

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 55

TUESDAY, 13 OCTOBER 2009

1. Meeting of Council

The Council assembled at 3.30pm pursuant to order.

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

2. Message from His Excellency the Governor - Assent to Bill

The President reported the receipt of a Message from His Excellency the Governor assenting to the following Bill -

6 October 2009 - Message No. 65

Act No.

Road Traffic Amendment (Hoons) Bill 2009

23 of 2009

3. Petitions

Hon Kate Doust presented a petition, by delivery to the Clerk, [SO 130], from 12 petitioners requesting the Legislative Council oppose First Click computer funding cuts. (Tabled paper 1398).

Hon Robyn McSweeney presented a petition from 176 petitioners requesting the Legislative Council support the replacement of the current Boorara Road Bridge. (Tabled paper 1399).

Hon Robin Chapple presented a petition from 64 petitioners requesting the Legislative Council support an inquiry into the safe transportation, management, handling and export of mining products and hazardous materials. (Tabled paper 1400).

Hon Giz Watson presented a petition from 191 petitioners requesting the Legislative Council oppose the Moore River Development. (Tabled paper 1401).

4. Ministerial Statement - Gas Supply and Emergency Management Committee Review - Gas Supply Disruptions

The Minister for Energy made a Ministerial Statement with respect to the report of the Gas Supply and Emergency Management Committee's review into Western Australia's preparedness for gas supply disruptions.

The Minister for Energy tabled the *Gas Supply and Emergency Management Committee - Report to Government* (September 2009). (Tabled paper 1402).

Ordered - That consideration of the Ministerial Statement and Tabled paper be made an Order of the Day for the next sitting.

5. Ministerial Statement - Camden Sound Marine Park - Establishment

The Minister for Environment made a Ministerial Statement with respect to the establishment of a marine park at Camden Sound in the Kimberley.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

6. Papers

The following Papers were laid on the Table by -

President

Financial Statements -

Members of Parliament (Financial Interest) Act 1992 - Annual Returns (2008-2009)..... 1347

Joint Standing Committee on Treaties (Commonwealth of Australia) -

Report No. 105 - Treaties tabled on 14 September 2009 1348

Leader of the House

Orders -

Fish Resources Management Act 1994 (Prohibition on Commercial Fishing (Shark Bay Marine Park) Amendment Order 2009 [911] G.G. 25/09/2009, Prohibition on Fishing (Coral, 'Live Rock' and Algae) Amendment Order 2009 [922] G.G. 09/10/2009 and Prohibition on Recreational Fishing (Shark Bay Marine Park) Amendment Order 2009 [911] G.G. 25/09/2009)..... 1349

Regulations -

Betting Control Act 1954 (Betting Control Amendment Regulations (No. 3) 2009 G.G. 25/09/2009) .. 1350

Fish Resources Management Act 1994 (Fish Resources Management Amendment Regulations (No. 14) 2009 G.G. 29/09/2009) 1351

Minister for Transport

Annual Reports - Hospitals -

Country Health Service (2009-2009) (Date received 05/10/2009) 1352

Metropolitan Health Service (2008-2009) (Date received 05/10/2009)..... 1353

Annual Reports -

Health, Department of (2008-2009) (Date received 05/10/2009) 1354

Medical Board (2008-2009) (Date received 05/10/2009) 1355

Local Laws -

Health Act 1911 (Health Local Laws 2009 G.G. 06/10/2009 and Shire of Harvey - Health Amendment Local Law 2009 G.G. 29/09/2009)..... 1356

Regulations -

Poisons Act 1964 (Poisons Amendment Regulations (No. 6) 2009 G.G. 25/09/2009)..... 1357

Road Traffic Act 1974 (Road Traffic Code Amendment Regulations (No. 5) 2009 G.G. 09/10/2009, Road Traffic (Blood Sampling and Analysis) Amendment Regulations 2009 G.G. 09/10/2009, and Road Traffic (Drug Driving) Amendment Regulations 2009 G.G. 09/10/2009) 1358

Taxi Act 1994 (Taxi Amendment Regulations (No. 2) 2009 G.G. 29/09/2009) 1359

Minister for Energy*Annual Reports -*

Fire and Emergency Services Superannuation Board (2008-2009) (Date received 24/09/2009).....	1360
Horizon Power (2008-2009) (Deemed tabled 09/10/2009)	1361
Local Government Standards Panel (2008-2009) (Date received 09/11/2009).....	1362
Synergy (2008-2009) (Deemed tabled 30/09/2009)	1363
Western Power (2008-2009) (Deemed tabled 06/10/2009)	1364

