

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

### No. 1

THURSDAY, 11 APRIL 2013

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#### 1. Meeting of Council

The Council assembled at 2.45pm.

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

#### 2. Statement by President — Welcome to Visitors

The President welcomed all visitors attending the Legislative Council to witness the Opening of Parliament by His Excellency the Governor.

#### 3. Parliament Summoned to Meet

The following Proclamation of His Excellency the Governor dated 26 March 2013 was read by the Clerk of the Parliaments —

Western Australia  
M McCusker  
Governor

By His Excellency Malcolm McCusker, Companion  
of the Order of Australia, Commander of the Royal  
Victorian Order, Queen's Counsel, Governor of the  
State of Western Australia, Australia

By this proclamation, I, the Governor, acting under the *Constitution Act 1889* section 3 —

- (a) fix Parliament House in the City of Perth as the place for holding the first session of the Legislative Assembly and the Legislative Council in the Thirty-Ninth Parliament; and
- (b) fix Thursday, 11 April 2013 at 11.00am as the time for holding the first sitting of the first session of the Legislative Assembly in the Thirty-Ninth Parliament; and
- (c) fix Thursday, 11 April 2013 at 2.45pm as the time for holding the first sitting of the first session of the Legislative Council in the Thirty-Ninth Parliament.

GIVEN under my hand and the Public Seal of the State on 26 March 2013.

By Command of the Governor,  
Hon C.J. Barnett  
Premier

GOD SAVE THE QUEEN!

#### 4. Presence of His Excellency the Governor

His Excellency Malcolm McCusker, Companion of the Order of Australia, Commander of the Royal Victorian Order, Queen's Counsel, Governor of the State of Western Australia, having been announced by the Usher of the Black Rod, and having taken the President's Chair, directed the Usher of the Black Rod to acquaint the Members of the Legislative Assembly that it was His Excellency's pleasure that they attend in this House.

The Members of the Legislative Assembly, with their Speaker and other officers of the House being in attendance accordingly, His Excellency was pleased to speak as follows —

*Mr President and Honourable Members of the Legislative Council.*

*Mr Speaker and Honourable Members of the Legislative Assembly.*

First, I acknowledge the Noongar people, traditional custodians of the land where this Parliament sits; and I acknowledge the contribution of Aboriginal and non-Aboriginal Australians of all cultures to this State.

It is also appropriate to acknowledge the contribution made by two former Members of the Parliament, recently deceased, Raymond O'Connor and Ernest Bridge.

Ray O'Connor was Western Australia's twenty-second Premier from January 1982 to February 1983. He was first appointed a Minister in 1965, held a number of senior ministerial portfolios in the Brand and Court Governments, and was Deputy Premier from 1980 to 1982. In the responsible positions in which he served, he made a significant contribution to this State.

Ernie Bridge became the first Aboriginal Member of the Western Australian Parliament in 1980. He held the seat of Kimberley until 2001, and in 1986 became the first Aboriginal to be a Minister in any Australian Government, when he was appointed Western Australia's Minister for Water Resources, the North-West and Aboriginal Affairs; and later for Small Business and Agriculture. He was a diligent and highly effective Minister, and representative of the Kimberley region, and contributed significantly to the advancement of this State and of its Aboriginal people.

I was sworn in as the thirty-first Governor of Western Australia on 1 July 2011 and this is the first time that I have had the privilege and pleasure of opening a new Parliament; one of the duties of the Governor.

The role of the Governor has changed considerably over Western Australia's history since 1829. Originally, when the Governor exercised direct executive authority Western Australia was a fledgeling Crown Colony, but that changed with responsible government and the democratic system we now enjoy.

The powers of the Governor are now exercised in accordance with the advice of the Premier and Ministers, but by convention, the Governor has the right 'to be consulted, to encourage and to warn' and is an essential component of our parliamentary system.

In addition to the Governor's Constitutional and ceremonial functions, I consider it my responsibility to encourage the strong volunteering movement in this State, and social unity, by engaging with all levels of our community. I have been greatly impressed and, indeed, humbled by Western Australians' sense of social responsibility and their volunteering which I have witnessed many times in traversing this vast State.

As the Patron, or Joint Patron, of approximately 200 charitable, academic, cultural, business and community organisations, I will continue to promote Western Australia's interests both domestically and internationally, for the remainder of my three year term as Governor.

The Government formed after the election of September 2008 was a Liberal minority government in alliance with the National Party. Although, in the 2013 election, the Liberal Party gained a majority of seats, the new government remains a Liberal/National Party alliance.

I welcome the twenty-four new elected Members of Parliament, and I express the hope that the more experienced Members will provide them with friendly advice and guidance in the new (and perhaps slightly daunting) world of Parliament.

