

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

---

## MINUTES OF PROCEEDINGS

No. 129

WEDNESDAY, 24 NOVEMBER 2010

---

### 1. Meeting of Council

The Council assembled at 2.00pm pursuant to Temporary Orders.

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

### 2. Petitions

Hon Ken Travers presented a petition from 20 petitioners requesting the Legislative Council to call on the Government to fund the employment of six permanent full-time General Inspectors in the Department of Local Government's Animal Welfare Unit Inspectorate to ensure the welfare of livestock in live export, transportation and abattoirs. (Tabled paper 2871).

Hon Phil Edman presented a petition from 145 petitioners requesting the Legislative Council to inquire into the proposed zoning changes in relation to the draft Canning Bridge Precinct Vision (C.B.P.V.). (Tabled paper 2872).

### 3. Ministerial Statement - Georgiou Capital Pty Ltd - Commercial Development

The Minister for Child Protection representing the Minister for Planning made a Ministerial Statement with respect to the determination by the Minister for Planning, pursuant to section 246(2)(a) of the *Planning and Development Act 2005*, in relation to the review of development application DR 473/2009 in the City of Stirling by Georgiou Capital Pty Ltd.

The Minister for Child Protection representing the Minister for Planning tabled the final decision by the Minister for Planning in relation to Georgiou Capital Pty Ltd v City of Stirling DR 473/2009 (11 November 2010). (Tabled paper 2873).

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 -

#### President

*Auditor General's Papers -*

Universal Child Health Checks (Report No. 11) (November 2010) ..... 2867

Second Public Sector Performance Report (Report No. 12) (November 2010)..... 2868

**Leader of the House***Reports -*

Public Sector Standards Commissioner, Office of the [OPSSC] - State of the Sector  
Report (2010) ..... 2869

**Parliamentary Secretary representing the Attorney General***Annual Reports -*

State Coroner, Office of the (2008-2009) (Date received 23/11/2010)..... 2870

**5. Aboriginal Heritage (Abydos-Woodstock Protected Area) Variation Order 2010 - Disallowance**

Hon Robin Chapple: To move on the next day of sitting -

That the *Aboriginal Heritage (Abydos-Woodstock Protected Area) Variation Order 2010* published in the *Gazette* on 12 October 2010 and tabled in the Legislative Council on 12 October 2010 under the *Aboriginal Heritage Act 1972*, be and is hereby disallowed.

**6. Occupational Safety and Health Regulations 1996**

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

That, pursuant to section 42(4)(a) of the *Interpretation Act 1984*, the *Occupational Safety and Health Regulations 1996* is amended by inserting the following after regulation 3.62(b)(ii) —

- (iii) if the person holds a certificate of competency in the use of a portable appliance tester - the person's certificate of competency number.

and, if so resolved, the Legislative Assembly be requested to pass a similar resolution.

**7. Local Government Council Reform**

Hon Ljiljanna Ravlich: To move on the next day of sitting -

That this House calls on the Minister for Local Government to explain why he has not been able to achieve local government council reform and to provide details on how much has been spent to date on this failed government policy.

**8. Roe Highway Stage 8**

Hon Lynn MacLaren: To move on the next day of sitting -

That, for the purposes of —

- (a) saving the Beeliar wetlands by preserving ecological linkages and a range of other key values including —
  - (i) regionally significant vegetation, which is becoming rare as a result of encroaching urbanisation;
  - (ii) habitat for a great many fauna species, especially internationally and nationally significant migratory birds, as well as seriously threatened species like the Carnaby's Cockatoo and the Graceful Sun Moth; and
  - (iii) residential amenity, recreation and education; and
- (b) protecting our unique Aboriginal heritage; and

- (c) redirecting funds into more sustainable transport solutions, such as an expanded rail freight system and a passenger light rail network,

this House calls upon the Barnett Government to abandon the proposed Stage 8 of the Roe Highway development, and to request the Western Australian Planning Commission to initiate an amendment to the Metropolitan Region Scheme in order to delete the current zoning for a road reserve over the area of the proposed Stage 8 of the Roe Highway development.

