

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 170

THURSDAY, 18 FEBRUARY 2016

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

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

2. Joint Standing Committee on Delegated Legislation — Report No. 83 — Annual Report 2015

Hon Robin Chapple presented Report No. 83 of the Joint Standing Committee on Delegated Legislation, *Annual Report 2015*. (Tabled Paper 3839).

3. Environmental Protection

Non-Government Business No. 1 having been called, Hon Lynn MacLaren moved, without notice —

That this Council notes environmental protection is in crisis in this State. There have been repeated and significant incidents that demonstrate that the Government is failing to protect our environment.

The Council draws attention to the —

- (a) felling of ancient and significant trees including the 500 year old Jarrah tree in the Roe 8 reserve;
- (b) Supreme Court's decisions to invalidate two environmental approvals – James Price Point and Roe 8;
- (c) recent listing of three Western Australian species (woylie, western ringtail possum and Gilbert's potoroo) on the Commonwealth's rare and threatened species list; and
- (d) ongoing uncertainty about the role and integrity of the Environmental Protection Authority.

Noting these environmental protection failings, this Council asks the Barnett Government to initiate an urgent inquiry into the protection of Western Australia's biodiversity and the implementation of the *Environmental Protection Act 1986*.

Debate ensued.

Motion lapsed.

4. Bushfire Management

Private Members' Business No. 1 having been called, Hon Nigel Hallett moved, without notice —

That the Council —

- (a) recognise that a new arrangement for bushfire management is urgently required in Western Australia including the need to promote a new culture in our bushfire authorities moving from emergency response and an 'all-out suppression approach' to one of fire prevention and damage mitigation;

- (b) recognise that large bushfires result from failed land management; and
- (c) identify the urgent need for the Western Australian Government to create a separate 'country fire service' to manage emergencies directed by a Board made up of Parks and Wildlife, Association of Volunteer Fire Fighters and the Western Australian Local Government Association.

Debate ensued.

Motion lapsed.

5. Order of Business

Ordered — That Order of the Day No. 1, *Planning and Development Amendment Regulations 2015 — Disallowance*, be taken after Order of the Day No. 10, *Western Australian Health Promotion Foundation Bill 2015*. (Leader of the House).

6. Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015

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

The Acting President left the Chair.

In Committee

(Hon Liz Behjat in the Chair)

Clause 4.

Debate resumed.

Hon Lynn MacLaren moved —

Page 3, lines 14 to 20 — To delete the lines.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (2)

Hon Lynn MacLaren

Hon Robin Chapple (*Teller*)

Noes (30)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 Hon Paul Brown
 Hon Jim Chown
 Hon Alanna Clohesy
 Hon Peter Collier
 Hon Kate Doust
 Hon Phil Edman
 Hon Sue Ellery
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Adele Farina
 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 Simon O'Brien
 Hon Martin Pritchard
 Hon Sally Talbot
 Hon Ken Travers
 Hon Samantha Rowe (*Teller*)

Amendment thus negatived.

7. Questions Without Notice

Questions without notice were taken.

The Minister for Education tabled documents in relation to schools with an acting principal, in response to a question without notice asked by Hon Sue Ellery. (Tabled Paper 3840).

The Parliamentary Secretary to the Minister for Health tabled documents in relation to ambulance ramping hours for hospitals from 21 December 2015 to 6 January 2016, in response to a question without notice asked by Hon Samantha Rowe. (Tabled Paper 3841).

The Minister for Education, by leave incorporated into *Hansard*, information in relation to full-time equivalent staff at Western Australian public schools for the 2016 school year, in response to a question without notice asked by Hon Sue Ellery.

The Attorney General representing the Minister for Corrective Services tabled documents in relation to deaths in custody from 25 November 2005 to 11 January 2016, in response to question on notice No. 3751 asked by Hon Robin Chapple. (Tabled Paper 3842).