Australia has one of the oldest democratic systems of government in the world, a system achieved without civil war or bloodshed, and which is the envy of many. Churchill once said,

*"no-one pretends that democracy is perfect or all-wise. Indeed it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time."*

By that he meant, of course, that as in all human institutions, there is the potential for error. It is the responsibility of this Parliament to preserve our democracy, to respect the integrity of the legislative, judicial and executive branches of Government and to work for the well-being of the citizens of this state to whom Members are responsible. And it is essential, for a properly functioning democratic system, that there be vigorous, informed debate in this place, that the executive arm of government be held accountable and its actions scrutinised; and that the judiciary remain totally independent.

A significant challenge for this new government is the need to cope with the demands of the state's unparalleled growth. Many workers are flocking here from overseas or the Eastern States; more than 1,000 per week. There is, and will continue to be, a consequent strain on infrastructure of all kinds, especially on transport, health facilities, schooling and housing.

The Government has advised me of its legislative and policy agenda for this parliamentary term. It intends to continue to focus on the economic and social development of the State, whilst ensuring proper support and care for those in our community in need of assistance.

In just over four weeks, since the swearing-in of the Liberal–National Government, the Government has:

- Made significant changes to government departments, aimed at improving their capacity to meet the government's priorities and better serve the Western Australian public. These changes include:
  - amalgamating the Departments of Local Government and Communities, to achieve better delivery of services across the community by government agencies, not-for-profit organisations and local governments;
  - splitting the Department of Environment and Conservation into a separate parks and wildlife authority and an environmental regulation agency;
  - establishing a single State-owned electricity generator and retailer by integrating Verve and Synergy; and
  - integrating the Drug and Alcohol Office and the Mental Health Commission better to coordinate services to people with drug and or alcohol problems and mental health issues, recognising that the two problems are often inter-related.
- Announced royalty concessions for magnetite iron ore projects in Western Australia for the first twelve months of operation, in recognition of the complexities faced by this emerging aspect of the iron ore industry.
- Commenced a new specialist support service, including access to a clinical psychologist and mental health nurses, for children with mental health issues appearing in the Perth Children's Court.

I now turn to some specific aspects of the Government's program.

#### *Transport*

The Government intends to invest in a variety of transport modes: roads, heavy and light rail, buses, taxis and bikes.

This will require substantial funding and planning for major road and rail projects, including the extension and widening of the Mitchell Freeway, the Perth–Darwin Highway, an airport rail link, the MAX light rail project, the Coalfields Highway, overtaking lanes on the Great Eastern Highway and Albany Highway, and completion of the shared path networks for cycling around the city.

The Government will also extend to carers the very successful free public transport initiative introduced by the previous government for seniors, in well-deserved recognition of the tireless unpaid work of family carers.

#### *Safer communities/law and order*

The Government will focus on ensuring community safety.

Western Australians are entitled to feel safe in their community and, in particular, in their own home. The Government intends to introduce legislation to impose stringent new penalties for home invasions and serial burglars.

In addition, police will be given the power to take hoons off the roads without delay and given more resources to enable them to do this.

The Government is also committed to increasing police numbers across the State and in assisting police to do their difficult job efficiently. There will be a focus on cutting red tape, and freeing up police time to ensure a more effective and responsive police force.

The Government will also pioneer an integrated and expanded CCTV network, targeting problem areas and enhancing community safety. Legislation will also be introduced to enable stricter controls and GPS tracking for serious domestic violence offenders and serial arsonists, and improved access to Violence Restraining Orders for domestic violence victims with children.

It will also provide improved support for victims of crime, with the establishment of a Commissioner for Victims of Crime, and additional funding for support, legal and crisis accommodation services.

### *Health*

The last Government embarked on the largest hospital construction program in the State's history. During the term of this new Government, most of these projects will come to fruition. The new \$170 million Albany Hospital will soon open, and in the next few years the public will benefit from the opening and commissioning of the \$2 billion Fiona Stanley Public Hospital, the new \$1.3 billion Children's Hospital, and the \$360 million Midland Public Hospital. Other major developments will be a new Karratha Hospital, the redevelopment of the Kalgoorlie Hospital, and the \$565 million Southern Inland Health Initiative which will boost regional health infrastructure and place more private GPs back in country towns, where they are sorely needed.

Over the past few years, a greater focus has been given to mental health issues; the State's first Minister for Mental Health has been appointed, and an independent statutory Commissioner for Mental Health and Wellbeing was established. Mental health reform will remain high on the Government's agenda.

### *Education*

In its last term, the Government established a system of Independent Public Schools. This is perhaps one of the most significant initiatives in public education for a generation, admired by other States, and the Commonwealth. A number of Independent Public Schools are located in lower socio-economic areas. The Government intends to ensure that educational opportunity will be accessible to all students, regardless of economic and social backgrounds.