**9. Suspension of Standing and Temporary Orders - Trade Measurement Legislation (Amendment and Expiry) Bill 2010**

The Leader of the House moved, without notice -

That so much of the Standing and Temporary Orders be suspended as to enable the *Trade Measurement Legislation (Amendment and Expiry) Bill 2010* to proceed through all remaining stages at this day's sitting.

The motion requiring the concurrence of an absolute majority.

Question - put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

**10. Suspension of Standing and Temporary Orders - Fair Trading Bill 2010 and Acts Amendment (Fair Trading) Bill 2010**

The Leader of the House moved, without notice -

That so much of the Standing and Temporary Orders be suspended as to enable the *Fair Trading Bill 2010* and *Acts Amendment (Fair Trading) Bill 2010* to proceed through all remaining stages at this day's sitting.

The motion requiring the concurrence of an absolute majority.

Question - put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

**11. Suspension of Standing and Temporary Orders - Business of the House**

The Leader of the House moved, without notice -

That so much of the Standing and Temporary Orders be suspended as to enable Orders of the Day to be taken forthwith.

The motion requiring the concurrence of an absolute majority.

Question - put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

**12. Order of Business**

Ordered - That Orders of the Day Nos 1, *Occupational Safety and Health Amendment Regulations (No. 5) 2010 - Disallowance*, 2, *Shire of Koorda Cemeteries Amendment Local Law 2010 - Disallowance*, 3, *Fish Resources Management Amendment Regulations (No. 6) 2010 - Disallowance*, 4, *City of Rockingham Dogs Amendment Local Law 2010 - Disallowance*, and 5, *Fish Resources Management Amendment Regulations (No. 7) 2010 - Disallowance*, be taken after Order of the Day No. 11, *Liquor Control Amendment Bill 2010*. (Leader of the House).

**13. Trade Measurement Legislation (Amendment and Expiry) Bill 2010**

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

The Leader of the House representing the Minister for Commerce moved, That the report be adopted.

Question - put and passed.

The Leader of the House representing the Minister for Commerce 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.

**14. Prohibited Behaviour Orders Bill 2010**

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 Matt Benson-Lidholm in the Chair)

Clause 6.

Debate resumed.

Hon Adele Farina moved -

Page 5, line 27 — To insert after “age” —

as at the date of the offence

Debate ensued.

Hon Adele Farina moved to amend the amendment as follows -

To insert after “of the” —

relevant

Debate ensued.

Hon Adele Farina, by leave, withdrew her amendment to the amendment.

Hon Adele Farina moved to amend the amendment as follows -

To insert after “offence” —

specified in subsection (2)

Debate ensued.

Amendment to the amendment - put.

The Committee divided.

**Ayes (15)**

Hon Matt Benson-Lidholm  
 Hon Helen Bullock  
 Hon Robin Chapple  
 Hon Kate Doust  
 Hon Sue Ellery  
 Hon Adele Farina  
 Hon Jon Ford  
 Hon Col Holt

Hon Lynn MacLaren  
 Hon Ljiljanna Ravlich  
 Hon Linda Savage  
 Hon Sally Talbot  
 Hon Ken Travers  
 Hon Alison Xamon  
 Hon Ed Dermer (*Teller*)

**Noes (18)**

Hon Liz Behjat  
 Hon Jim Chown  
 Hon Peter Collier  
 Hon Mia Davies  
 Hon Wendy Duncan  
 Hon Phil Edman  
 Hon Brian Ellis  
 Hon Philip Gardiner  
 Hon Nick Goiran

Hon Nigel Hallett  
 Hon Alyssa Hayden  
 Hon Robyn McSweeney  
 Hon Michael Mischin  
 Hon Norman Moore  
 Hon Helen Morton  
 Hon Simon O'Brien  
 Hon Max Trenorden  
 Hon Ken Baston (*Teller*)

Amendment to the amendment thus negatived.

Debate resumed.

Amendment - put and negatived.

Hon Alison Xamon moved -

Page 6, after line 7 — To insert —

- (5) Prohibited Behaviour Orders cannot be made in the Children's Court.

Debate ensued.

Amendment - put.

The Committee divided.

