

# LEGISLATIVE COUNCIL

---

---

## MINUTES OF PROCEEDINGS

No. 222

TUESDAY, 14 AUGUST 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. Message from His Excellency the Governor — Assent to Bills

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

<b>3 July 2012 — Message No. 11</b>	<b>Act No.</b>
Workers' Compensation and Injury Management Amendment Bill 2012	12 of 2012
Retail Trading Hours Amendment Bill 2012	13 of 2012
Bank of Western Australia Amendment Bill 2012	14 of 2012
Adoption Amendment Bill 2012	15 of 2012
Teacher Registration Bill 2012	16 of 2012
Appropriation (Consolidated Account) Recurrent 2012–13 Bill 2012	17 of 2012
Appropriation (Consolidated Account) Capital 2012–13 Bill 2012	18 of 2012
Petroleum and Geothermal Energy Safety Levies Amendment Bill 2012	19 of 2012
Petroleum and Geothermal Energy Safety Levies Amendment Bill (No. 2) 2012	20 of 2012

### 3. Petitions

Hon Brian Ellis presented a petition from 26 petitioners requesting the Legislative Council to recommend that an independent inquiry be established to determine the source and identity of an odour in Geraldton. (Tabled Paper 4792).

Hon Adele Farina presented a petition from 7,232 petitioners requesting the Legislative Council to call on the Minister for Water to direct Busselton Water to immediately cease chlorination of the Busselton water supply. (Tabled Paper 4793).

Hon Adele Farina presented a petition from 969 child petitioners requesting the Legislative Council to call on the Minister for Water to direct Busselton Water to immediately cease chlorination of the Busselton water supply. (Tabled Paper 4794).

#### 4. Papers

The following Papers were laid on the Table by —

##### President

###### *Joint Standing Committee on Treaties (Commonwealth of Australia) —*

Report No. 125 — Treaties tabled on 7 and 28 February 2012 — (Resolution MEPC.193(61): (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, 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, Agreement between Australia and the European Union Amending the Agreement on Mutual Recognition in relation to Conformity Assessment (MRA), Certificates and Markings between the European Community and Australia done at Brussels on 23 February 2012, Convention providing a Uniform Law on the Form of International Will done at Washington D.C. on 26 October 1973, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment done at New York on 18 December 2002, Amendments to the Agreement Establishing the European Bank for Reconstruction and Development, adopted at London on 30 September 2011 and Amendment, adopted at Lima on 27 April 2012, to Annex 1 of the Agreement on the Conservation of Albatrosses and Petrels (ACAP) of 19 June 2001) .....	4721
Report No. 126 — Treaty tabled on 21 November 2011 — (Anti-Counterfeiting Trade Agreement (Tokyo on 1 October 2011) .....	4722
Treaty tabled on 26 June 2012 — (Agreement Establishing the International Fund for Agricultural Development (Rome, 13 June 1976).....	4723

##### *Reports —*

Inspector of Custodial Services — Report of an Announced Inspection of Albany Regional Prison (Report No. 78) June 2012) .....	4724
--	------

##### Leader of the House

###### *Codes —*

Public Sector Management Act 1994 (Commissioner's Instruction No. 7: Code of Ethics G.G. 03/07/2012) .....	4725
--	------

###### *Management Plans —*

Fish Resources Management Act 1994 (Correction — Kimberley Gillnet and Barramundi Fishery Management Plan Amendment 2012 [1085] G.G. 03/07/2012 and West Coast Deep Sea Crustacean Fishery (Interim) Management Plan Amendment 2012 [1073] G.G. 03/07/2012).....	4726
--	------

###### *Orders —*

Fish Resources Management Act 1994 (Abrolhos Islands Fishing Methods Revocation Order 2012 [1096] G.G. 06/07/2012).....	4727
Fish Resources Management Act 1994 (CORRECTION — Netting Restrictions (Pilbara and Kimberley) Revocation and Amendment Order 2012 G.G. 24/07/2012) .....	4728

