regulations 2016 — Disallowance*, 3, *Town of Cambridge Local Government and Public Property Local Law 2016 — Disallowance*, 4, *Town of Cambridge Private Property Local Law 2016 — Disallowance*, 5, *Town of Cambridge Waste Local Law 2016 — Disallowance*, 6, *Shire of Bruce Rock Animals, Environment and Nuisance Local Law 2016 — Disallowance*, 7, *Shire of Kulin Animals, Environment and Nuisance Local Law 2016 — Disallowance*, 8, *Shire of Gingin — Waste Local Law 2016 — Disallowance*, 9, *Shire of Narrogin — Public Places and Local Government Property Local Law 2016 — Disallowance*, 10, *Shire of Lake Grace Animals, Environment and Nuisance Local Law 2016 — Disallowance*, 11, *City of Busselton Waste Local Law 2016 — Disallowance*, 12, *Legal Profession (Law Library Fees) Rules 2017 — Disallowance*, 13, *Shire of Narambeen Animals, Environment and Nuisance Local Law 2016 — Disallowance*, 14, *Shire of Kondinin Animals, Environment and Nuisance Local Law 2016 — Disallowance*, 15, *Shire of Capel Waste Local Law 2016 — Disallowance*, 16, *Shire of Murray Waste Local Law 2016 — Disallowance*, 17, *Shire of Chittering Waste Local Law 2017 — Disallowance*, 18, *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2016 — Disallowance*, 19, *City of Gosnells Waste Local Law 2016 — Disallowance*, 20, *Shire of Moora Dogs Local Law 2016 — Disallowance*, 21, *Shire of Moora Waste Local Law 2016 — Disallowance*, 22, *Town of East Fremantle Waste Local Law 2017 — Disallowance*, 23, *City of Joondalup Animals Amendment Local Law 2016 — Disallowance*, 24, *Bunbury-Harvey Regional Council Standing Orders Local Law 2017*, 25, *City of South Perth Waste Local Law 2017*, and 26, *Electricity (Licensing) Amendment Regulations 2017*, be taken after Order of the Day No. 28, *Port Kennedy Development Bill 2017*. (Leader of the House).

## 11. Joint Select Committee on End of Life Choices — Establishment

The Order of the Day having been read for the further consideration Legislative Assembly Message No. 15, as follows —

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution —

- (1) That a Joint Select Committee of the Legislative Assembly and Legislative Council on End of Life Choices be established.
- (2) That the Committee inquire into and report on the need for laws in Western Australia to allow citizens to make informed decisions regarding their own end of life choices and, in particular, the Committee should —
  - (a) assess the practices currently being utilised within the medical community to assist a person to exercise their preferences for the way they want to manage their end of life when experiencing chronic and/or terminal illnesses, including the role of palliative care;
  - (b) review the current framework of legislation, proposed legislation and other relevant reports and materials in other Australian States and Territories and overseas jurisdictions;

- (c) consider what type of legislative change may be required, including an examination of any federal laws that may impact such legislation; and
  - (d) examine the role of Advanced Health Directives, Enduring Power of Attorney and Enduring Power of Guardianship laws and the implications for individuals covered by these instruments in any proposed legislation.
- (3) That the Joint Select Committee consist of eight members, of whom —
    - (a) four will be members of the Assembly; and
    - (b) four will be members of the Council.
  - (4) The Standing Orders of the Legislative Assembly relating to Standing and Select Committees will be followed as far as they can be applied.
  - (5) That the Joint Select Committee report to both Houses no later than twelve months after the Committee has been established.

and requests the Legislative Council to agree to a similar resolution.

Debate resumed on the motion of the Leader of the House, as follows —

- (a) That in response to the Legislative Assembly Message No. 15, the Legislative Council agrees to the Legislative Assembly's resolution for the establishment of a Joint Select Committee on End of Life Choices; and
- (b) that the Legislative Assembly be acquainted accordingly.

