

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 202

TUESDAY, 13 MAY 2008

1. Meeting of Council

The Council assembled at 3.30pm pursuant to Temporary Order.

The President, Hon Nick Griffiths, took the Chair and read prayers.

2. Petition

Hon Paul Llewellyn presented a petition from 6 665 petitioners requesting the Legislative Council oppose all three design scenarios for the Fremantle Harbours Policy and recommend the project is revisited ensuring adequate representation from all stakeholders. (Tabled paper 3975).

3. Papers

The following Papers were laid on the Table by -

Leader of the House

Reports -

Water and Rivers Commission - Final Report (1 July 2007 - 31 January 2008)
(Report No. 13) 3968

Minister for Employment Protection

Annual Reports -

State Emergency Management Committee (2006-2007) (Date received 8/05/2008) 3969

Parliamentary Secretary representing the Minister for Planning and Infrastructure

Ministerial Approvals -

East Perth Redevelopment Act 1991 - Sale of land with value in excess of \$1 million -
Lot 450 Newcastle Street, Northbridge 3970

East Perth Redevelopment Act 1991 - Sale of land with value in excess of \$1 million -
Lot 551 William Street and Lots 557 and 558 Newcastle Street, Northbridge 3971

4. Standing Committee on Public Administration - Seventh Report - Annual Report 2007

Hon Barry House presented the Seventh Report of the Standing Committee on Public Administration in relation to the *Annual Report 2007*. (Tabled paper 3974).

Hon Barry House moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

5. Ministerial Statement - Metropolitan Region Scheme Amendment No. 1050/33, Stakehill Swamp, Baldivis

The Parliamentary Secretary representing the Minister for Planning and Infrastructure made a Ministerial Statement with respect to the Metropolitan Region Scheme Amendment No. 1050/33, Stakehill Swamp, Baldivis. (Tabled papers 3972 and 3973A-C).

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

6. Select Committee into the Police Raid on the Sunday Times

Hon Norman Moore moved, without notice -

That pursuant to Standing Order 128, Order of the Day No. 604 - *Select Committee into the Police Raid on the Sunday Times*, be made Order of the Day No. 1 for Wednesday, 14 May 2008.

Question - put.

The House divided.

Ayes (15)

Hon George Cash
Hon Peter Collier
Hon Wendy Duncan
Hon Brian Ellis
Hon Donna Faragher
Hon Anthony Fels
Hon Ray Halligan
Hon Barry House

Hon Paul Llewellyn
Hon Robyn McSweeney
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Noes (11)

Hon Vincent Catania
Hon Kim Chance
Hon Kate Doust
Hon Adele Farina
Hon Jon Ford
Hon Sheila Mills

Hon Batong Pham
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Question thus passed.

7. Order of Business

Ordered - That Orders of the Day Nos 600, *Architects Amendment Regulations 2007 - Disallowance*, 607, *State Superannuation Amendment Regulations 2008 - Disallowance*, 608, *City of Nedlands - Fencing Local Laws 2007 - Disallowance*, 609, *City of Nedlands - Signs Local Law 2007 - Disallowance*, 610, *Swan Districts Hospital (Eveline Road Site) Amendment By-Laws 2008 - Disallowance*, 611, *Peel Health Services By-Laws 2008 - Disallowance*, 612, *Metropolitan Health Service By-Laws 2008 - Disallowance*, 613, *Fremantle Hospital Amendment By-Laws 2008 - Disallowance*, 614, *Bentley Hospital Amendment By-Laws 2008 - Disallowance*, 615, *Armada Kelmscott District Memorial Hospital Amendment By-Laws 2008 - Disallowance*, 616, *City of Fremantle - Local Law Relating to Outdoor Eating Areas Amendment Local Law 2007 - Disallowance*, 617, *Conservation and Land Management Amendment Regulations (No. 2) 2007 - Disallowance*, 618, *City of Joondalup - Local Government and Public Property Amendment Local Law (No. 2) 2007 - Disallowance*, and 619, *City of Cockburn - Parking and Parking Facilities Local Law 2007 - Disallowance*, be taken after Order of the Day No. 161, *ANZAC Day Amendment Bill 2005*. (Leader of the House).