###### *Regulations —*

Dangerous Goods Safety Act 2004 (Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations 2012 G.G. 03/08/2012) .....	4729
Liquor Control Act 1988 (Liquor Control (Cheeditha Restricted Area) Regulations 2012 G.G. 10/08/2012 and (Liquor Control Amendment Regulations (No. 2) 2012 G.G. 10/08/2012) ...	4730

###### *Reports —*

Consultants Engaged by Government for the six months ended 31 December 2011 .....	4731
Interstate and overseas travel undertaken by Ministers, Members of Parliament and Officers on official business for the three months ended 31 December 2011 .....	4732
Racing and Wagering Western Australia - Statement of Corporate Intent (2012–2013) (Date received 1/08/2012) .....	4733

*Reviews —*

Review of the Trans-Tasman Mutual Recognition (Western Australia) Act 2007 (June 2012).....	4734
--	------

**Minister for Finance***Local Laws —*

Dividing Fences Act 1961 (City of Cockburn Fencing Local Law 2012 G.G. 03/07/2012).....	4735
---	------

*Regulations —*

Construction Industry Portable Paid Long Service Leave Act 1985 (Construction Industry Portable Paid Long Service Leave Amendment Regulations 2012 G.G. 10/07/2012) .....	4736
Industrial Relations Act 1979 (Industrial Magistrates Courts (General Jurisdiction) Amendment Regulations 2012 G.G. 31/07/2012) .....	4737
Jetties Act 1926 (Jetties Amendment Regulations 2012 G.G. 13/07/2012) .....	4738
Occupational Safety and Health Act 1984 (Occupational Safety and Health Amendment Regulations (No. 2) 2012 G.G. 27/07/2012) .....	4739
Rates and Charges (Rebates and Deferments) Act 1992 (Rates and Charges (Rebates and Deferments) Amendment Regulations 2012 G.G. 29/06/2012) .....	4740
Road Traffic Act 1974 (Road Traffic (Charges and Fees) Amendment Regulations (No. 5) 2012 G.G. 29/06/2012).....	4741
State Trading Concerns Act 1916 (State Trading Concerns (Authorisation) Amendment Regulations 2012 G.G. 29/06/2012) .....	4742
Transport Co-ordination Act 1966 (Country Taxi-cars (Fares and Charges) Amendment Regulations (No. 2) 2012 G.G. 29/06/2012) .....	4743
Western Australian Marine Act 1982 (W.A. Marine (Surveys and Certificates of Survey) Amendment Regulations 2012 G.G. 29/06/2012).....	4744
Workers' Compensation and Injury Management Act 1981 (Workers' Compensation and Injury Management Amendment Regulations 2012 G.G. 27/07/2012) .....	4745

**Minister for Education***Annual Reports —*

The Western Australian College of Teaching — Annual Report 1 April 2011 to 31 March 2012.....	4746
--	------

*By-laws —*

Energy Operators (Powers) Act 1979 (Energy Operators (Regional Power Corporation) (Charges) Amendment By-laws 2012 G.G. 29/06/2012) .....	4747
--	------

*Directions —*

Electricity Corporations Act 2005 - Electricity Corporations June 2012 Storms Supply Interruption Payment Direction 2012 (4 July 2012).....	4748
--	------

*Local Laws —*

Bush Fires Act 1954 (City of Greater Geraldton Bush Fire Brigades Local Law 2011 G.G. 13/07/2012).....	4749
Bush Fires Act 1954 (Shire of Broome Bush Fire Brigades Amendment Local Law 2012 G.G. 31/07/2012).....	4750

*Regulations —*

Energy Coordination Act 1994 (Energy Coordination (Gas Tariffs) Amendment Regulations 2012 G.G. 24/07/2012).....	4751
Energy Operators (Powers) Act 1979 (Energy Operators (Electricity Retail Corporation) (Charges) Amendment By-laws 2012 G.G. 29/06/2012) .....	4752