Two hundred and fifty-five public schools are now operating as Independent Public Schools (IPS), representing more than half of all public school students and teachers. The Government is confident that IPS will prove to be the best way of delivering education to diverse students and communities, and of fostering innovation in education. It intends to extend the system to more public schools.

Another initiative of the previous government was the launching last year of a proposal to establish sixteen Child and Parent Centres, for children in the three-plus age group in areas of conspicuous disadvantage. The object is to narrow the gap between disadvantaged children and their peers. The first ten of such centres will be fully operational in 2014 and the Government has announced its intention to establish eleven more such Centres.

Children suffering poor health can be severely disadvantaged in their learning. The Government will recruit and place in schools another one hundred and fifty-five school health nurses, so that every Western Australian school child has access to health checks and care.

The Government is committed to reforming and simplifying the structure of Years 11 and 12 in our high schools. This will benefit all senior students, and in particular will improve outcomes in numeracy and literacy for vocational students. Legislation will be introduced to change the Western Australian Certificate of Education so as to effect this reform.

### *Economic Development*

This Government believes that the mineral base of the State's economy will be of considerable duration, both through existing developments and new ones, such as Browse and Oakajee.

None of this will happen overnight. The Government recognises that for such large-scale developments as Ord Stage 2, Gorgon, Wheatstone and iron ore expansions, time, determination and persistence are necessary.

This Government will also be giving close attention to fostering development in areas other than mining. The State already exports expertise in mining management and technology and in dry land farming. And it is expected that there will be significant academic, technological and economic advantages flowing from the Square Kilometre Array project.

The Premier has included science in his ministerial portfolio, recognizing its high importance in the quest for new sources of economic growth. The Government will nurture relationships with our universities, business and industry. It will also seek to leverage the State's well established relationships in Asia.

In recognition of the strong part that Scitech has played in educating the State's children in science, maths and astronomy, the Government has committed to assist Scitech in building a new purpose built facility on the Burswood Peninsula, by providing \$15 million and a 9,500sqm site.

#### *Agriculture*

The Government recognizes the difficulties and hardships faced by farmers, especially those in the Eastern Wheatbelt, and will use its best endeavours to help relieve those difficulties. Agriculture has always been a very important part of the State's economy.

The Premier and Minister for Agriculture have already visited many places in the Eastern Wheatbelt, to investigate and assess the impact of long-term drought and stresses which have affected rural communities in this area.

#### *Environment*

The Government will continue to focus on the protection of this State's diverse flora, fauna and marine life through better management and scientific research. It will introduce a new Biodiversity Conservation Act to replace the existing sixty-three year old conservation legislation. It also intends to invest in improved facilities and accommodation in national parks, providing more low cost holiday options for families and encouraging tourism.

The Kimberley area is one of the most unique environments in the world. The Government will create Australia's largest national park in the Kimberley, and will expand marine parks in the north, from Broome and across the top end of Western Australia.

The Premier has publicly stated that this is a fresh, new Government which will have as its motivation the economic security of the State, and the prosperity and well-being of its people.

I wish him well in pursuing those objectives: and I wish all Members of this Parliament success in the performance of their duties, and in the discharge of their obligation faithfully to serve the people of Western Australia, which they have earlier today solemnly undertaken before the Chief Justice of Western Australia.

And it is now both my duty as Governor, and my pleasure, to declare open the first session of the Thirty-Ninth Parliament of Western Australia.

## **5. Papers**

The following Papers were laid on the Table by —

### **Leader of the House**

#### *Annual Reports —*

Curtin University (2012) (Date received 25/03/2013) .....	1
Edith Cowan University (2012) (Date received 25/03/2013).....	2
Murdoch University (2012) (Date received 25/03/2013).....	3
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#### *Documents —*

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## **Minister for Mental Health**

### *Orders —*

Planning and Development Act 2005 – Order and reasons in accordance with section 76(5) of the Planning and Development Act 2005 relating to Lot 3367 Latham Road and Lot 500 Karri Way, Ferndale (Deemed tabled 7/02/2013) .....	6
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### *Plans —*

Western Australian Planning Commission – Improvement Plan No.37, Browse Liquefied Natural Gas Precinct (September 2012) (Deemed tabled 5/02/2013).....	7
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## **Attorney General**

### *Explanatory Memorandum —*

Energy Safety Division Business Plan 2013-2014 (Deemed tabled 30/01/2013) .....	8
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### *Reports —*

Energy Safety Division Business Plan 2013-2014 (December 2012) (Deemed tabled 30/01/2013) .....	9
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## **Clerk**

### *Writs —*

State General Election 2013 — Return of the Writ for the Legislative Council.....	10
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## **6. Joint Standing Committee on Delegated Legislation — Establishment**

The Leader of the House: To move on the next day of sitting —

That the Legislative Assembly be invited to agree to the rules and orders of the Legislative Council contained in the schedule for the constitution, powers and procedure of a Joint Standing Committee on Delegated Legislation.

