

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 195

TUESDAY, 6 MARCH 2012

1. Meeting of Council

The Council assembled at 3.00pm pursuant to order.

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

2. Statement by President - New Standing Orders

The President made the following Statement –

Welcome back to the first sitting day of 2012 and to the first day of operation of the new Standing Orders adopted by the Council on 1 December 2011. Pursuant to that resolution and the commencement of those new Standing Orders, I take this opportunity to advise Members of a number of consequential and transitional matters arising from this change.

Members will note that the new Standing Orders folders have been distributed in the Chamber. The new folders include the revised Order of Business schedule for the Council, the 2012 sitting schedule, the draft Non-Government Business and Private Members' Business schedules for 2012, an updated form of words guide that contains the wording of some common motions and questions used by Members in the Council, and the final copy of the new Standing Orders. Further to the new Standing Orders folders, Members will also find a copy of Procedural Note No. 5 on their desks, which outlines the key changes under the new Standing Orders.

On 29 September 2011, the Deputy Leader of the House tabled the Council's sitting schedule for 2012—Tabled Paper 3927. The details of that schedule are printed on the back of the first page of material contained in Members' new Standing Orders folders. New Standing Order 6 provides that an annual sitting schedule be tabled in the Council, with subsequent variations to that schedule being provided for in part (2) of that Standing Order. I advise Members that I consider the schedule tabled by the Deputy Leader of the House in September last year to be the sitting schedule required under new Standing Order 6.

There are two Motions on the Notice Paper seeking to establish Select Committees. These are Motions 7 and 16, in the names of Hon Alison Xamon and Hon Wendy Duncan respectively. The terms of those Notices of Motion, as originally given by the Members, included a quorum provision and a section that specified that the committees, if established by the Council, would operate under the Standing Orders then applicable to Standing Committees. The commencement of the new Standing Orders renders these provisions redundant and, hence, following consultation with the two Members, I have directed that the Notices of Motion be amended to exclude these provisions. Accordingly, the Notices of Motion appear on today's Notice Paper in that amended form.

A further change that has occurred to the Notice Paper is in the consideration of Ministerial Statements. As the new Standing Orders provide that the 60 minute session immediately prior to dinner on Wednesdays will be devoted to the consideration of committee reports and that other means will be used to pursue matters arising from Ministerial Statements, I have directed that the Orders of the Day relating to Ministerial Statements be removed from the Notice Paper. Accordingly, the section commencing on page 12 of today's Notice Paper has been reduced substantially and includes only the Orders of the Day related to committee reports previously tabled in the Council.

Pursuant to new Standing Orders 110 and 111, I am required to table schedules for Non-Government Business and Private Members' Business. I have previously distributed draft schedules to the party leaders. I now table the schedules and will call upon the Leader of the House in a few moments to move the consequent motions.

Finally, the amended arrangements for the Standing Committee on Procedure and Privileges necessitate the appointment of three Members to the Committee. The Leader of the House will move a motion in the near future to address that matter.

The President tabled the schedules for Non-Government Business and Private Members' Business. (Tabled Paper 4274).

The Leader of the House moved, without notice –

That the schedule for Non-Government Business be adopted by the Council.

Question – put and passed.

The Leader of the House moved, without notice –

That the schedule for Private Members' Business be adopted by the Council.

Question – put and passed.

3. Messages from His Excellency the Governor - Assent to Bills

The President reported the receipt of Messages from His Excellency the Governor assenting to the following Bills –

30 November 2011 – Message No. 45	Act No.
Petroleum (Submerged Lands) Amendment Bill 2011	57 of 2011
Manslaughter Legislation Amendment Bill 2011	58 of 2011
14 December 2011 – Message No. 46	Act No.
Commercial Tenancy (Retail Shops) Agreements Amendment Bill 2011	59 of 2011
Residential Tenancies Amendment Bill 2011	60 of 2011
Iron Ore Agreements Legislation Amendment Bill 2011	61 of 2011
Iron Ore Agreements Legislation (Amendment, Termination and Repeals) Bill 2011	62 of 2011

4. Petitions

Hon Sue Ellery presented a petition from 3 petitioners requesting the Legislative Council to call upon the State Government to introduce a Western Australian Container Deposit Scheme similar to the scheme operating in South Australia. (Tabled Paper 4266).