**Ayes (14)**

Hon Matt Benson-Lidholm  
 Hon Helen Bullock  
 Hon Robin Chapple  
 Hon Kate Doust  
 Hon Sue Ellery  
 Hon Adele Farina  
 Hon Jon Ford

Hon Col Holt  
 Hon Lynn MacLaren  
 Hon Ljiljanna Ravlich  
 Hon Sally Talbot  
 Hon Ken Travers  
 Hon Alison Xamon  
 Hon Ed Dermer (*Teller*)

**Noes (17)**

Hon Liz Behjat  
 Hon Jim Chown  
 Hon Peter Collier  
 Hon Mia Davies  
 Hon Wendy Duncan  
 Hon Phil Edman  
 Hon Brian Ellis  
 Hon Philip Gardiner  
 Hon Nick Goiran

Hon Alyssa Hayden  
 Hon Robyn McSweeney  
 Hon Michael Mischin  
 Hon Norman Moore  
 Hon Helen Morton  
 Hon Simon O'Brien  
 Hon Max Trenorden  
 Hon Nigel Hallett (*Teller*)

Amendment thus negatived.

Debate resumed.

**15. Questions Without Notice**

Questions without notice were taken.

The Leader of the House representing the Minister for Commerce tabled, and by leave incorporated into Hansard, documents in relation to a list of codes of practice approved and created under the powers of the *Occupational Safety and Health Act 1984*, in response to a question without notice asked by Hon Jon Ford. (Tabled paper 2874).

The Leader of the House representing the Minister for State Development, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 2893 asked by Hon Giz Watson will be provided on 25 November 2010.

The Parliamentary Secretary representing the Minister for Water tabled, and by leave incorporated into Hansard, documents in relation to a list of water management areas of the State that are over-allocated, in response to a question without notice asked by Hon Alison Xamon. (Tabled paper 2875).

**16. Prohibited Behaviour Orders Bill 2010**

The President left the Chair.

---

**In Committee**

(Hon Matt Benson-Lidholm in the Chair)

Clause 6.

Debate resumed.

Clause agreed to.

Clause 7.

Debate ensued.

Clause agreed to.

Clause 8.

Hon Adele Farina moved, That consideration of clauses 8 to 10 be postponed.

Debate ensued.

Question - put.

The Committee divided.

**Ayes (13)**

Hon Matt Benson-Lidholm  
 Hon Helen Bullock  
 Hon Robin Chapple  
 Hon Kate Doust  
 Hon Sue Ellery  
 Hon Adele Farina  
 Hon Jon Ford

Hon Lynn MacLaren  
 Hon Ljiljanna Ravlich  
 Hon Sally Talbot  
 Hon Ken Travers  
 Hon Alison Xamon  
 Hon Ed Dermer (*Teller*)

**Noes (17)**

Hon Liz Behjat  
 Hon Peter Collier  
 Hon Mia Davies  
 Hon Wendy Duncan  
 Hon Brian Ellis  
 Hon Philip Gardiner  
 Hon Nick Goiran  
 Hon Nigel Hallett  
 Hon Alyssa Hayden

Hon Col Holt  
 Hon Robyn McSweeney  
 Hon Michael Mischin  
 Hon Norman Moore  
 Hon Helen Morton  
 Hon Simon O'Brien  
 Hon Max Trenorden  
 Hon Ken Baston (*Teller*)

Question thus negatived.

Debate resumed.

The Parliamentary Secretary representing the Attorney General moved, That progress be reported and leave asked to sit again at a later stage of this day's sitting.

Question - put and passed.

\_\_\_\_\_

The President resumed the Chair.

The Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again at a later stage of this day's sitting.

Ordered - That the Committee have leave to sit again at a later stage of this day's sitting.

**17. Cognate Debate - Fair Trading Bill 2010 and Acts Amendment (Fair Trading) Bill 2010**

The Leader of the House representing the Minister for Commerce sought leave of the House to debate Order of the Day No. 18, *Fair Trading Bill 2010* and Order of the Day No. 19, *Acts Amendment (Fair Trading) Bill 2010* cognately [SO 228].

Leave granted.

**18. Fair Trading Bill 2010 and Acts Amendment (Fair Trading) Bill 2010**

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

Debate resumed.