8. Medical Practitioners Bill 2006

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

The Minister for Child Protection representing Minister for Health moved, That the Bill be now read a third time.

The President having reported that the Deputy 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. Mining Legislation Amendment and Validation Bill 2007

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

Leave was granted to proceed forthwith to the third reading of the Bill.

The Leader of the House representing the Minister for Resources moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

10. Food Bill 2005

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

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 1 agreed to.

Clause 2.

The Minister for Agriculture and Food moved -

Page 2, lines 5 to 10 — To delete the lines and insert instead —

“

(1) This Act comes into operation as follows:

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 3 to 5 agreed to.

Clause 6.

Debate ensued.

Clause agreed to.

Clauses 7 and 8 agreed to.

Clause 9.

The Minister for Agriculture and Food moved -

Page 10, line 8 — To delete “3B” and insert instead —

“ 6 ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 10 to 18 agreed to.

Clause 19.

Hon Helen Morton moved -

Page 17, line 16 — To insert after “business,” —

“ knowingly ”.

Debate ensued.

Amendment - put and negatived.

On the question, That the Clause stand as printed - put and passed.

Clauses 20 to 23 agreed to.

Clause 24.

Debate ensued.

Clause agreed to.

Clauses 25 and 26 agreed to.

Clause 27.

Debate ensued.

Clause agreed to.

Clauses 28 to 32 agreed to.

Clause 33.

Hon Helen Morton moved -

Page 26, line 23 — To delete “any” and insert instead —

“ reasonable ”.

Page 26, line 29 — To delete “any” and insert instead —

“ reasonable ”.

Debate ensued.

Amendments - put.

The Committee divided.

Ayes (15)

Hon George Cash
Hon Peter Collier
Hon Wendy Duncan
Hon Donna Faragher
Hon Anthony Fels
Hon Ray Halligan
Hon Barry House
Hon Paul Llewellyn

Hon Robyn McSweeney
Hon Norman Moore
Hon Helen Morton
Hon Simon O’Brien
Hon Barbara Scott
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Noes (11)

Hon Vincent Catania
Hon Kim Chance
Hon Kate Doust
Hon Adele Farina
Hon Jon Ford
Hon Sheila Mills

Hon Batong Pham
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Amendments thus passed.

Clause, as amended, agreed to.

Clause 34 agreed to.

Clause 35.

Hon Helen Morton moved -

Page 28, line 11 — To insert after “notification” —

“ within 28 days after receiving the application ”.

Debate ensued.

11. Questions Without Notice

Questions without notice were taken.

The Minister for Local Government representing the Minister for Housing and Works tabled, and by leave incorporated into Hansard, an answer in relation to waiting lists for youth emergency accommodation in Perth, in response to a question without notice asked by Hon Giz Watson. (Tabled paper 3976).

The Minister for Child Protection representing the Minister for Health tabled the Mental Health Transport Risk Assessment Form, in response to a question without notice asked by Hon Helen Morton. (Tabled paper 3977).

The Parliamentary Secretary representing the Minister for Disability Services tabled, and by leave incorporated into Hansard, an answer in relation to the Disabilities Access and Inclusion Plans 2006-2007 Progress Report, in response to a question without notice asked by Hon Donna Faragher. (Tabled paper 3978).

The Minister for Local Government representing the Minister for Education and Training tabled, and by leave incorporated into Hansard, an answer in relation to the number of students enrolled in the School of Isolated and Distance Education, in response to a question without notice asked by Hon Peter Collier. (Tabled paper 3979).

