

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 184

TUESDAY, 10 MAY 2016

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. Message from Her Excellency the Governor — Assent to Bills

The President reported the receipt of a Message from Her Excellency the Governor assenting to the following Bills —

14 April 2016 — Message No. 9	Act No.
Co-operatives Amendment Bill 2015	7 of 2016
Motor Vehicle (Catastrophic Injuries) Bill 2016	8 of 2016

3. Statement by President — Senate Vacancy — Election of Patrick Lionel Dodson

The President made the following Statement —

I have the honour to inform you that at a Joint Sitting of the Houses of Parliament of the State of Western Australia held in Perth on 28 April 2016, the Members of such Houses sitting and voting together in pursuance of section 15 of the *Commonwealth of Australia Constitution Act* did choose Patrick Lionel Dodson of Morrell Park, Broome, Western Australia to hold the place vacated by former senator Joe Bullock.

4. Statement by President — Corruption, Crime and Misconduct Act 2003 — Standing Orders — Amendment

The President made the following Statement —

In December 2014, this House passed the *Corruption and Crime Commission Amendment (Misconduct) Bill 2014*. As a result of the passage of that Bill, one of the consequential amendments contained at section 5 caused the *Corruption and Crime Commission Act 2003* to be renamed the *Corruption, Crime and Misconduct Act 2003*. This amendment came into effect on 1 July 2015. I advise that I have authorised the Clerk to make an amendment to the Standing Orders in “Schedule 1: Committees” at item 9.2(c) to reflect this change to the title of the Act and the terms of reference of the Joint Standing Committee on the Corruption and Crime Commission. Members may note that this change has also occurred in the Standing Orders of the Legislative Assembly. The Chamber staff have distributed an insert to Members in the Chamber so that Members may update their Standing Orders accordingly.

5. Statement by President — Standing Committee on Estimates and Financial Operations — Resignation of Member

The President made the following Statement —

I have a letter addressed to me as follows —

Dear Mr President

I wish to inform you that effective from Monday, 9 May 2016, I am resigning as a Member of the Standing Committee on Estimates and Financial Operations and also as a Member of the Joint Standing Committee on Audit.

Yours sincerely

Hon Liz Behjat MLC

Member for North Metropolitan Region

6. Statement by President — Joint Standing Committee on Audit

The President made the following Statement —

I have a letter addressed to me as follows —

Dear Mr President

The Joint Standing Committee on Audit (the Committee) is currently reviewing the Department of Treasury's report of the *Financial Management Act 2006*, as required by section 85 of the *Financial Management Act 2006*. The Committee previously indicated to both Houses that it would report on the outcomes of this review on 19 May 2016. However, the Committee requires further time to obtain and review the evidence. Consequently, the Committee now intends to report to Parliament as soon as practicable.

Yours sincerely

Hon Ken Travers MLC

Chair

7. Petition

Hon Simon O'Brien presented a petition from 2,501 petitioners requesting the Legislative Council to recommend that the Government appoint a Commissioner for Seniors. (Tabled Paper 4059).

8. Ministerial Statement — Review of the Firearms Act 1973

The Attorney General made a Ministerial Statement with respect to an extension of time for the Law Reform Commission of Western Australia to report on the review of the *Firearms Act 1973* (WA).

9. Ministerial Statement — Metropolitan Region Scheme Amendment No. 1210/41 — Rationalisation of Stirling Highway Reservation

The Minister for Planning made a Ministerial Statement with respect to the *Metropolitan Region Scheme Amendment No. 1210/41 — Rationalisation of Stirling Highway Reservation*.

The Minister for Planning tabled the Metropolitan Region Scheme Amendment No. 1210/41 — Rationalisation of Stirling Highway Reservation Plans. (Tabled Paper 4057).

The Minister for Planning tabled the Metropolitan Region Scheme Amendment No. 1210/41 — Rationalisation of Stirling Highway Reservation Reports. (Tabled Paper 4058).

