

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 175

WEDNESDAY, 16 MARCH 2016

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### 1. Meeting of Council

The Council assembled at 1.00pm pursuant to Temporary Orders.

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

### 2. Petitions

Hon Jacqui Boydell presented a petition from 2,207 petitioners requesting the Legislative Council to oppose the use of fish traps between Shark Bay and Coral Bay. (Tabled Paper 3896).

Hon Stephen Dawson presented a petition from 562 petitioners requesting the Legislative Council to conduct an independent review of the *Mining Amendment Bill 2015*. (Tabled Paper 3897).

Hon Robin Chapple presented a petition from 20 petitioners requesting the Legislative Council to conduct an inquiry into why the application for the burial on country of the late Mr Howard was denied. (Tabled Paper 3898).

### 3. Ministerial Statement — Western Australian Consumer Protection Awards 2016

The Minister for Commerce made a Ministerial Statement with respect to the Western Australian Consumer Protection Awards 2016.

### 4. Papers

The following Papers were laid on the Table by —

#### President

*Auditor General's Papers* —

Management of Government Concessions (Report No. 3) (March 2016) ..... 3893

*Reports* —

Corruption and Crime Commission — Report on the Investigation of Alleged Public Sector Misconduct in Relation to an Incident Involving the Hon. Troy Buswell that Occurred on 23 February 2014 (29 February 2016)..... 3894

#### Leader of the House

*Response to Reports* —

Standing Committee on Environment and Public Affairs — Implications for Western Australia of Hydraulic Fracturing for Unconventional Gas (Report No. 42) (Premier) ..... 3895

### 5. Standing Committee on Estimates and Financial Operations — Report No. 61 — 2016-17 Budget Estimates Hearings — Sitting Schedule

Hon Ken Travers presented Report No. 61 of the Standing Committee on Estimates and Financial Operations, *2016-17 Budget Estimates Hearings — Sitting Schedule*. (Tabled Paper 3899).

**6. Electoral Amendment Bill 2016**

The Minister for Electoral Affairs: 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.

**7. Muresk Facility**

Motion No. 1 having been called, debate resumed on the motion of Hon Darren West as follows —

That this Council notes the failure of the Barnett Governments’ policy in terms of developing the facility at Muresk as a ‘Centre of Excellence’ in regard to the provision of a tertiary agribusiness degree and the establishment of the Western Australian Mining Academy (WAMA).

Hon Paul Brown moved, without notice —

To delete all words after “Council” and insert —

recognises the significant investment through \$20 million from the Royalties for Regions fund that the Liberal-National Government has made in ensuring that the facilities at Muresk continue as a “Centre for Excellence”, particularly for agriculture.

Debate ensued.

Question, That the words to be deleted, be deleted — put.

The Council divided.

**Ayes (20)**

Hon Martin Aldridge  
 Hon Liz Behjat  
 Hon Jacqui Boydell  
 Hon Paul Brown  
 Hon Jim Chown  
 Hon Peter Collier  
 Hon Brian Ellis  
 Hon Donna Faragher  
 Hon Nick Goiran  
 Hon Dave Grills

Hon Nigel Hallett  
 Hon Alyssa Hayden  
 Hon Col Holt  
 Hon Peter Katsambanis  
 Hon Mark Lewis  
 Hon Rick Mazza  
 Hon Robyn McSweeney  
 Hon Michael Mischin  
 Hon Helen Morton  
 Hon Phil Edman (*Teller*)

**Noes (11)**

Hon Robin Chapple  
 Hon Alanna Clohesy  
 Hon Stephen Dawson  
 Hon Kate Doust  
 Hon Sue Ellery  
 Hon Lynn MacLaren

Hon Martin Pritchard  
 Hon Sally Talbot  
 Hon Ken Travers  
 Hon Darren West  
 Hon Amber-Jade Sanderson (*Teller*)

Question thus passed.

Question, That the words to be inserted, be inserted — put.  
The Council divided.

**Ayes (20)**

Hon Martin Aldridge  
Hon Liz Behjat  
Hon Jacqui Boydell  
Hon Paul Brown  
Hon Jim Chown  
Hon Peter Collier  
Hon Brian Ellis  
Hon Donna Faragher  
Hon Nick Goiran  
Hon Dave Grills

Hon Nigel Hallett  
Hon Alyssa Hayden  
Hon Col Holt  
Hon Peter Katsambanis  
Hon Mark Lewis  
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Hon Martin Pritchard  
Hon Sally Talbot  
Hon Ken Travers  
Hon Darren West  
Hon Amber-Jade Sanderson (*Teller*)

Amendment thus passed.

Debate resumed on the motion, as amended.