Hon Sue Ellery presented a petition from 20 petitioners requesting the Legislative Council to call upon the State Government to introduce a Western Australian Container Deposit Scheme similar to the scheme operating in South Australia. (Tabled Paper 4267).

Hon Kate Doust presented a petition from 662 petitioners requesting the Legislative Council to inquire into the Perth Waterfront Project before any further work commences on the project. (Tabled Paper 4268).

Hon Kate Doust presented a petition from 8,677 petitioners requesting the Legislative Council to inquire into the Perth Waterfront Project before any further work commences on the project. (Tabled Paper 4269).

Hon Ken Travers presented a petition from 47 petitioners requesting the Legislative Council to investigate the decision-making process for the closure of the Tier 3 Grain Freight Rail Lines across the Wheatbelt with particular consideration to the CBH business case. (Tabled Paper 4270).

Hon Michael Mischin presented a petition from 13 petitioners requesting the Legislative Council to inquire into the Perth Waterfront Project before any further work commences on the project. (Tabled Paper 4271).

Hon Brian Ellis presented a petition from 170 petitioners requesting the Legislative Council oppose the current management of the Wajarri People's Trust and recommend that a new trustee is appointed and a new advisory committee structure is implemented. (Tabled Paper 4272).

Hon Nick Goiran presented a petition from 766 petitioners requesting the Legislative Council to commission an inquiry into legalised abortion with a view to restricting the availability of abortions before 20 weeks gestation and to prohibit abortions after 20 weeks gestation. (Tabled Paper 4273).

5. Ministerial Statement - Stolen Wages

The Minister for Indigenous Affairs made a Ministerial Statement with respect to the 2008 report of the Stolen Wages Taskforce and the Government's *ex gratia* reparation payment to eligible Aboriginal People.

6. Statement by President - St Andrew's Hostel Special Inquiry

The President made the following Statement –

I have some papers for tabling. The first paper for tabling is a letter I have received from Hon Peter Blaxell, who is the special inquirer into the St Andrew's Hostel Special Inquiry. Considering the nature of the letter, I will read it to Members. The letter states —

On 15 November 2011, the Premier, under section 24(H) of the *Public Sector Management Act 1994*, directed a Special Inquiry (Inquiry) be held into the response of government agencies and officials in relation to allegations of sexual abuse at St Andrew's Hostel, Katanning. Attachment 1 is a copy of the Terms of Reference.

I am writing to request access be granted to me and the Inquiry staff to certain transcripts and submissions of the Standing Committee on Government Agencies, 1982–1988 for its *Review of the Country High School Hostels Authority*, as listed in Attachment 2. I also request that permission be granted to me and the inquiry staff to quote or otherwise refer to extracts of witnesses' testimonies and submissions for the purposes of my inquiry. Please note that I do not consider the views or opinions of Committee Members expressed during the course of the hearings to be relevant. I am conscious that it is, of course, beyond the scope of my inquiry to inquire into the role of the Committee, or its deliberations, findings or recommendations.

I do believe, however, that the evidence of Board members, the Warden and other public officials provided to the Committee in 1988 in connection with the operations of St Andrew's is of vital importance to my inquiry. To date my inquiries have revealed no equivalent contemporaneous record of the views of parties integrally involved in the subject of my inquiry.

I draw your attention to the first limb of Terms of Reference 3 for my inquiry which requires me to report:

- Findings about why the behaviour of staff the subject of allegations at St Andrew's Hostel was able to continue for an extended period.