### **SCHEDULE**

#### **6. Joint Delegated Legislation Committee**

- 6.1 *A Joint Delegated Legislation Committee* is established.
- 6.2 The Committee consists of 8 Members, 4 of whom are appointed from each House. The Chair must be a Member of the Committee who supports the Government.
- 6.3 A quorum is 4 Members of whom at least one is a Member of the Council and one a Member of the Assembly.
- 6.4 (a) A report of the Committee is to be presented to each House by a Member of each House appointed for the purpose by the Committee.  
(b) Where a notice of motion to disallow an instrument has been given in either House pursuant to recommendation of the Committee, the Committee shall present a report to both Houses in relation to that instrument prior to the House's consideration of that notice of motion. If the Committee is unable to report a majority position in regards to the instrument, the Committee shall report the contrary arguments.
- 6.5 Upon its publication, whether under section 41(1)(a) of the *Interpretation Act 1984* or another written law, an instrument stands referred to the Committee for consideration.
- 6.6 In its consideration of an instrument, the Committee is to inquire whether the instrument —
  - (a) is within power;
  - (b) has no unintended effect on any person's existing rights or interests;
  - (c) provides an effective mechanism for the review of administrative decisions; and

- (d) contains only matter that is appropriate for subsidiary legislation.
- 6.7 It is also a function of the Committee to inquire into and report on —
  - (a) any proposed or existing template, *pro forma* or model local law;
  - (b) any systemic issue identified in 2 or more instruments of subsidiary legislation; and
  - (c) the statutory and administrative procedures for the making of subsidiary legislation generally, but not so as to inquire into any specific proposed instrument of subsidiary legislation that has yet to be published.
- 6.8 In this order —
  - “instrument” means —
    - (a) subsidiary legislation in the form in which, and with the content it has, when it is published;
    - (b) an instrument, not being subsidiary legislation, that is made subject to disallowance by either House under a written law;
  - “subsidiary legislation” has the meaning given to it by section 5 of the *Interpretation Act 1984*.

## **7. Joint Standing Committee on Audit — Establishment**

The Leader of the House: To move on the next day of sitting —

That the Legislative Assembly be invited to agree to the rules and orders of the Legislative Council contained in the schedule for the constitution, powers and procedure of a Joint Standing Committee on Audit.

### **SCHEDULE**

#### **9. Joint Audit Committee**

- 9.1 A *Joint Audit Committee* is established.
- 9.2 The Committee consists of 4 Members (including the Chair) of the Legislative Council Standing Committee on Estimates and Financial Operations and 4 Members of the Legislative Assembly Public Accounts Committee, 2 of whom from each House support the Government.
- 9.3 The Members of the Legislative Council Standing Committee on Estimates and Financial Operations and the Legislative Assembly Public Accounts Committee not appointed to the Joint Standing Committee under section 9.2 are appointed to the Joint Standing Committee as participating members in accordance with Legislative Council Standing Order 164. The requirement for leave under Standing Order 164 does not apply to these appointments.
- 9.4 The Chair of the Standing Committee on Estimates and Financial Operations will be the Chair of the Joint Audit Committee.
- 9.5 The Standing Orders of the Legislative Council relating to Standing Committees will be followed as far as they can be applied.

## **8. Questions Without Notice**

Questions without notice were taken.

## **9. Electoral Amendment Bill 2013**

The Leader of the House, in order to assert and maintain the undoubted rights and privileges of this House to initiate legislation, moved without notice —

That leave be given to introduce a Bill for “An Act to amend the *Electoral Act 1907*”.

Leave granted.

The Leader of the House moved, That the Bill be read a first time.

Question — put and passed.

Ordered — That the second reading of the Bill be made an Order of the Day for the next sitting.

# **10. Governor's Speech — Distribution**

The President announced —

That for the sake of accuracy he had obtained copies of His Excellency's Speech which were then distributed to Members.

# **11. Address-In-Reply**

Hon Liz Behjat moved —

That the following address be presented to His Excellency —

To His Excellency, Malcolm McCusker, Companion of the Order of Australia, Commander of the Royal Victorian Order, Queen's Counsel, Governor in and over the State of Western Australia and its dependencies in the Commonwealth of Australia.

May it please your Excellency —

We, the Members of the Legislative Council of the Parliament of Western Australia, in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the speech you have been pleased to deliver to Parliament.

On the motion of Hon Sue Ellery the debate was adjourned to the next sitting.

# **12. Adjournment**

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

Question — put and passed.

The House adjourned at 3.43pm until Tuesday, 14 May 2013 at 3.00pm.

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

Attendance: Present all Members except Hon Helen Bullock and Hon Max Trenorden.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

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