The Leader of the House representing the Minister for Commerce tabled Australian Consumer Law application laws in relation to the *Fair Trading Bill 2010* and *Acts Amendment (Fair Trading) Bill 2010*. (Tabled paper 2876).

Question - That the *Fair Trading Bill 2010* be read a second time - put and passed.

Bill read a second time.

Question - That the *Acts Amendment (Fair Trading) Bill 2010* be read a second time - put and passed.

Bill read a second time.

The Deputy President left the Chair.

---

**In Committee**

(Hon Helen Morton in the Chair)

***Fair Trading Bill 2010***

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 14 agreed to.

Clause 15.

Hon Adele Farina moved the following Committee Recommendation -

Page 13, lines 5 and 6 — To delete the lines.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 16 to 18 agreed to.

Clause 19.

Hon Adele Farina moved the following Committee Recommendation -

Page 17, line 5 — To delete the line and insert —

- (c) in so far as it constitutes Schedule 2 to the *Competition and Consumer Act 2010* (Commonwealth), is part of this Act; and
- (d) in so far as it constitutes regulations made under section 139G of the *Competition and Consumer Act 2010* (Commonwealth), is subsidiary legislation for the purposes of this Act.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 20.

Hon Adele Farina moved the following Committee Recommendation -

Page 17, lines 10 and 11 — To delete “by order published in the *Gazette*” and insert —

by bill.

Amendment - put and passed.

Hon Adele Farina moved the following Committee Recommendation -

Page 17, line 12 to page 18, line 8 — To delete the lines.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 21 to 30 agreed to.

Clause 31.

Debate ensued.

Clause put and negatived.



Clause 32.

Hon Adele Farina moved the following Committee Recommendation -

Page 22, lines 27 to 30 — To delete the lines and insert —

- (b) the offender has been acquitted or convicted of the offence with which the offender is charged, or has already been convicted or acquitted of an offence of which the offender might be convicted upon the indictment or prosecution notice on which the offender has been charged, under the application law of the other participating jurisdiction,
- the offender is not liable to be prosecuted or punished for the offence against the Australian Consumer Law (WA).

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 33 to 128 agreed to.

Schedule 1.

Debate ensued.

Hon Adele Farina moved the following Committee Recommendation -

Page 98, line 1 to page 349, line 10 — To delete the lines.

Amendment - put and passed.

Schedule, as amended, agreed to.

Title agreed to.

***Acts Amendment (Fair Trading) Bill 2010***

Clause 1 agreed to.

Clauses 2 to 200 agreed to.

Title agreed to.

\_\_\_\_\_

The Deputy President resumed the Chair.

*Fair Trading Bill 2010* reported with amendments.

*Acts Amendment (Fair Trading) Bill 2010* reported without amendment.

Reports adopted.

The Leader of the House representing the Minister for Commerce moved, That the *Fair Trading Bill 2010* be now read a third time.

Question - put and passed.

Bill read a third time and passed.

The Leader of the House representing the Minister for Commerce moved, That the *Acts Amendment (Fair Trading) Bill 2010* be now read a third time.

Question - put and passed.

Bill read a third time and passed.

**19. Liquor Control 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.*

**20. Members' Statements**

Statements were taken.

**21. Heritage and Planning Legislation Amendment Bill 2010**

The President reported the receipt of Message No. 154 from the Legislative Assembly forwarding the Bill for concurrence.

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

Question - put and passed.

Bill read a first time.

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

Debate stands adjourned.

**22. Iron Ore Agreements Legislation Amendment Bill (No. 2) 2010**

The President reported the receipt of Message No. 156 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for State Development moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Leader of the House representing the Minister for State Development moved, That the Bill be now read a second time.

The Leader of the House representing the Minister for State Development tabled an Explanatory Memorandum relating to the Bill. (Tabled paper 2877).

Debate stands adjourned.

**23. Adjournment**

The House adjourned at 10.28pm until Thursday, 25 November 2010 at 10.00am.

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

Attendance: Present all Members except Hon Donna Faragher and Hon Giz Watson.

**NIGEL LAKE**  
Acting Clerk of the Legislative Council

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