These transcripts and submissions would provide a unique opportunity to gain insight into how the hostel was able to maintain such a positive reputation at the same time as the sexual abuse of boarders appears to have become entrenched.

Further background to my request can be found at Attachment 3.

I would be grateful if this request could be considered by the Legislative Council as a matter of urgency. Public hearings for the inquiry will commence on 20 February 2012 and my report is to be completed by 31 May 2012.

Please do not hesitate to contact Dr Jeannine Purdy, Principal Research and Report Officer, on 9420 4422 should you require any further information.

Yours sincerely

Hon. Peter Blaxell

The President tabled the letter from Hon Peter Blaxell (Special Inquirer) to the President of the Legislative Council. (Tabled Paper 4156).

The Leader of the House moved, without notice –

That consideration of the Tabled Paper be made an Order of the Day for the next day's sitting.
Question – put and passed.

7. Papers

The following Papers were laid on the Table by –

President

Auditor General's Papers –

Working Together: Management of Partnerships with Volunteers (Report No. 1)
(February 2012)..... 4151

Opinion on Ministerial decisions not to provide information to Parliament on the
amount of funding Tourism WA provided for some events (Report No. 2)
(February 2012)..... 4152

Joint Standing Committee on Treaties (Commonwealth of Australia) –

Report No. 122 – Treaties tabled on 23 August, 13 and 20 September and 13 October
2011 – Agreement for the Establishment of the International Anti-Corruption Academy as an
International Organization (done at Vienna on 2 September 2010), Agreement between the
Government of Australia and the European Atomic Energy Community (Euratom) for Co-
Operation in the Peaceful Uses of Nuclear Energy, International Convention for the
Suppression of Acts of Nuclear Terrorism (New York, 14 April 2005), Southern Indian Ocean
Fisheries Agreement (Rome, 29 December 2006 Signed for Australia in Rome, 29 December
2006), Convention on the Conservation and Management of High Seas Fishery Resources in
the South Pacific Ocean (Auckland, 14 November 2009), Air Services Agreement between the
Government of Australia and the Government of the Czech Republic (New York, 24 September
2010), Exchange of Notes constituting an Amendment to the Agreement between the
Government of Australia and the Government of the Socialist Republic of Vietnam relating to
Air Services (done at Canberra on 31 July 1995) (Hanoi, TBA 2011), Exchange of Notes
constituting an Agreement to amend the Agreement between the Government of the United
States of America and the Government of Australia concerning Space Vehicle Tracking and
Communication Facilities of 29 May 1980, as amended (Canberra, TBA 2011) and Resolution
MEPC.202(62): Amendments to the Annex of the Protocol of 1997 to amend the International
Convention For The Prevention Of Pollution From Ships, 1973, as modified by the Protocol of
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Treaties tabled on 21, 22 and 24 November 2011 – Anti-Counterfeiting Trade Agreement
(Tokyo on 1 October 2011), Agreement between Australia and the Republic of Latvia on Social
Security (Riga 7 September 2011), Agreement between the European Union and Australia on
the Processing and Transfer of Passenger Name Record (PNR) Data by Air Carriers to the
Australian Customs and Border Protection Service done at Brussels on 29 September 2011,
Amendments to MARPOL Annex VI on Regulations for the Prevention of Air Pollution from
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MEPC.203(62)) adopted at London on 15 July 2011 and Exchange of Notes constituting an
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of the United States of America concerning the Conduct of Scientific Balloon Flights for Civil
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confirmed] 4154

Treaties tabled on 7 February 2012 – Protocol amending the Agreement between the Government of Australia and the Government of the Republic of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (New Delhi, 16 December 2011), Resolution MEPC.193(61): Amendments to the Annex of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) (Revised MARPOL Annex III: Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form) adopted at London on 1 October 2010 and Amendments to Appendices I and II to the Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 23 June 1979) done at Bergen on 25 November 2011	4155
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Unassisted Failure (Report No. 14) (Deemed tabled 20/01/2012)	4159
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8. Standing Committee on Public Administration - Special Report - Inquiry into the Role and Functions of Bodies Equivalent to the State Public Sector Commission in Other Jurisdictions

Hon Max Trenorden presented a Special Report of the Standing Committee on Public Administration in relation to a resolution of the Committee to commence an *Inquiry into the role and functions of bodies equivalent to the State Public Sector Commission in other jurisdictions*. (Tabled Paper 4279).