## 12. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary to the Minister for Health, by leave, incorporated into *Hansard* information in relation to the confirmed attendance list at the medicinal cannabis roundtable meeting on 1 June 2017, in response to a question without notice asked by Hon Jim Chown.

The Leader of the House representing the Minister for Public Sector Management, by leave, incorporated into *Hansard* information in relation to permanent public servants employed by the Department of the Premier and Cabinet and working in ministerial offices, and term of government employees working in ministerial offices, in response to a question without notice asked by Hon Peter Collier.

The Minister for Environment representing the Minister for Transport tabled an answer in relation to advertising on Transperth buses in May 2017, in response to question on notice No. 69 asked by Hon Nick Goiran. (Tabled Paper 433).

## 13. Statement by President — Questions Without Notice

The President made the following Statement —

Having presided over 16 question times since this Chamber gave me the honour of electing me as President, I want to draw Members' attention to some important matters relating to the asking and answering of parliamentary questions. Questions are an important illustration of the principle of responsible Government: that Ministers are responsible to Parliament individually and are accountable for the administration of their own portfolios and for the acts of Government collectively. Questions are directed to Ministers or Parliamentary Secretaries in this place and not Ministers in the Legislative Assembly. A Minister or Parliamentary Secretary who represents a Minister in the Assembly is personally responsible for the accuracy of the information given in this Chamber. This is a function of responsible Government, the relevant Minister or Parliamentary Secretary in this Chamber being responsible to this Chamber for the answers that they give. This House may hold only its Members responsible; it cannot punish Members of the Assembly and vice versa. Thus, when it comes to the House calling Ministers to account, it is restricted to those who are Members of the Legislative Council. This is the reason for the constitutional requirement that at least one Minister of the Crown be a Member of this Chamber. Council Ministers and Parliamentary Secretaries cannot shed their responsibility for an answer by prefacing answers to questions with expressions such as "the Minister has provided me with the following reply". The answer given in this Chamber by a

Member of this Chamber is that Member's answer. The Council Minister or Parliamentary Secretary providing it is taken to have satisfied themselves that the information is accurate. Representative Ministers and Parliamentary Secretaries in this House are not merely a convenient post box for the Assembly Minister. In addition, questions are directed to Ministers and it is not consistent with the doctrine of ministerial responsibility to give an answer that bypasses the Minister and identifies it as being given by a public servant or statutory office holder, or, most recently, suggests that the inquirer direct their question to those public officers. If ministerial responsibility is to mean anything at all, it must mean that Ministers, politically, answer for their own administration, and, collectively, for the executive Government. Public servants are answerable to their Minister and may provide information and advice but they do not answer parliamentary questions for Ministers. Allowing such an arrangement would undermine the principle of responsible Government.

#### **14. Joint Select Committee on End of Life Choices — Establishment**

Debate resumed on the motion of the Leader of the House (*see item 11 above*).

Question — put and passed.

Motion agreed to.

The Leader of the House moved, without notice —

- (a) that the following Legislative Council Members are appointed to the Joint Select Committee on End of Life Choices —
- Hon Robin Chapple;
  - Hon Nick Goiran;
  - Hon Colin Holt;
  - Hon Sally Talbot; and
- (b) that the Legislative Assembly be acquainted accordingly.

Debate ensued.

Question — put and passed.

Motion agreed to.

#### **15. Child Support (Adoption of Laws) Amendment Bill 2017**

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

Debate resumed.

*Interruption pursuant to order.*

#### **16. Members' Statements**

Statements were taken.

#### **17. Adjournment**

The Council adjourned at 6.53pm until Thursday, 24 August 2017 at 10.00am.

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

Attendance: Present all Members except Hon Jacqui Boydeell, Hon Kyle McGinn and Hon Simon O'Brien.

**NIGEL PRATT**  
Clerk of the Legislative Council

**HON KATE DOUST MLC**  
President of the Legislative Council