

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 168

TUESDAY, 16 FEBRUARY 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 Bill

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

8 December 2015 — Message No. 47
Perth Market (Disposal) Bill 2015

Act No.
40 of 2015

3. Statement by President — Summer Recess Projects — Chamber Staff

The President made the following Statement —

During the summer recess a number of building works were completed in and around Parliament. Amongst these was a minor alteration to the President's dais, which has added an additional step and raised the height of the desk. This alteration was completed in order to improve the line of sight between the Member presiding and the Member on their feet. It has not been such a problem for me in particular, but it has been for others who are more vertically challenged.

In other news, Members may note the attractive tie I am wearing. This tie is a new design and is the official tie of the Legislative Council. The tie is now available for purchase at a very reasonable price from the Members' Bar and Reception Services.

I draw Members' attention to some minor staffing movements in the Chamber. Clair Siva has taken up a 12-month acting position as Committee Clerk at the Legislative Council Committee Office. Replacing Clair for the next 12 months, please welcome back Lisa Parrella to the Chamber Staff.

4. Statement by President — Broadcasting and Video Conferencing Facilities

The President made the following Statement —

I have a statement on broadcasting and videoconferencing facilities at the Legislative Council Committee Office. The Legislative Council has recently installed equipment to enable Committee hearings to be broadcast on the internet. The system also includes a telephone and videoconferencing capability to improve the capacity for Members to conduct meetings electronically and to gather evidence from witnesses in locations remote from Perth. These facilities are available in Committee Room 1 and may be used by all Committees administered by the Legislative Council.

The broadcasting system consists of three Panasonic high-definition dome cameras connected to a control board operated by our audio visual unit. Videoconferencing is achieved using Polycom equipment and a wall-mounted 70-inch television. The videoconferencing system

has been incorporated into the broadcasting system so that videoconferences can be broadcast live. This will enable a Committee, the attending public and those tuning in to see and hear evidence from multiple witnesses, some of whom may be present in the hearing room and others at a remote location. The system also allows a PowerPoint presentation or similar to be broadcast simultaneously with the audio of Members and witnesses questioning and explaining the visual presentation. The broadcast can be viewed on smart phones and tablet devices, as well as desktop and laptop computers. The broadcast system was first used in December last year for the annual report hearings of the Standing Committee on Estimates and Financial Operations.

A result of incorporating the telephone and videoconferencing capability into the system is that it will produce for both parties far superior sound quality to that produced by our previous telephone conference technology. Another advantage of the system is that the telephone and videoconferences can be directly recorded to the *Hansard* recording system. The live broadcast can be accessed on channel 354 on the internal monitors throughout Parliament House. The live internet feed may be accessed by clicking on the “live broadcast of committee hearings” link on the Legislative Council tab of the Parliament’s home page. There will also be a link on the Committee inquiry page. As with proceedings of the House, the recording of Committee hearings will be posted to the Parliament’s home page and available for viewing at leisure. Members may request a copy of a recording from the AV control room in accordance with current practices. The same conditions that apply to recordings of the proceedings of the House also apply to recordings of Committee hearings, in that they may not be used for political party advertising or election campaigns; for satire, ridicule or denigration; or for commercial advertising. Protocols for broadcasting Committee proceedings will be provided to all Committee Members and will be available on the Parliament’s website. The ability to broadcast Committee hearings and to take evidence from witnesses in remote locations will improve the capacity of our Committees to engage with the Western Australian community in a direct, immediate and meaningful way. I encourage all Committees to make use of these new facilities.

5. Petitions

Hon Rick Mazza presented a petition from 2,131 petitioners requesting the Legislative Council to conduct a parliamentary inquiry into the management of the January 2016 Waroona–Harvey bushfires by the Department of Fire and Emergency Services. (Tabled Paper 3763).

Hon Kate Doust presented a petition from 27 petitioners requesting the Legislative Council to oppose the Roe Highway extension due to its impact on communities and environments. (Tabled Paper 3764).

6. Ministerial Statement — Reduction in Construction Industry Portable Long Service Leave Levy

The Minister for Commerce made a Ministerial Statement with respect to a reduction in the portable long service leave levy payable by Western Australian employers that have employees working in the construction industry.

7. Papers

The following Papers were laid on the Table by —

President

Documents —

Non-Government Business and Private Members Business allocated sessions for 2016.. 3731

Reports —

Commissioner for Children and Young People — Our Children Can’t Wait — Review of the Implementation of Recommendations of the 2011 Report of the Inquiry into the Mental Health and Wellbeing of Children and Young People in WA (December 2015) (Deemed tabled 9/12/2015)..... 3732

Inspector of Custodial Services, Office of the — Report of an Announced Inspection of Woorloo Prison Farm (Report No. 101) (October 2015) (Deemed tabled 17/12/2015)	3733
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Ombudsman Western Australia — Report by the Parliamentary Commissioner for Administrative Investigations under section 158 of the Criminal Organisations Control Act 2012 for the Monitoring Period ended 1 November 2015.....	3735
Parliamentary Inspector of the Corruption and Crime Commission — Report on Activities in the Corruption and Crime Commission Relating to Assumed Identities, Traffic Infringement Notices and Special Constable Appointments (4 December 2015) (Deemed tabled 4/12/2015).....	3736