9. Joint Standing Committee on the Corruption and Crime Commission - Report No. 22 - The Role Played by the Corruption and Crime Commission in Aiding the Security Operation During the 2011 Commonwealth Heads of Government Meeting.

Hon Nick Goiran presented Report No. 22 of the Joint Standing Committee on the Corruption and Crime Commission in relation to *The Role Played by the Corruption and Crime Commission in Aiding the Security Operation During the 2011 Commonwealth Heads of Government Meeting*. (Tabled Paper 4276).

10. Joint Standing Committee on the Corruption and Crime Commission - Report No. 23 - The post-CHOGM technological capability of the WA Police

Hon Nick Goiran presented Report No. 23 of the Joint Standing Committee on the Corruption and Crime Commission in relation to *The post-CHOGM technological capability of the WA Police*. (Tabled Paper 4277).

11. Joint Standing Committee on the Corruption and Crime Commission - Special Report - Inquiry into the Corruption and Crime Commission and Allegations of WA Police Misconduct – Extension of Reporting Time

Hon Nick Goiran presented a Special Report of the Joint Standing Committee on the Corruption and Crime Commission in relation to the *Inquiry into the Corruption and Crime Commission and Allegations of WA Police Misconduct* seeking an extension of time for the Committee to report to 15 November 2012. (Tabled Paper 4278).

12. Standing Committee on Uniform Legislation and Statutes Review - Report No. 69 - Criminal Investigation (Covert Powers) Bill 2011

Hon Nigel Hallett presented Report No. 69 of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Criminal Investigation (Covert Powers) Bill 2011*. (Tabled Paper 4280).

13. Standing Committee on Uniform Legislation and Statutes Review - Report No. 70 - Business Names (Commonwealth Powers) Bill 2011

Hon Nigel Hallett presented Report No. 70 of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Business Names (Commonwealth Powers) Bill 2011*. (Tabled Paper 4281).

14. Shire of Kalamunda Health Local Law 2011 - Disallowance - Withdrawn from Notice Paper

Hon Sally Talbot, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, withdrew Notice of Motion for Disallowance No. 2, *Shire of Kalamunda Health Local Law 2011* from the Notice Paper.

15. Order of Business

Ordered – That Order of the Day No. 1, *Electricity Networks Access Code Amendment 2011 - Disallowance*, be taken after Order of the Day No. 9, *Adoption Amendment Bill 2011*. (Leader of the House).

16. Metropolitan Region Scheme Amendment No. 1203/41 - Perth Waterfront - Disallowance

Pursuant to SO 66(3) the following motion was moved *pro forma* by Hon Ken Travers –

That the *Metropolitan Region Scheme Amendment No. 1203/41 – Perth Waterfront* published in the *Gazette* on 14 October 2011 and tabled in the Legislative Council on 18 October 2011 under the *Planning and Development Act 2005*, be and is hereby disallowed.

Debate ensued.

17. Questions Without Notice

Questions without notice were taken.

The Minister for Electoral Affairs tabled documents in relation to communication arrangements between the Minister for Electoral Affairs and the WA Electoral Commission, in response to question on notice No. 5044 asked by Hon Ken Travers. (Tabled Paper 4282).

The Minister for Finance representing the Minister for Transport tabled documents in relation to a new Busselton Jetty licence, in response to question on notice No. 5015 asked by Hon Adele Farina. (Tabled Paper 4284).