8. Suspension of Standing Orders

The Leader of the House moved, without notice —

That so much of the Standing Orders be suspended so as to enable the following variations to the Order of Business for today, Thursday, 18 February 2016 —

- (a) to sit after 5.20pm, if required; and
- (b) to continue Orders of the Day until 7.00pm, if required, after which Members' Statements may be taken for a maximum of 40 minutes at the conclusion of which the Council stands adjourned.

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.

9. Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015

Resumption of consideration of this Bill in Committee of the Whole House (*see item 6 above*).

The President left the Chair.

In Committee

(Hon Amber-Jade Sanderson in the Chair)

Clause 4.

Debate resumed.

Hon Rick Mazza moved —

Page 3, line 20 — To delete “proved.” and insert —

proved,
except that, in those circumstances where the person is in peaceable possession of any place with a claim of right, it is lawful for the person, and for any person acting by their authority, to use such force as is reasonably necessary in order to prevent any lawful activity in relation to that place, even against a person who is entitled by law to the possession of the place, provided that he does not do bodily harm to such person.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (2)

Hon Robin Chapple

Hon Rick Mazza (*Teller*)**Noes (27)**

Hon Martin Aldridge
 Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 Hon Jim Chown
 Hon Alanna Clohesy
 Hon Peter Collier
 Hon Kate Doust
 Hon Sue Ellery
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Adele Farina
 Hon Nick Goiran
 Hon Dave Grills

Hon Alyssa Hayden
 Hon Col Holt
 Hon Peter Katsambanis
 Hon Mark Lewis
 Hon Robyn McSweeney
 Hon Michael Mischin
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Martin Pritchard
 Hon Samantha Rowe
 Hon Amber-Jade Sanderson
 Hon Sally Talbot
 Hon Phil Edman (*Teller*)

Amendment thus negated.

Debate resumed.

Hon Lynn MacLaren moved —

Page 3, lines 21 to 31 — To delete the lines.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (2)

Hon Lynn MacLaren

Hon Robin Chapple (*Teller*)**Noes (29)**

Hon Martin Aldridge
 Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 Hon Jim Chown
 Hon Alanna Clohesy
 Hon Peter Collier
 Hon Kate Doust
 Hon Phil Edman
 Hon Sue Ellery
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Adele Farina
 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 Simon O'Brien
 Hon Martin Pritchard
 Hon Amber-Jade Sanderson
 Hon Sally Talbot
 Hon Ken Travers
 Hon Samantha Rowe (*Teller*)

Amendment thus negated.

Debate resumed.

Hon Lynn MacLaren moved —

Page 4, lines 9 to 14 — To delete the lines.

Debate ensued.

Amendment — put and negatived.

Question, That the clause stand as printed — put.

The Committee divided.

Ayes (20)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 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 Simon O'Brien
 Hon Phil Edman (*Teller*)

Noes (11)

Hon Robin Chapple
 Hon Alanna Clohesy
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Lynn MacLaren

Hon Martin Pritchard
 Hon Amber-Jade Sanderson
 Hon Sally Talbot
 Hon Ken Travers
 Hon Samantha Rowe (*Teller*)

Question thus passed.

Clause agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Attorney General representing the Minister for Police moved, That the Bill be read a third time.

The Deputy 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.

Debate ensued.

Question — put.

The Council divided.

Ayes (20)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 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 Simon O'Brien
 Hon Phil Edman (*Teller*)

Noes (11)

Hon Robin Chapple
Hon Alanna Clohesy
Hon Kate Doust
Hon Adele Farina
Hon Lynn MacLaren
Hon Martin Pritchard

Hon Amber-Jade Sanderson
Hon Sally Talbot
Hon Ken Travers
Hon Darren West
Hon Samantha Rowe (*Teller*)

Question thus passed.

Bill read a third time and passed.

10. Order of Business

Ordered — That Members' Statements be taken forthwith. (Leader of the House).

11. Adjournment

There being no Members' Statements, the Council adjourned at 6.35pm until Tuesday, 23 February 2016 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members.

NIGEL PRATT
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council