Gas Services Information Act 2012 (Electricity Industry (Independent Market Operator) Amendment Regulations 2012 G.G. 29/06/2012 and Gas Services Information Regulations 2012 G.G. 29/06/2012).....	4753
School Education Act 1999 (School Education Amendment Regulations 2012 G.G. 10/07/2012).....	4754
<i>Reports —</i>	
Economic Regulation Authority — Inquiry into the Efficiency of Synergy’s Costs and Electricity Tariffs (Final Report) (Deemed tabled 3/7/12).....	4755
Energy, Office of (Final Report) (1 July 2011 to 31 March 2012) (Deemed tabled 13/7/12) ...	4756
Horizon Power — Statement of Corporate Intent 2012/2013.....	4757
Synergy — Statement of Corporate Intent 2012/2012 .....	4758
Verve — Statement of Corporate Intent .....	4759
<b>Minister for Child Protection</b>	
<i>Annual Reports —</i>	
Landcare Trust — 2011–2012 .....	4760
<i>Local Laws —</i>	
Agriculture and Related Resources Protection Act 1976 (City of Greater Geraldton Pest Plants Local Law 2011 G.G. 13/07/2012) .....	4761
Cemeteries Act 1986 (City of Greater Geraldton Cemetery Local Law 2011 G.G. 13/07/2012) .....	4762
Dog Act 1976 (City of Greater Geraldton Dogs Local Law 2011 G.G. 13/07/2012) .....	4763
Dog Act 1976 (Shire of Broome Dogs Local Law 2012 G.G. 31/07/2012).....	4764
Dog Act 1976 (Shire of Kellerberrin Dogs Repeal Local Law 2012 G.G. 10/08/2012) .....	4765
Local Government Act 1995 (City of Armadale Environment, Animals and Nuisance Amendment Local Law 2012 G.G. 03/07/2012, City of Greater Geraldton Activities in Thoroughfares and Public Places and Trading Local Law 2011 G.G. 13/07/2012, City of South Perth Public Places and Local Government Property Amendment Local Law No. 2 2012 G.G. 10/07/2012, Shire of Augusta-Margaret River Standing Orders Amendment Local Law 2012 G.G. 13/07/2012, Shire of Broomehill-Tambellup Removal of Refuse, Rubbish and Disused Materials Local Law 2012 G.G. 06/07/2012, Town of Cottesloe Beaches and Beach Reserves Local Law 2012 G.G. 12/07/2012, Town of Cottesloe Dogs Amendment Local Law 2012 G.G. 06/07/2012 and Town of Cottesloe Standing Orders Local Law 2012 G.G. 12/07/2012) .....	4766
Local Government Act 1995 (City of Bunbury Standing Orders Local Law 2012 G.G. 20/07/2012, City of Cockburn Jetties, Waterways and Marina Amendment Local Law 2012 G.G. 20/07/2012, City of Gosnells Standing Orders Local Law 2012 G.G. 20/07/2012, Shire of Broome Parking and Parking Facilities Local Law 2012 G.G. 31/07/2012, Shire of Broome Standing Orders Amendment Local Law 2012 G.G. 31/07/2012 and Shire of Broome Trading, Outdoor Dining and Street Entertainment Amendment Local Law 2012 G.G. 31/07/2012) .....	4767
<i>Regulations —</i>	
Child Care Services Act 2007 (Child Care Services Amendment Regulations 2012 G.G. 06/07/2012).....	4768
Education and Care Services National Law (WA) Act 2012 (Education and Care Services National Law (Transitional) Regulations 2012 G.G. 25/07/2012 and Education and Care Services National Regulations 2012 G.G. 25/07/2012) .....	4769
Local Government Act 1995 (Local Government (Administration) Amendment Regulations 2012 G.G. 13/07/2012, and Local Government (Financial Management) Amendment Regulations (No. 2) 2012 G.G. 29/06/2012).....	4770
Rottnest Island Authority Act 1987 (Rottnest Island Amendment Regulations 2012 G.G. 29/06/2012).....	4771
Working with Children (Criminal Record Checking) Act 2004 (Working with Children (Criminal Record Checking) Amendment Regulations 2012 G.G. 29/06/2012) .....	4772
<i>Reports —</i>	
Agricultural Practices Board — Final Report 1 July 2011 to 7 December 2011 .....	4773

*Reviews —*

Gene Technology Act 2006 — review of the Act under Section 194 (June 2012) ..... 4774