The Minister for Finance tabled documents in relation to communication arrangements between the Minister for Finance and agencies under his portfolio since 14 December 2010, in response to question on notice No. 5045 asked by Hon Ken Travers. (Tabled Paper 4283).

The Minister for Finance representing the Minister for Transport tabled documents in relation to communication arrangements between the Office of the Minister for Transport and the Department of Transport since 14 December 2010, in response to question on notice No. 5043 asked by Hon Ken Travers. (Tabled Paper 4285).

The Minister for Energy tabled documents in relation to referrals offered for various suburbs and towns from June 2010 to June 2011 under the Hardship Utility Grant Scheme, in response to question on notice No. 4969 asked by Hon Sue Ellery. (Tabled Paper 4286).

The Minister for Energy representing the Minister for Education tabled documents entitled *Pesticide use in Schools and School Grounds* (1997) and *Pest Management in Schools* (2008), in response to question on notice No. 4977 asked by Hon Giz Watson. (Tabled Paper 4287).

The Minister for Mental Health representing the Minister for Health tabled documents in relation to patient and vacancy details for public hospitals in the South West region for 2010 and 2011, in response to question on notice No. 4991 asked by Hon Adele Farina. (Tabled Paper 4288).

18. Metropolitan Region Scheme Amendment No. 1203/41 – Perth Waterfront – Disallowance

Debate resumed on the motion of Hon Ken Travers (*see item 16 above*).

Hon Lynn MacLaren, by leave, tabled documents related to building heights in the Perth Waterfront City Vision. (Tabled Paper 4289).

Question put.

The House divided.

Ayes (10)

Hon Matt Benson-Lidholm
 Hon Helen Bullock
 Hon Robin Chapple
 Hon Kate Doust
 Hon Sue Ellery

Hon Ljiljanna Ravlich
 Hon Linda Savage
 Hon Ken Travers
 Hon Giz Watson
 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 Donna Faragher
 Hon Philip Gardiner
 Hon Nick Goiran

Hon Alyssa Hayden
 Hon Col Holt
 Hon Robyn McSweeney
 Hon Michael Mischin
 Hon Norman Moore
 Hon Helen Morton
 Hon Max Trenorden
 Hon Ken Baston (*Teller*)

Question thus negatived.

19. Road Traffic (Vehicles) Bill 2011

The Deputy President reported the receipt of Message No. 236 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House on behalf of Minister for Finance representing the Minister for Transport moved, That the Bill be now read a first time.

Question – put and passed.

Bill read a first time.

The Leader of the House on behalf of Minister for Finance representing the Minister for Transport moved, That the Bill be now read a second time.

The Leader of the House on behalf of Minister for Finance representing the Minister for Transport tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4290).

Debate stands adjourned.

20. Road Traffic Legislation Amendment Bill 2011

The Deputy President reported the receipt of Message No. 237 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House on behalf of Minister for Finance representing the Minister for Transport moved, That the Bill be now read a first time.

Question – put and passed.

Bill read a first time.

The Leader of the House on behalf of Minister for Finance representing the Minister for Transport moved, That the Bill be now read a second time.

The Leader of the House on behalf of Minister for Finance representing the Minister for Transport tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4291).

Debate stands adjourned.

21. Education and Care Services National Law (WA) Bill 2011

The President reported the receipt of Message No. 238 from the Legislative Assembly forwarding the Bill for concurrence.

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

Question – put and passed.

Bill read a first time.

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

The Minister for Child Protection tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4292).

Debate stands adjourned and the Bill referred to the Standing Committee on Uniform Legislation and Statutes Review [SO 126].

22. Order of Business

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

23. Members' Statements

Statements were taken.

24. Adjournment

The Council adjourned at 10.22pm until Wednesday, 7 March 2012 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Adele Farina and Hon Jon Ford.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council