*Interruption pursuant to order.*

**8. Statement by President — Amendment to be Relevant and Not a Direct Negative**

The President made the following Statement —

In terms of Standing Order 87, “Amendment to be Relevant and Not a Direct Negative”, the Legislative Council of Western Australia follows the practice in Erskine May regarding the question of whether an amendment is out of order as a result of being a direct negative of the motion before the House. Erskine May advises that the proper method of expressing a contrary opinion is by voting against a motion without seeking to amend it. However, the practice in all Australian jurisdictions, and again in accordance with House of Commons practice, is that an amendment is only a direct negative if agreeing to it would have exactly the same effect as voting against the motion. An amendment that presents an alternative proposition to the House and does not have the same effect as voting against the motion is in order.

In the House of Representatives, amendments may be moved which evade an expression of opinion on the main question by entirely altering its meaning and object. This is usually effected by moving for the omission of all or most words of the question after “That” and proposing the substitution of an alternative proposition. Most importantly, the alternative proposal must be relevant to the subject of the original question. If the amendment is relevant to the subject matter, it would be in order. An amendment that is an example of a direct negative would be an amendment placed on a supplementary notice paper moving to delete a clause of a Bill. This has exactly the same effect of voting against the clause and as a result it is out of order. The point at which an amendment is characterised as a direct negative rather than an alternative proposition is one of interpretation for the Chair. An amendment to delete words of condemnation and to replace them with words of congratulation is putting forward an alternative proposition and is not a directive negative if otherwise relevant to the subject of the motion.

## 9. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

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### In Committee

(Hon Adele Farina in the Chair)

#### **Standing Committee on Environment and Public Affairs — Report No. 42 — Implications for Western Australia of Hydraulic Fracturing for Unconventional Gas**

Hon Brian Ellis moved, That consideration be postponed until the next sitting.

Question — put and passed.

#### **Joint Standing Committee on the Corruption and Crime Commission — Report No. 26 — Public hearing with the Police Commissioner on the CCC's report on an incident at the East Perth Watch House**

Hon Nick Goiran moved, That the Report be noted.

Question — put and passed.

#### **Standing Committee on Environment and Public Affairs — Report No. 44 — Overview of Petitions 1 July 2015 to 31 December 2015**

Hon Kate Doust moved, That the Report be noted.

Question — put and passed.

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The Acting President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the —

- (1) Standing Committee on Environment and Public Affairs — Report No. 42 — *Implications for Western Australia of Hydraulic Fracturing for Unconventional Gas* and postponed consideration to the next sitting.
- (2) Joint Standing Committee on the Corruption and Crime Commission — Report No. 26 — *Public hearing with the Police Commissioner on the CCC's report on an incident at the East Perth Watch House* and had noted same.
- (3) Standing Committee on Environment and Public Affairs — Report No. 44 — *Overview of Petitions 1 July 2015 to 31 December 2015* and had noted same.

Report adopted.

## 10. Order of Business

Ordered — That Order of the Day No. 1, *Planning and Development Amendment Regulations — Disallowance*, be taken after Order of the Day No. 14, *Dangerous Sexual Offenders Legislation Amendment Bill 2015*. (Leader of the House).

## 11. Anzac Day Amendment Bill 2015 and Anzac Day Amendment Bill (No. 2) 2015

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

## 12. Questions Without Notice

Questions without notice were taken.

The Minister for Aboriginal Affairs tabled documents in relation to *Aboriginal Heritage Act 1972*, section 18 approvals to disturb sites, including Port Hedland harbour site, in response to a question without notice asked by Hon Robin Chapple. (Tabled Paper 3900).

The Minister for Fisheries tabled documents in relation to the commercial blue swimmer crab catch by financial year between Carnarvon, Augusta, Mandurah, Bunbury, Warnbro Sound, Swan River and Shark Bay, in response to a question without notice asked by Hon Rick Mazza. (Tabled Paper 3901).

The Minister for Education, by leave incorporated into *Hansard*, information in relation to the ceiling replacement program at Western Australian public schools, in response to a question without notice asked by Hon Sue Ellery.

The Parliamentary Secretary to the Minister for Health tabled documents in relation to St. John Ambulance letters in response to the Chief Psychiatrist report into the deaths by suicide of five paramedics and volunteers, in response to a question without notice asked by Hon Adele Farina. (Tabled Paper 3902).

The Minister for Agriculture and Food representing the Minister for Water tabled a map of the proposed Mangles Bay canal estate and marina, in response to a question without notice asked by Hon Lynn MacLaren. (Tabled Paper 3903).

The Minister for Education, by leave incorporated into *Hansard*, information in relation to school funding for children with a disability, in response to question without notice No. 155 asked by Hon Sue Ellery.

The Minister for Education, by leave incorporated into *Hansard*, information in relation to the policy in respect of how the school or department communicates with the parents of children involved in allegations of criminal conduct, in response to question without notice No. 168 asked by Hon Sue Ellery.