**Minister for Mental Health***Local Laws —*

Health Act 1911 (City of Cockburn Health Amendment Local Law 2012 G.G. 06/07/2012) ..... 4775

Waste Avoidance and Resource Recovery Act 2007 (City of Mandurah Waste Management  
Amendment Local Law 2012 G.G. 20/07/2012) ..... 4776

*Orders —*

Planning and Development Act 2005 — Order and reasons in accordance with section  
76(5) of the Planning and Development Act 2005 in relation to section 76(1)  
representation by Mr Alex Kailis, Director of MG Kailis Group ..... 4777

Planning and Development Act 2005 — Order and reasons in accordance with section  
76(5) of the Planning and Development Act 2005 relating to section 76(1)  
representation in respect of an amendment request to align city of Joondalup  
District Planning Scheme No. 2 with State Planning Policy 4.2 — Activity  
Centres for Perth and Peel (Deemed tabled 26/7/12) ..... 4778

Planning and Development Act 2005 — Order and reasons in accordance with section  
76(5) of the Planning and Development Act 2005 relating to section 76(1)  
representation in respect of lots 235 and 900 North Beach Road, Gwelup  
(Deemed tabled 26/7/12) ..... 4779

*Regulations —*

Cremation Act 1929 (Cremation Amendment Regulations 2012 G.G. 29/06/2012) ..... 4780

Poisons Act 1964 (Poisons Amendment Regulations (No. 3) 2012 G.G. 29/06/2012) ..... 4781

Poisons Act 1964 (Poisons Amendment Regulations (No. 4) 2012 G.G. 10/08/2012) ..... 4782

**Attorney General***Notices —*

Public Trustee Act 1941 (Public Trustee's Scale of Fees 2012-13 G.G. 25/06/2012) ..... 4783

*Regulations —*

Electronic Transactions Act 2011 (Electronic Transactions Regulations 2012 G.G. 31/07/2012) ..... 4784

Legal Profession Act 2008 (Legal Profession Amendment Regulations (No. 4) 2012  
G.G. 29/06/2012) ..... 4785

*Reports —*

Terrorism (Preventative Detention) Act 2006, Section 54(2) — Quarterly Report  
(30 June 2012) (Date received 1/08/2012) ..... 4786

*Rules —*

Magistrates Court Act 2004 (Magistrates Court (General) Amendment Rules 2012  
G.G. 31/07/2012) ..... 4787

Supreme Court Act 1935 (Rule of Court 2013 — Sittings and Winter Vacation for 2013  
G.G. 07/08/2012) ..... 4788

Supreme Court Act 1935 (Supreme Court Amendment Rules (No. 3) 2012 G.G. 03/08/2012) ..... 4789

**Parliamentary Secretary representing the Minister for Regional Development***Regulations —*

Land Administration Act 1997 (Land Administration (Land Management) Amendment  
Regulations 2012 G.G. 31/07/2012) ..... 4790

Land Administration Act 1997 (Land Administration Amendment Regulations 2012  
G.G. 06/07/2012) ..... 4791

**5. Mining Amendment Bill 2012**

The Minister for Mines and Petroleum: To move on the next day of sitting —

That a Bill for “An Act to amend the *Mining Act 1978* and the *Mining Amendment Act 2004.*” be introduced and read a first time.

**6. Workers’ Compensation and Injury Management Amendment (Jockeys) Bill 2012**

The Minister for Commerce: To move on the next day of sitting —

That a Bill for “An Act to amend the *Workers’ Compensation and Injury Management Act 1981.*” be introduced and read a first time.

**7. Sentencing Amendment Bill 2012**

The Attorney General: To move on the next day of sitting —

That a Bill for “An Act to amend the *Sentencing Act 1995.*” be introduced and read a first time.

**8. Shire of York Local Government Property Local Law 2012 — 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 York Local Government Property Local Law 2012*, from the Notice Paper.

**9. Mindarie Regional Council Waste Facility Site Local Law 2012 — 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. 3, *Mindarie Regional Council Waste Facility Site Local Law 2012*, from the Notice Paper.