10. Papers

The following Papers were laid on the Table by —

President

Auditor General's Papers —

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CALM Lease No. 2392/100 — Between the Conservation and Land Management Executive Body and Mr Troy Coram and Mrs Lynda Coram for an existing recreational hut located along the lower reaches of the Donnelly River in the D'Entrecasteaux National Park	4038
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Local Government Act 1995 (City of Kwinana Extractive Industries Amendment Local Law 2016 G.G. 29/04/2016, City of Subiaco Parking Facilities Amendment Local Law 2015 G.G. 8/04/2016, Shire of Augusta Margaret River Local Government Property Amendment Local Law 2016 G.G. 22/04/2016, Shire of Augusta Margaret River Parking and Parking Facilities Amendment Local Law 2016 G.G. 22/04/2016, Shire of Donnybrook-Balingup Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2016 G.G. 19/04/2016, Shire of Donnybrook-Balingup Extractive Industries Amendment Local Law 2016 G.G. 19/04/2016, Shire of Donnybrook-Balingup Fencing Amendment Local Law 2016 G.G. 19/04/2016; and, Town of Port Hedland Public Places and Local Government Property Local Law 2016 G.G. 13/04/2016)	4040
Waste Avoidance and Resource Recovery Act 2007 (City of Wanneroo Waste Local Law 2016 G.G. 26/04/2016).....	4041
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Parliamentary Secretary to the Minister for Tourism*Regulations —*

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11. Standing Committee on Legislation — Report No. 31 — Mining Legislation Amendment Bill 2015

Hon Robyn McSweeney presented Report No. 31 of the Standing Committee on Legislation, *Mining Legislation Amendment Bill 2015*. (Tabled Paper 4060).

12. Standing Committee on Legislation — Report No. 32 — Pilbara Ports Assets (Disposal) Bill 2015 — Extension of Time

Hon Robyn McSweeney presented Report No. 32 of the Standing Committee on Legislation, *Pilbara Ports Assets (Disposal) Bill 2015 — Extension of Time*. (Tabled Paper 4061).

Hon Robyn McSweeney moved, without notice —

That the reporting date for the Standing Committee on Legislation inquiry into the *Pilbara Ports Assets (Disposal) Bill 2015 — Extension of Time* be extended from 17 May 2016 to no later than 25 August 2016.

Hon Robyn McSweeney sought leave to continue her remarks at a later stage of this day’s sitting.

Leave granted.

Debate stands adjourned pursuant to order.

13. Standing Committee on Estimates and Financial Operations — Appointment of Member

The Leader of the House moved, without notice —

- (a) that Hon Helen Morton be appointed as a Member to the Standing Committee on Estimates and Financial Operations; and
- (b) that the Legislative Assembly be advised of the subsequent appointment of Hon Helen Morton to the Joint Audit Committee, pursuant to Schedule 1, paragraph 7.2 of the Standing Orders.

Question — put and passed.

14. Order of Business

Ordered — That the Order of the Day in relation to the Standing Committee on Legislation Report No. 32, *Pilbara Ports Assets (Disposal) Bill 2015 — Extension of Time*, be taken forthwith. (Leader of the House).

15. Standing Committee on Legislation — Report No. 32 — Pilbara Ports Assets (Disposal) Bill 2015 — Extension of Time

The Order of the Day having been called for the adjourned debate on the motion of Hon Robyn McSweeney as follows —

That the reporting date for the Standing Committee on Legislation inquiry into the *Pilbara Ports Assets (Disposal) Bill 2015 — Extension of Time* be extended from be extended from 17 May 2016 to no later than 25 August 2016.

Question — put and passed.

16. Order of Business

Ordered — That Orders of the Day Nos 1, *Mental Health Regulations 2015 — Disallowance*, 2, *Albany Cemetery Board By-laws Amendment 2015 — Disallowance*, and 3, *Shire of Kellerberrin Dogs Local Law 2016 — Disallowance*, be taken after Order of the Day No. 18, *Public Health (Consequential Provisions) Bill 2014*. (Leader of the House).

17. Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015

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

Question — put and passed.

Bill read a second time.

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

The Leader of the House representing the Premier moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

18. Land Administration (South West Native Title Settlement) Bill 2015

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

Question — put and passed.

Bill read a second time.

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

The Leader of the House representing the Premier moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

19. Dangerous Sexual Offenders Legislation Amendment Bill 2015

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

The President left the Chair.