The Minister for Education, by leave incorporated into *Hansard*, information in relation to policies that are in place in respect of the interviewing of children by members of the Standards and Integrity Unit when an allegation is made against a school staff member, in response to question without notice No. 154 asked by Hon Sue Ellery.

The Minister for Mental Health, by leave incorporated into *Hansard*, additional information in relation to full time equivalent staff numbers in offices in the West Kimberley District, in response to question without notice No. 157 asked by Hon Stephen Dawson.

### **13. Anzac Day Amendment Bill 2015 and Anzac Day Amendment Bill (No. 2) 2015**

Cognate debate resumed on the second reading of these Bills (*see item 11 above*).

Question — That the *Anzac Day Amendment Bill 2015*, be read a second time — put and passed.

Bill read a second time.

Question — That the *Anzac Day Amendment Bill (No. 2) 2015*, be read a second time — put and passed.

Bill read a second time.

The Acting President left the Chair.

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#### **In Committee**

(Hon Liz Behjat in the Chair)

#### ***Anzac Day Amendment Bill 2015***

Clause 1 agreed to.

Clauses 2 to 8 agreed to.

New Clause 8A.

Hon Darren West moved —

Page 8, after line 17 — To insert —

#### **8A. Section 8A inserted**

After section 7 insert:

#### **8A. Any event held on Anzac Day where no admission tickets are sold**

Where any event attended by 5,000 or more people is held on Anzac Day and no admission tickets are sold, the Minister shall approve an appropriate amount to be paid to the Trust in accordance with Section 10A(3) of the Act.

Debate ensued.

New Clause — put.

The Committee divided.

**Ayes (11)**

Hon Robin Chapple  
 Hon Stephen Dawson  
 Hon Kate Doust  
 Hon Sue Ellery  
 Hon Adele Farina  
 Hon Lynn MacLaren

Hon Martin Pritchard  
 Hon Sally Talbot  
 Hon Ken Travers  
 Hon Darren West  
 Hon Samantha Rowe (*Teller*)

**Noes (20)**

Hon Martin Aldridge  
 Hon Ken Baston  
 Hon Liz Behjat  
 Hon Jacqui Boydell  
 Hon Paul Brown  
 Hon Jim Chown  
 Hon Peter Collier  
 Hon Brian Ellis  
 Hon Donna Faragher  
 Hon Nick Goiran

Hon Dave Grills  
 Hon Alyssa Hayden  
 Hon Col Holt  
 Hon Peter Katsambanis  
 Hon Mark Lewis  
 Hon Rick Mazza  
 Hon Robyn McSweeney  
 Hon Michael Mischin  
 Hon Helen Morton  
 Hon Phil Edman (*Teller*)

New Clause thus negatived.

Clauses 9 and 10 agreed to.

New Clause 10A.

The Attorney General moved —

Page 9, after line 21 — To insert —

**10A. Section 13 amended**

In section 13(d) delete “Governor” and insert:

Minister

Debate ensued.

New Clause agreed to.

New Clause 10B.

The Attorney General moved —

Page 9, after line 21 — To insert —

**10B. Section 14 amended**

In section 14 delete “Governor” (each occurrence) and insert:

Minister

Debate ensued.

New Clause agreed to.

Title agreed to.

***Anzac Day Amendment Bill (No. 2) 2015***

Clause 1 agreed to.

Clauses 2 to 6 agreed to.

Title agreed to.

The President resumed the Chair.

***Anzac Day Amendment Bill 2015***

The *Anzac Day Amendment Bill 2015* reported with amendments.

The Attorney General, by leave, moved, That the report be adopted.

Report adopted.

The Attorney General moved, without notice —

That so much of Standing Orders be suspended so as to enable the *Anzac Day Amendment Bill 2015* to be read a third time.

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.

The Attorney General moved, That the *Anzac Day Amendment Bill 2015*, be read a third time.

The President announced that the Deputy 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.

***Anzac Day Amendment Bill (No. 2) 2015***

The *Anzac Day Amendment Bill (No. 2) 2015* reported without amendment.

Report adopted.

The Attorney General moved, That the *Anzac Day Amendment Bill (No. 2) 2015*, be read a third time.

The President announced that the Deputy 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.

**14. Pilbara Port Assets (Disposal) Bill 2015**

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.*

**15. Members' Statements**

Statements were taken.

**16. Adjournment**

The Council adjourned at 6.26pm until Thursday, 17 March 2016 at 10.00am.

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

Attendance: Present all Members except Hon Simon O'Brien.

**NIGEL PRATT**  
Clerk of the Legislative Council

**HON BARRY HOUSE**  
President of the Legislative Council