**10. Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012 — Rescission of Vote**

The Leader of the House moved, without notice —

That Motion No. 18, *Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012 — Rescission of Vote*, be made an Order of the Day for the next day’s sitting.

Question — put and passed.

**11. Standing Committee on Uniform Legislation and Statutes Review — Criminal Protection (Offender Reporting) Amendment Bill 2011 — Extension of Reporting Time**

Hon Adele Farina presented a Report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Criminal Protection (Offender Reporting) Amendment Bill 2011* seeking an extension of time for the Committee to report to 16 August 2012.

Hon Adele Farina moved, That the Report be adopted and agreed to.

Question — put and passed.

**12. Order of Business**

Ordered — That Bill for Introduction No. 3, *Retirement Villages Amendment Bill 2012*, be taken forthwith. (Leader of the House).

**13. Retirement Villages Amendment Bill 2012**

The Minister for Commerce, pursuant to notice, moved —

That a Bill for “An Act to amend the *Retirement Villages Act 1992.*” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Commerce moved, That the Bill be read a second time.

The Minister for Commerce tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper No. 4814)

Debate stands adjourned.

#### **14. Order of Business**

Ordered — That Orders of the Day Nos 1, *Women's and Children's Hospitals Amendment By-laws (No. 2) 2011 — Disallowance*, 2, *Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011 — Disallowance*, 3, *Royal Perth Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 4, *Metropolitan Health Service Amendment By-laws (No. 2) 2011 — Disallowance*, 5, *Fremantle Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 6, *Osborne Park Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 7, *Hospitals (Services Charges) Amendment Regulations (No. 7) 2011 — Disallowance*, 8, *Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011 — Disallowance*, 9, *Fremantle Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 10, *Osborne Park Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 11, *Royal Perth Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 12, *Women's and Children's Hospitals Amendment By-laws (No. 2) 2011 — Disallowance*, 13, *Liquor Control Amendment Regulations (No. 10) 2011 — Disallowance*, 22, *Town of Bassendean Repeal Local Law 2010 — Disallowance*, 23, *Town of Bassendean Dust and Sand Local Law 2011 — Disallowance*, 25, *City of Swan Standing Orders Local Law 2010 — Disallowance*, and 26, *Mindarie Regional Council Standing Orders Amendment Local Law 2012 — Disallowance*, be taken after Order of the Day No. 35, *Water Services Legislation Amendment and Repeal Bill 2011*. (Leader of the House).

#### **15. Children's Court (Fees) Amendment Regulations (No. 2) 2011 — Disallowance — Discharge from Notice Paper**

Hon Sally Talbot moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 14, *Children's Court (Fees) Amendment Regulations (No. 2) 2011 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

#### **16. Civil Judgments Enforcement Amendment Regulations (No. 2) 2011 — Disallowance — Discharge from Notice Paper**

Hon Sally Talbot moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 15, *Civil Judgments Enforcement Amendment Regulations (No. 2) 2011 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

#### **17. Coroners Amendment Regulations (No. 2) 2011 — Disallowance — Discharge from Notice Paper**

Hon Sally Talbot moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 16, *Coroners Amendment Regulations (No. 2) 2011 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

**18. District Court (Fees) Amendment Regulations (No. 2) 2011 — Disallowance — Discharge from Notice Paper**

Hon Sally Talbot moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 17, *District Court (Fees) Amendment Regulations (No. 2) 2011 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

**19. Evidence (Video and Audio Links Fees and Expenses) Amendment Regulations (No. 2) 2011 — Disallowance — Discharge from Notice Paper**

Hon Sally Talbot moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 18, *Evidence (Video and Audio Links Fees and Expenses) Amendment Regulations (No. 2) 2011 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

**20. Magistrates Court (Fees) Amendment Regulations (No. 2) 2011 — Disallowance — Discharge from Notice Paper**

Hon Sally Talbot moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 19, *Magistrates Court (Fees) Amendment Regulations (No. 2) 2011 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

**21. State Administrative Tribunal Amendment Regulations (No. 5) 2011 — Disallowance — Discharge from Notice Paper**

Hon Sally Talbot moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 20, *State Administrative Tribunal Amendment Regulations (No. 5) 2011 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