In Committee

(Hon Amber-Jade Sanderson in the Chair)

Clause 20.

Debate resumed on the amendment of Hon Adele Farina as follows —

Page 17, line 21 to page 18, line 16 — To delete the lines and insert —

20. Section 23 amended

Delete clause 23 and replace with:

23. Court shall order detention

- (1) If the court is satisfied, on the balance of probabilities, that the person who is subject to the supervision order is contravening, or has contravened, a condition of the supervision order, the court shall make a continuing detention order in relation to the person.
- (2) Subject to (1), if the court is satisfied, on the balance of probabilities, that the person who is subject to the supervision order is likely to contravene a condition of the supervision order, the court may —
 - (a) make an order amending the conditions of the supervision order, or extending the period for which the offender is to be subject to the conditions of the supervision order, or both; or

- (b) if the court is also satisfied that there is an unacceptable risk that, if an order under this paragraph were not made, the person would commit a serious sexual offence, make a continuing detention order in relation to the person; or
 - (c) make no order.
- (3) In considering whether it is satisfied as required in subsection (2)(b), the court must disregard the possibility that the person might temporarily be prevented from committing a serious sexual offence by imprisonment, by remand in custody or by the imposition of bail conditions.
- (4) In deciding whether to make an order under subsection (2) the paramount consideration is to be the need to ensure adequate protection of the community.

Amendment — put.

The Committee divided.

Ayes (11)

Hon Robin Chapple
 Hon Alanna Clohesy
 Hon Stephen Dawson
 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*)

Noes (20)

Hon Martin Aldridge
 Hon Ken Baston
 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 Simon O'Brien
 Hon Phil Edman (*Teller*)

Amendment thus negatived.

Question, That the clause stand as printed — put and passed.

Clauses 21 and 22 agreed to.

Clause 23.

Debate ensued.

Question, That the clause stand as printed — put and negatived.

Clauses 24 to 28 agreed to.

Clause 29.

Hon Adele Farina moved —

Page 22, after line 2 — To insert —

- (2A) A court may only make a supervision order under subsection (1)(b)(ii) if the court is satisfied that the offender will comply with the conditions stated in the order.
- (2B) The offender has the onus of satisfying the court as described in subsection (2).
- (2) In considering whether to make a supervision order under subsection (1)(b)(ii), the court must disregard the fact that the person will be subject to electronic monitoring if a supervision order under subsection (1)(b)(ii) is made.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (11)

Hon Robin Chapple
 Hon Alanna Clohesy
 Hon Stephen Dawson
 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*)

Noes (20)

Hon Martin Aldridge
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 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 Simon O'Brien
 Hon Phil Edman (*Teller*)

Amendment thus negated.

Question, That the clause stand as printed — put and passed.

Clause 30.

The Attorney General moved —

Page 22, lines 17 to 23 — To delete the lines and insert —

21 days after the date of the decision.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 31 to 36 agreed to.

Clause 37.

Debate ensued.

Clause agreed to.

Clauses 38 to 59 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill 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 the Standing Orders be suspended as to enable the Bill to proceed to the third reading forthwith.

The motion requiring the concurrence of an absolute majority.

Question — put.

The Deputy 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 Bill be read a third time.

Debate ensued.

The Deputy President announced that the Acting 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.

20. Legal Profession Amendment Bill 2016

The Deputy President reported the receipt of Message No. 148 from the Legislative Assembly forwarding the Bill for concurrence.

The Attorney General moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Attorney General moved, That the Bill be read a second time.

The Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4062).

Debate stands adjourned.

21. Legal Profession Amendment (Levy) Bill 2016

The Deputy President reported the receipt of Message No. 149 from the Legislative Assembly forwarding the Bill for concurrence.

The Attorney General moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Attorney General moved, That the Bill be read a second time.

The Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4063).

Debate stands adjourned.

22. Genetically Modified Crops Free Areas Repeal Bill 2015

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

Debate resumed.

23. Questions Without Notice

Questions without notice were taken.