The Leader of the House in accordance with Standing Order No 138(d), tabled a summary of questions on notice Nos 6025 to 6055 and 6057 to 6078 asked by Hon Norman Moore and advised that answers will be provided when they become available. (Tabled paper 3980).

The Minister for Agriculture and Food tabled a document in relation to Dry Seasons Funding to 30 April 2008, in response to a question without notice asked by Hon Paul Llewellyn on 7 May 2008. (Tabled paper 3981).

The Minister for Agriculture and Food tabled an answer in relation to the Natural Resource Management Regional Councils in the 2008-2009 Budget, in response to a question without notice asked by Hon Paul Llewellyn. (Tabled paper 3982).

12. Food Bill 2005

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 35.

Debate resumed on the amendment moved by Hon Helen Morton as follows -

Page 28, line 11 — To insert after “notification” —

“ within 28 days after receiving the application ”.

Amendment - put and negatived.

Hon Helen Morton moved -

Page 28, line 18 — To delete “refused to pay any compensation” and insert instead —

“ agreed to pay the compensation applied for by the applicant ”.

Debate ensued.

Amendment - put and negatived.

On the question, That the Clause stand as printed - put and passed.

Clauses 36 and 37 agreed to.

Clause 38.

Hon Helen Morton moved -

Page 32, after line 11 — To insert —

“

- (3) With respect to powers of entry, inspection and seizure by and pursuant to section 38, the exercise of all such powers of the authorised officer must be reasonable under the circumstances.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 39 to 69 agreed to.

Clause 70.

Debate ensued.

Clause agreed to.

Clauses 71 to 120 agreed to.

Clause 121.

The Minister for Agriculture and Food moved -

Page 82, line 25 — To delete “officer” and insert instead —

“ authority ”.

Amendment - put and passed.

The Minister for Agriculture and Food moved -

Page 82, lines 27 and 28 — To delete “*Financial Administration and Audit Act 1985* section 66” and insert instead —

“ *Financial Management Act 2006* Part 5 ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 122 and 123 agreed to.

Clause 124.

Hon Helen Morton moved -

Page 84, after line 17 — To insert —

“

(3) An advisory committee is to consist of members appointed from persons having expertise in one or more of the following areas —

- (a) the food industry;
- (b) public health;
- (c) the interests of consumers;
- (d) the enforcement of food legislation.

(4) In addition the Minister may appoint as members of an advisory committee persons having expertise in nutrition, toxicology, microbiology, and food technology and such other persons as the Minister considers have appropriate expertise, qualification or experience as will enable them to make a valuable contribution to the advisory committee.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 125 to 130 agreed to.

Clause 131.

Hon Helen Morton moved -

Page 89, after line 24 — To insert

“

- (3) Subsection (1) will only apply where the CEO has made reasonable inquiries into the origin or composition of the food in question or the therapeutic or nutritive properties of the food, in relation to the false statement on a package or in an advertisement.

”

Debate ensued.

The Minister for Agriculture and Food moved, That further consideration of Clause 131 be postponed until after Clause 153.

Question - put and passed.

Clauses 132 to 140 agreed to.

Clause 141.

Hon Helen Morton moved -

Page 95, lines 15 to 25 — To delete the lines and insert instead —

“

- (1) Any matter or thing done or omitted to be done by an enforcement agency, an advisory committee, or a protected person does not, if the matter or thing was done or omitted in good faith for the purpose of executing any provision of this Act or any other law, subject a protected person personally to any action, liability, claim or demand.
- (2) In subsection (1) —
“protected person” means any of the following —
 - (a) the Minister;
 - (b) the head of an enforcement agency;
 - (c) any member of an enforcement agency or the staff of an enforcement agency;
 - (d) an authorised officer;
 - (e) any person acting under the direction of the head of an enforcement agency;
 - (f) any member of an advisory committee; or
 - (g) a person employed by the Crown to carry out analyses for the purposes of this Act or a person carrying out analyses under the supervision of such a person.