Directions -

Electricity Corporations Act 2005 - The Electricity Retail Corporation (Synergy).....	1365
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Local Laws -

Dog Act 1976 (Shire of Cunderdin Dogs Amendment Local Law 2009 G.G. 09/10/2009 and Shire of Esperance Dogs Amendment Local Law 2009 G.G. 02/10/2009).....	1366
Local Government Act 1995 (City of Joondalup Trading in Public Places Amendment Local Law 2009 G.G. 22/09/2009, City of South Perth Amendment (Alfresco Dining) Local Law 2008 G.G. 02/10/2009, City of Wanneroo Standing Orders Amendment Local Law 2009 G.G. 29/09/2009, Shire of Augusta-Margaret River Repeal Local Law 2009 G.G. 25/09/2009, Shire of Esperance Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2009 G.G. 02/10/2009, and Shire of Esperance Local Government Property Amendment Local Law 2009 G.G. 02/10/2009)	1367

Regulations -

Witness Protection (Western Australia) Act 1996 (Witness Protection (Western Australia) Amendment Regulations 2009 G.G. 25/09/2009).....	1368
---	------

Statutes -

Edith Cowan University Act 1984 (CORRECTION - Edith Cowan University Amending Statute No. 2 of 2009 G.G. 29/09/2009).....	1369
--	------

Minister for Child Protection*Annual Reports -*

Forest Products Commission (2008-2009) (Date received 30/09/2009)	1370
Meat Industry Authority (2008-2009) (Deemed tabled 09/10/2009).....	1371
Perth Market Authority (2008-2009) (Date received 30/09/2009).....	1372
Veterinary Surgeons' Board of (2008-2009) (Date received 30/09/2009).....	1373

Minister for Environment*Leases -*

CALM Lease No. 2295/97 - Between CALM and Australian Craftwood & Timbers Pty Ltd - Portion of Timber Reserve (Palganup) No. 116/25.....	1374
--	------

Parliamentary Secretary representing the Minister for Regional Development*Proposals -*

Land Administration Act 1997 - Submission No. 19/2009 - Change of purpose of A Class Reserve 23509 - Camping to Parklands, Trotter Road, Wagerup.....	1375
--	------

Parliamentary Secretary representing the Attorney General

Annual Reports -

Gender Reassignment Board of Western Australia (2008-2009) (Date received 05/10/2009) ..	1376
Mentally Impaired Accused Review Board (2008-2009) (Dated received 09/10/2009)	1377
Native Title, Office of (2008-2009) (Date received 05/10/2009).....	1378
Prisoners Review Board (2008-2009) (Date received 09/10/2009)	1379
State Administrative Tribunal (2008-2009) (Date received 09/10/2009).....	1380

Parliamentary Secretary representing the Treasurer

Annual Reports -

Builders Registration Board (2008-2009) (Date received 05/10/2009)	1381
Commerce, Department of (2008-2009) (Date received 05/10/2009)	1382
Country Housing Authority (2008-2009) (Date received 05/10/2009)	1383
Drug and Alcohol Office (2008-2009) (Date received 30/09/2009)	1384
Housing, Department of (2008-2009) (Date received 05/10/2009)	1385
Housing Authority (2008-2009) (Date received 05/10/2009)	1386
Industrial Relations Commission, Chief Commissioner of the (2008-2009) (Date received 05/10/2009).....	1387
Industrial Relations Commission, Department of the Registrar (2008-2009) (Date received 05/10/2009).....	1388
Motor Vehicle Industry Board (2008-2009) (Date received 05/10/2009).....	1389
Real Estate and Business Agents Supervisory Board (2008-2009) (Date received (05/10/2009).....	1390
Settlement Agents Supervisory Board (2008-2009) (Date received 05/10/2009).....	1391
Small Business Development Commission (2008-2009) (Date received 05/10/2009).....	1392
State Supply Commission (2008-2009) (Date received 05/10/2009).....	1393
WorkCover (2008-2009) (Date received 05/10/2009)	1394