**22. Supreme Court (Fees) Amendment Regulations (No. 2) 2011 — Disallowance — Discharge from Notice Paper**

Hon Sally Talbot moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 21, *Supreme Court (Fees) Amendment Regulations (No. 2) 2011 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

**23. City of Busselton Busselton Regional Airport Local Law 2012 — Disallowance — Discharge from Notice Paper**

Hon Sally Talbot moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 24, *City of Busselton Busselton Regional Airport Local Law 2012 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

**24. Lotteries Commission Amendment Bill 2011**

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 Parliamentary Secretary representing the Premier moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

**25. Fire and Emergency Services Legislation Amendment Bill 2012**

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

Debate resumed.

**26. Questions Without Notice**

Questions without notice were taken.

The Minister for Mental Health tabled documents in relation to the number of suicides in the Bunbury Coronial Jurisdiction in 2010–2011, in response to a question without notice asked by Hon Adele Farina. (Tabled Paper 4795).

The Leader of the House representing the Minister for State Development tabled a report in relation to the salinity risk assessment for the O'Neil to McCoy Mining Area, in response to question on notice No. 5660 asked by Hon Alison Xamon. (Tabled Paper 4796).

The Leader of the House representing the Minister for Science and Innovation tabled documents in relation to funding allocations to each grant or subsidy for 2005–06 to 2011–12, in response to question on notice No. 5691 asked by Hon Kate Doust. (Tabled Paper 4797).

The Minister for Commerce tabled documents in relation to efficiency indicators and grants paid to external parties for 2010–11, 2011–12 and 2012–13, in response to question on notice No. 5688 asked by Hon Kate Doust. (Tabled Paper 4798).

The Minister for Commerce tabled documents in relation to regulator fees and fines for 2010–11 to 2015–16, in response to question on notice No. 5690 asked Hon Kate Doust. (Tabled Paper 4799).

The Minister for Finance representing the Minister for Transport tabled, and by leave incorporated into Hansard, an updated answer in relation to question on notice No. 5367 asked by Hon Lynn MacLaren. (Tabled Paper 4800).

The Minister for Education tabled documents in relation to public high schools under and over capacity by 25 students, in response to question on notice No. 5679 asked by Hon Alison Xamon. (Tabled Paper 4801).

The Minister for Child Protection representing the Minister for Forestry tabled documents in relation to pesticides and frequency of application for each plantation species and tree farm species under the Forest Products Commission's management, in response to question on notice No. 5649 asked by Hon Giz Watson. (Tabled Paper 4802).

The Minister for Child Protection tabled documents in relation to applications to the Hardship Utility Grant Scheme processed from February 2012 to April 2012, in response to question on notice No. 5631 asked by Hon Sue Ellery. (Tabled Paper 4803).

The Minister for Child Protection tabled documents in relation to applications to the Hardship Utility Grant Scheme processed from March 2012 to April 2012, in response to question on notice No. 5635 asked by Hon Sue Ellery. (Tabled Paper 4804).

The Minister for Child Protection tabled documents in relation to the Department for Child Protection's total funded full-time equivalent employee allocation by directorate and district as at 31 May 2012 in response to question on notice No. 5637 asked by Hon Sue Ellery. (Tabled Paper 4805).

The Minister for Child Protection representing the Minister for Forestry tabled documents in relation to an update to the answer provided to question on notice No. 5132 asked by Hon Giz Watson. (Tabled Paper 4806).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to licence holders conducting in-water whale shark interaction tours in the Ningaloo Marine Park, in response to question on notice No. 5648 asked by Hon Sally Talbot. (Tabled Paper 4807).

The Minister for Mental Health tabled documents in relation to the number of patients with a mental health diagnosis that have returned to hospital within 72 hours after discharge in 2009, 2010 and 2011, in response to question on notice No. 5749 asked by Hon Ljiljana Ravlich. (Tabled Paper 4808).