The Minister for Planning representing the Minister for Environment, by leave incorporated into *Hansard*, information in relation to the notification of spills or releases or venting of chemicals from the either of the Yarra facilities on the Burrup Peninsular in the last two months, in response to a question without notice asked by Hon Robin Chapple.

The Minister for Planning representing the Minister for Health tabled documents in relation to the distribution of bottled water to new mothers in Cue, in response to a question without notice asked by Hon Darren West. (Tabled Paper 4064).

The Minister for Education, by leave incorporated into *Hansard*, information in relation to 13 engagement centres to support students with complex behavioural and attendance issues, in response to a question without notice asked by Hon Sue Ellery.

The Minister for Education, by leave incorporated into *Hansard*, information in relation to secondary schools in the South West region delivering Certificate II to Year 11 and Year 12 students as of 24 March 2016, in response to a question without notice asked by Hon Adele Farina.

The Minister for Education, by leave incorporated into *Hansard*, information in relation to students enrolled in Western Australian Certificate of Education Science subjects as at 13 April 2016, in response to a question without notice asked by Hon Sue Ellery.

The Minister for Education tabled documents in relation to full-time enrolments at Western Australian public schools as at the first semester census for 2016, in response to question on notice No. 3877 asked by Hon Sue Ellery. (Tabled Paper 4065).

The Minister for Education, in accordance with Standing Order No. 108(2), advised that an answer to question on notice No. 3876 asked by Hon Sue Ellery will be provided on 11 May 2016.

The Attorney General tabled documents in relation to timeframes regarding applications for a Violence Restraining Order, in response to question on notice No. 3905 asked by Hon Amber-Jade Sanderson. (Tabled Paper 4066).

The Minister for Planning representing the Minister for Mental Health tabled documents in relation to the evaluation of the operation of the pilot transport service by the Mental Health Commission, in response to question on notice No. 3849 asked by Hon Stephen Dawson. (Tabled Paper 4067).

The Minister for Planning representing the Minister for Mental Health tabled documents in relation to external provider funding agreements that expire on 30 June 2016, in response to question on notice No. 3873 asked by Hon Stephen Dawson. (Tabled Paper 4068).

The Minister for Planning representing the Minister for Mental Health tabled documents in relation to the Child and Adolescent Mental Health Services' policies on physical restraint, restraint and seclusion, in response to question on notice No. 4083 asked by Hon Stephen Dawson. (Tabled Paper 4069).

The Minister for Planning representing the Minister for Child Protection tabled documents in relation to community sector organisations funded by the Department of Child Protection and Family Support in 2014–15, in response to question on notice No. 3833 asked by Hon Martin Pritchard. (Tabled Paper 4070).

The Minister for Planning representing the Minister for Child Protection tabled documents in relation to access and applications to the Hardship Utilities Grant Scheme in the South West region in 2015, in response to question on notice No. 4019 asked by Hon Adele Farina. (Tabled Paper 4071).

The Minister for Planning representing the Minister for Environment tabled a map showing the regrowth of Karri forest damaged in the O'Sullivan/Northcliffe bushfire in February 2015, in response to question on notice No. 3878 asked by Hon Lynn MacLaren. (Tabled Paper 4072).

24. Genetically Modified Crops Free Areas Repeal Bill 2015

Debate resumed on the second reading of this Bill (*see item 22 above*).

Point of Order

Hon Jim Chown raised the following Point of Order —

The Supreme Court and the subsequent appeal made a decision regarding the court case. The Member is offering his opinion on whether that decision was correct.

Deputy President's Ruling

The Deputy President ruled as follows —

The Member is entitled to make comment on the outcome of a court matter. There is certainly nothing under the Standing Orders that prevents the Member from making comment.

Debate resumed.

Interruption pursuant to order.

25. Members' Statements

Statements were taken.

Hon Robin Chapple, by leave, tabled a green Bill entitled, *Prevention of Forced Closure of Remote Aboriginal Communities Bill 2016* for public consultation. (Tabled paper 4073).

26. Adjournment

The Council adjourned at 10.07pm until Wednesday, 11 May 2016 at 1.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Liz Behjat, Hon Jacqui Boydell and Hon Kate Doust.

NIGEL PRATT
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council