”

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (14)

Hon Ken Baston
Hon George Cash
Hon Peter Collier
Hon Wendy Duncan
Hon Brian Ellis
Hon Donna Faragher
Hon Anthony Fels

Hon Ray Halligan
Hon Paul Llewellyn
Hon Helen Morton
Hon Simon O'Brien
Hon Barbara Scott
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Noes (10)

Hon Vincent Catania
Hon Kim Chance
Hon Kate Doust
Hon Adele Farina
Hon Jon Ford

Hon Sheila Mills
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Matt Benson-Lidholm (*Teller*)

Amendment thus passed.

Clause, as amended, agreed to.

Clauses 142 and 143 agreed to.

Clause 144.

Hon Paul Llewellyn moved -

Page 98, after line 26 — To insert —

“

(iii) for the purpose of reducing obesity — the advertising of any food.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 145 and 146 agreed to.

Clause 147.

The Minister for Agriculture and Food moved -

Page 101, line 22 — To delete “repealed.” and insert instead —

“ amended by deleting “246O(2), 246P, 246Q(3) and (4), 246Z(5) and (6), 246ZH(2), 246ZM(1),”. ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 148.

The Minister for Agriculture and Food moved -

Page 102, line 10 — To delete “*Licensing*” and insert instead —

“ *Control* ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 149 to 153 agreed to.

Postponed Clause 131.

Debate resumed on the amendment moved by Hon Helen Morton as follows -

Page 89, after line 24 — To insert

“

- (3) Subsection (1) will only apply where the CEO has made reasonable inquiries into the origin or composition of the food in question or the therapeutic or nutritive properties of the food, in relation to the false statement on a package or in an advertisement.

”.

Amendment - put and negatived.

On the question, That the Clause stand as printed - put and passed.

New Clause 141.

The Minister for Agriculture and Food moved -

Page 95, after line 13 — To insert the following new clause —

“

141. Payment of compensation to be charged to Consolidated Account

The Consolidated Account —

- (a) is charged with the payment of any compensation payable by the CEO or an enforcement agency prescribed by the regulations that is payable —
- (i) under section 35, 56, 60 or 70; or
 - (ii) as the result of a review by the State Administrative Tribunal under section 35, 56 or 70;
- and
- (b) is appropriated accordingly.

”.

New Clause agreed to.

New Clause 149.

The Minister for Agriculture and Food moved -

Page 102, after line 29 — To insert the following new clause —

“

149. *Volunteers and Food and Other Donors (Protection from Liability) Act 2002* amended

Section 3(1) is amended in the definition of “food” by deleting “section 3(1) of the *Health Act 1911*,” and inserting instead —

“ the *Food Act 2005* section 9; ”.

”.

New Clause 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. Legal Profession Bill 2007

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 Ken Travers in the Chair)

Clause 525.

Debate resumed.

Clause agreed to.

Clauses 526 to 638 agreed to.

Clause 639.

Debate ensued.

Clause agreed to.

Clauses 640 to 714 agreed to.

Postponed Clause 3.

Debate ensued.

Clause agreed to.

Postponed Clause 100.

Debate ensued.

Clause agreed to.

Postponed Clause 523.

The Parliamentary Secretary representing the Minister for Planning and Infrastructure on behalf of Minister for Child Protection moved -

Page 371, lines 3 and 4 — To delete the lines.

Page 371, line 5 — To delete “residential” and insert instead —

“ any ”.

Debate ensued.

Amendments - put and passed.

Clause, as amended, 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.

14. Community Protection (Offender Reporting) Amendment Bill 2005

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

Debate resumed.

Interrupted pursuant to Temporary Orders.

15. Adjournment

The House adjourned at 9.46pm until Wednesday, 14 May 2008 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Shelley Archer and Hon Graham Giffard.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON NICK GRIFFITHS
President of the Legislative Council