The Minister for Mental Health tabled documents in relation to the costs of the upgrade to the Bentley Adolescent Mental Health Unit, in response to question on notice No. 5726 asked by Hon Alison Xamon. (Tabled Paper 4809).

## **27. Fire and Emergency Services Legislation Amendment Bill 2012**

Debate resumed on the second reading of this Bill (*see item 25 above*).

Question — put and passed.

Bill read a second time.

The Deputy President left the Chair.

---

### **In Committee**

(Hon Brian Ellis in the Chair)

Clause 1 agreed to.

Clauses 2 to 5 agreed to.

Clause 6.

Hon Kate Doust moved —

Page 4, after line 14 — To insert —

**VSRG** in section 37 means a private volunteer sea rescue group which has entered into a service agreement with the Department to perform certain sea rescue functions in accordance with that agreement. All remaining sections of this Act have no application to volunteer sea rescue groups.

Debate ensued.

#### *Deputy Chair's Ruling*

The Deputy Chair ruled as follows —

Members, the advice I have is that it is in agreeance with what has been said—that is, it is outside the terms of the Bill. That would be my ruling; that it is outside the scope of the purpose that was intended, and it would be best to withdraw it.

Standing Order 134 provides that any amendment may be moved to any part of a Bill, provided the amendment is within the subject matter of the Bill. Further, Schedule 3 of the Standing Orders defines “subject matter of a bill” to mean the provisions of the Bill as printed, read a second time and referred to the Committee of the Whole House — also referred to as the scope of the bill.

As the explanatory memorandum states, the purpose of the Bill is to —

Implement recommendations of the Keelty Review, and other legislative amendments relating to emergency management response in Western Australia. Recommendation 46 of *The Report of the Perth Hills Bushfire February 2011 Review* (the Keelty Review) recommended FESA cease to be a statutory authority and be restructured as a department of state.

- The Bill amends the *Fire and Emergency Services Authority of Western Australia Act 1998* to vest functions and powers currently residing in the

Authority, in the Chief Executive Officer (Fire Services Commissioner) of the new department subject to appropriate oversight by the Minister.

- Powers of the Authority relating to dealing in property and borrowing money have been vested in the Minister.
- The role of volunteers in emergency management in the State is recognised by the requirement to establish volunteer advisory committees.
- The integrity of the emergency services levy is maintained by provisions directing that funds resulting from the operation of the emergency services Acts shall be credited to the Department's operating account and applied only for the purposes of the emergency services Acts.
- Recommendation 44 of Keelty Review recommended the *Emergency Management Act 2005* be amended so the State Emergency Coordinator could declare an emergency situation. The Bill amends section 50 to allow this to occur.
- The *Bush Fires Act 1954* and the *Emergency Management Act 2005* have been amended so police officers may exercise powers in those Acts that relate to the movement of persons in or around an emergency incident.

Clause 6 of the Bill provides for definitions in the principal act to be amended or deleted and new definitions to give effect to the purpose of the Bill, as outlined in the second reading speech. The proposed amendment is to include a new definition; however, the definition is subject to the principal amendment being agreed to in clause 32 in the name of Hon Kate Doust, at amendment 3/32. This amendment proposes to amend section 37 of the principal act, headed "Protection from liability", to include a member of a volunteer sea rescue group. Section 37 provides that certain specified persons do not incur a civil liability for anything that the person has done in good faith in the performance or purported performance of a function under the emergency services acts.

The Bill before the Council does not amend section 37 other than to make a change to delete the word "authority" consistent with the purpose of the Bill. To insert a new specified body into section 37 would provide that body with protection from liability, which has nothing to do with the scope and purpose of the Bill. This in effect is a new subject matter. It would have been a different matter if the Member was intending to insert a new definition into clause 23 of the Bill to include the proposed VSRG, where the scope of the bill deals with advisory committees that represent the volunteer brigades, units or groups. I therefore rule the amendments out of order, including proposed amendment 3/32 in clause 32.

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

Clauses 7 to 13 agreed to.

Clause 14.

Debate ensued.

Clause agreed to.

Clauses 15 to 22 agreed to.

Clause 23.

Debate ensued.

Clause agreed to.

Clause 24.