Local Laws -

Dividing Fences Act 1961 (Shire of Esperance Fencing Amendment Local Law 2009 G.G. 02/10/2009).....	1395
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Regulations -

Electricity Act 1945 (Electricity Amendment Regulations (No. 4) 2009 G.G. 29/09/2009 and Electricity (Supply Standards and System Safety) Amendment Regulations (No. 2) 2009 G.G. 29/09/2009).....	1396
Fair Trading Act 1987 (Fair Trading (Retirement Villages Code) Regulations 2009 G.G. 21/09/2009).....	1397

7. Standing Committee on Uniform Legislation and Statutes Review - Fortieth Report - Inquiry on the Cross-border Justice Amendment Bill 2009

Hon Adele Farina presented the Fortieth Report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the Inquiry on the *Cross-border Justice Amendment Bill 2009*. (Tabled paper 1403).

Hon Adele Farina moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

Hon Adele Farina, by leave, tabled a letter with attachment from the Attorney General dated 7 October 2009, received by the Standing Committee on Uniform Legislation and Statutes Review in relation its inquiry into the *Cross-border Justice Amendment Bill 2009*. (Tabled paper 1404).

8. Perth Parking Management Amendment Regulations (No. 2) 2009 - Disallowance

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

That the *Perth Parking Management Amendment Regulations (No. 2) 2009* published in the *Gazette* on 30 June 2009 and tabled in the Legislative Council on 11 August 2009 under the *Perth Parking Management Act 1999*, be and are hereby disallowed.

9. Perth Parking Management Amendment Regulations (No. 2) 2009 - Disallowance

Hon Ken Travers: To move on the next day of sitting -

That the *Perth Parking Management Amendment Regulations (No. 2) 2009* published in the *Gazette* on 30 June 2009 and tabled in the Legislative Council on 11 August 2009 under the *Perth Parking Management Act 1999*, be and are hereby disallowed.

10. Fish Resources Management Amendment Bill 2009

The Minister for Fisheries: To move on the next day of sitting -

That a Bill for “An Act to amend the *Fish Resources Management Act 1994*.” be introduced and read a first time.

11. Road Traffic Legislation Amendment (Registration Labels) Bill 2009

The Minister for Transport: To move on the next day of sitting -

That a Bill for “An Act to amend these Acts —

- the *Road Traffic Act 1974*;
- the *Road Traffic (Administration) Act 2008*.”

be introduced and read a first time.

12. Matter of Urgency - Mental Health Services

The President read the following letter -

Dear Mr President

At today’s sitting it is my intention to move under SO 72 that the Council, as a matter of urgency, calls on the State Government to acknowledge the increasing need for frontline mental health services, and therefore —

- (a) stop and reverse recent and proposed funding cuts to such vital services; and
- (b) quarantine mental health services from the 3 percent efficiency dividend and any future cost-cutting initiatives.

Yours sincerely

Hon Alison Xamon

Member for East Metropolitan Region

Four members having risen in support.

Hon Alison Xamon moved the motion.

Debate ensued.

Interruption of Debate [SO 195].

13. Motions made Orders of the Day

The Leader of the House moved, without notice -

That Motions Nos 16, *Metropolitan Region Scheme Amendment No. 1152/41 - Jindalee (Jindee) Foreshore Rationalisation*, and 20, *Joint Standing Committee on Audit* be made Orders of the Day for the next day's sitting.

Question - put and passed.

14. Order of Business

Ordered - That Order of the Day No. 2, *City of Albany Keeping and Welfare of Cats Local Law 2008 - Disallowance*, be taken after Order of the Day No. 7, *Waste Avoidance and Resource Recovery Amendment Bill 2009*. (Leader of the House).

15. City of Stirling Local Government Property Local Law 2009 - Disallowance - Discharge from Notice Paper

The Order of the Day having been called, Hon Robin Chapple moved, without notice -

That Order of the Day No. 1, *City of Stirling Local Government Property Local Law 2009 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

16. Criminal Code Amendment (Graffiti) Bill 2009

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

Debate resumed.

17. Questions Without Notice

Questions without notice were taken.

The Minister for Energy tabled, and by leave incorporated into Hansard, documents in relation to underground power across the metropolitan region, in response to a question without notice asked by Hon Phil Edman. (Tabled paper 1405).