Hon Kate Doust moved —

Page 17, after line 15 — to insert —

- (f) The volunteer sea rescue groups.

Debate ensued.

Amendment — put and negatived.

Hon Giz Watson moved –

Page 19, after line 28 — To insert —

**26. Career fire fighter advisory committee**

- (1) In this section —  
*career fire fighter* means operational staff working in fire and rescue services or bush fire services.
- (2) Without limiting section 24(1), the Minister must establish and maintain an advisory committee under that provision in respect of career fire fighters to provide advice or assistance to the Minister or FES Commissioner or both of them on matters relevant to the operations or administration of emergency services.
- (3) A career fire fighter advisory committee is to consist of the people the Minister thinks fit to appoint, but at least one member is to be appointed from the union that represents career fire fighters and the majority of members are to be career fire fighters elected by other career fire fighters to represent them for this purpose.
- (4) Notwithstanding any other section of this Act, the term of each person who serves as a member of a career fire fighter advisory committee shall not exceed 3 years.

Debate ensued.

Amendment — put and negatived.

Debate ensued.

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

Clauses 25 to 31 agreed to.

Clause 32.

Debate ensued.

Clause agreed to.

Clause 33.

Debate ensued.

Clause agreed to.

Clauses 34 to 48 agreed to.

Clause 49.

Debate ensued.

Clause agreed to.

Clauses 50 to 147 agreed to.

Title agreed to.

---

The Deputy President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Minister for Education representing the Minister for Emergency Services moved, That the Bill be read a third time.

The Deputy President having reported that the 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.

**28. Wills Amendment (International Wills) Bill 2012**

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

Question — put and passed.

Bill read a third time and passed.

**29. National Health Funding Pool Bill 2012**

The Deputy President reported the receipt of Message No. 264 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Mental Health representing the Minister for Health moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Mental Health representing the Minister for Health moved, That the Bill be read a second time.

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

**30. Pay-roll Tax Rebate Bill 2012**

The Deputy President reported the receipt of Message No. 265 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Finance moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Finance moved, That the Bill be read a second time.

The Minister for Finance tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4810).

Debate stands adjourned.

**31. Pay-roll Tax (Indigenous Wages) Rebate Bill 2012**

The Deputy President reported the receipt of Message No. 266 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Finance moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Finance moved, That the Bill be read a second time.

The Minister for Finance tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4811).

Debate stands adjourned.

**32. Revenue Laws Amendment Bill 2012**

The Deputy President reported the receipt of Message No. 267 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Finance moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Finance moved, That the Bill be read a second time.

The Minister for Finance tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4812).

Debate stands adjourned.

**33. Revenue Laws Amendment Bill 2011**

The President reported the receipt of Message No. 268 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Finance moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Finance moved, That the Bill be read a second time.

The Minister for Finance tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4813).

Debate stands adjourned.

**34. Litter Amendment Bill 2011**

The Deputy President reported the receipt of Message No. 269 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Mental Health representing the Minister for Environment moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Mental Health representing the Minister for Environment moved, That the Bill be read a second time.

Debate stands adjourned.

**35. Order of Business**

Ordered — That Order of the Day No. 31, *Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012*, be taken after Order of the Day No. 35, *Water Services Legislation Amendment and Repeal Bill 2011*. (Leader of the House).

**36. Cognate Debate — Water Services Bill 2011 and Water Services Legislation Amendment and Repeal Bill 2011**

The Minister for Mental Health representing the Minister for Water sought leave of the Council to debate Order of the Day No. 34, *Water Services Bill 2011* and Order of the Day No. 35, *Water Services Legislation Amendment and Repeal Bill 2011* cognately [SO 127].

Leave granted.

**37. Water Services Bill 2011 and Water Services Legislation Amendment and Repeal Bill 2011**

The Orders of the Day having been read for the adjourned debate on the second reading of these Bills. Debate resumed.

*Interruption pursuant to order.*

**38. Adjournment**

The Council adjourned at 9.45pm until 15 August 2012 at 2.00pm.

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

Attendance: Present all Members except Hon Robin Chapple.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

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