The Minister for Transport representing the Minister for Health tabled correspondence received by the Minister for Health in relation to concerns from local members regarding cuts to Augusta hospital services, in response to a question without notice asked by Hon Adele Farina. (Tabled paper 1406).

The Minister for Environment tabled a map of the State Government indicative boundary for the Ningaloo Coast World Heritage Nomination, in response to question on notice No. 1185 asked by Hon Robin Chapple. (Tabled paper 1407).

The Minister for Child Protection tabled documents detailing the full time equivalent employees for the Child Protection directorate and district as at 31 August 2009, in response to question on notice No. 1207 asked by Hon Sue Ellery. (Tabled paper 1408).

18. Criminal Code Amendment (Graffiti) Bill 2009

Debate resumed on the second reading of this Bill (cf item 16 above).

Hon Adele Farina sought leave of the House to table and have incorporated into Hansard two emails received by herself in relation to the *Criminal Code Amendment (Graffiti) Bill 2009*.

Leave denied.

Debate resumed.

The Parliamentary Secretary representing the Attorney General, by leave, tabled an email dated 11 October 2009 from Hon Michael Mischin to Kate Greenaway regarding concerns raised in relation to the passage of the *Criminal Code Amendment (Graffiti) Bill 2009*. (Tabled paper 1409).

The Parliamentary Secretary representing the Attorney General, by leave, tabled an email dated 12 October 2009 from Hon Michael Mischin to George Domahidy in relation to the *Criminal Code Amendment (Graffiti) Bill 2009*. (Tabled paper 1410).

Question - put and passed.

Bill read a second time.

On the motion of the Leader of the House the debate was adjourned to a later stage of this day's sitting.

19. Extension of Sitting Time

The Leader of the House moved, That the House continue to sit beyond 10.00pm for the purpose of completing the committee stage of the *Criminal Code Amendment (Graffiti) Bill 2009*.

Debate ensued.

Question - put and passed.

20. Order of Business

Ordered - That Order of the Day No. 3, *Criminal Code Amendment (Graffiti) Bill 2009*, be resumed in committee. (Leader of the House).

21. Criminal Code Amendment (Graffiti) Bill 2009

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

The Deputy President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 1.

Debate ensued.

Chairman's Ruling

The Chairman ruled as follows -

Order! I find that an objectionable comment from the Minister. Frustrated he may well be, but I would like him to withdraw that remark.

The Minister for Transport withdrew his remark.

Debate resumed.

Chairman's Ruling

The Chairman ruled as follows -

I will interrupt the Member. I did correct the Minister before. Much as that particular term may be used in certain circles around this particular place, it should not be used in here, and I would ask the Member to likewise withdraw that particular comment.

Hon Kate Doust withdrew her remark.

Debate resumed.

Clause agreed to.

Clause 2.

Debate ensued.

Clause agreed to.

Clause 3 agreed to.

Clause 4.

Debate ensued.

Hon Giz Watson moved -

- (4) It is a defence to a charge of an offence under subsection (2) to prove the accused, or a person acting on behalf of the accused, believed on reasonable grounds that the implement was purchased by a minor for a designated work requirement, or for a recognised and structured educational activity.

Debate resumed.

Amendment - put.

The Committee divided.

Ayes (12)

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

Hon Lynn MacLaren
Hon Ljiljana Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Giz Watson
Hon Ed Dermer (*Teller*)

Noes (18)

Hon Liz Behjat
Hon Jim Chown
Hon Mia Davies
Hon Wendy Duncan
Hon Phil Edman
Hon Brian Ellis
Hon Donna Faragher
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 Simon O'Brien
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Amendment thus negatived.

Debate resumed.

The House having continued to sit until 12 midnight

Wednesday, 14 October 2009.

Clause agreed to.

Clause 5 agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported without amendment.

Report adopted.

Ordered - That the third reading of the Bill be made an Order of the Day for the next sitting.

22. Royalties for Regions Bill 2009

The President reported the receipt of Message No. 54 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Minister for Regional Development moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Minister for Regional Development moved, That the Bill be now read a second time.

Debate stands adjourned.

23. Adjournment

The Leader of the House moved, That the House do now adjourn.

Question - put and passed.

The House adjourned at 12.09am until Wednesday, 14 October 2009 at 4.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Jon Ford.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council