Leader of the House

Addendums —

Aboriginal Affairs Annual Report (2014–2015)	3737
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Annual Reports —

Australian Children’s Education and Care Quality Authority (2014–2015) (Date received 15/02/2016).....	3738
Education and Care Services Ombudsman, National Education and Care Services FOI and Privacy Commissioners (1 July 2014 – 30 June 2015) (Date received 15/02/2016).....	3739

Reports —

Government Mid-Year Financial Projections Statement (2015–2016) (December 2015) (Date received 14/01/2016).....	3740
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Rules —

Wholesale Electricity Market Rules Amendments and Gas Services Information Rules dated 26 November 2015 as published in the Government Gazette dated 27 November 2015	3741
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Minister for Mental Health

Leases —

CALM Lease 717/97 — Between the Conservation and Land Management Executive Body and the Commonwealth of Australia represented by Geoscience Australia for its existing geophysical observatory located within a portion of State Forest No. 7 at Mundaring	3742
CALM Lease 1798/97 — Between the Conservation and Land Management Executive Body and Nyamup Holiday Village for the purpose of a dam site for commercial purposes in State Forest No. 38 near Manjimup.....	3743
CALM Lease 2422/11 — Between the Conservation and Land Management Executive Body and Axicom Pty Ltd for the purpose of construction and operation of a communications facility and incidental uses within the Leeuwin Naturaliste National Park at Yallingup	3744
CALM Lease 2435/97 — Between the Conservation and Land Management Executive Body and NBN Co Ltd for the purpose of a telecommunications facility in a portion of State Forest No. 14 at Dwellingup	3745

Proposals —

Land Administration Act 1997 — Proposal No. 6/2015 — Excision of Land from Class A Reserve 17456	3746
Land Administration Act 1997 — Proposal No. 7/2015 — Easement over portion of Class A Reserve 31444	3747

Attorney General*Annual Reports —*

Australian Crime Commission — Criminal Investigation (Covert Powers) Act 2012 (WA) (2014–2015) (Date received 5/01/2016).....	3748
Department of Fisheries — Criminal Investigation (Covert Powers) Act 2012 (2014– 2015) (Date received 11/01/2016).....	3749
Legal Practice Board of Western Australia (2014–2015) (Date received 16/02/2016).....	3750
Police, Western Australia — Criminal Investigation (Covert Powers) Act 2012 Assumed Identities (2014–2015) (Date received 5/01/2016)	3751

Notices —

Financial Management Act 2006 — Section 82 — Notice from the Minister for Corrective Services in relation to information requested from the Standing Committee on Public Administration (Deemed tabled 14/12/2015)	3752
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Plans —

Energy Safety Division Business Plan (2016–2017) (Deemed tabled 25/01/2016)	3753
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Reports —

Statutory Review of the Residential Parks (Long Stay Tenants) Act 2006 — (December 2015).....	3754
Terrorism (Preventative Detention) Act 2006 Quarterly Report (for the quarter ending 31 December 2015)	3755

Minister for Agriculture and Food*Annual Reports —*

Co-operative Bulk Handling (2015) (Date received 12/02/2016)	3756
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Minister for Housing*Notices —*

Financial Management Act 2006 — Section 82 — in respect to Legislative Council Question without Notice No. 1308(5) (Minister for Lands)	3757
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Parliamentary Secretary to the Premier*Reports —*

ChemCentre — Statement of Corporate Intent (2015–2016) (Deemed tabled 16/12/2015)	3758
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Parliamentary Secretary to the Minister for Transport*Directions —*

Ministerial Direction from the Minister for Transport to Fremantle Port Authority Fremantle Port Divestment — Standing Committee on Estimates and Financial Operations (Deemed tabled 8/12/2015).....	3759
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Reports —

Fremantle Ports — Statement of Corporate Intent (2015–2016)	3760
Pilbara Ports Authority — Statement of Corporate Intent (2015–2016) (Deemed tabled 04/01/2016)	3761

Parliamentary Secretary to the Minister for Health*Annual Reports —*

Pharmacy Registration Board of Western Australia (2014–2015) (Date received 19/01/2016).....	3762
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8. Fremantle Port Authority — Statement of Corporate Intent made an Order of the Day

Hon Ken Travers moved, without notice —

That consideration of the Ministerial Direction from the Minister for Transport to the Fremantle Port Authority be made an Order of the Day for the next sitting of the House.

Question — put and passed.

9. Private Members' Business — Schedule

The Leader of the House moved, without notice —

That, pursuant to Standing Order 112(4), the schedule for Private Members' Business tabled by the President be adopted.

Question — put and passed.

10. Non-Government Business — Schedule

The Leader of the House moved, without notice —

That, pursuant to Standing Order 111(4), the schedule for Non-Government Business tabled by the President be adopted.

Question — put and passed.

11. Suspension of Standing and Temporary Orders

The Leader of the House moved, without notice —

That so much of the Standing and Temporary Orders be suspended so as to enable the following variations to the Order of Business on Wednesday, 17 February 2016 —

- (a) to sit after 6:20pm on Wednesday night, if required, with the dinner suspension from 6.20pm to 7.30pm; and
- (b) to continue Orders of the Day until 9.45pm when Members' Statements may be taken until 10.25pm when the Council stands adjourned.

Debate ensued.

The motion requiring the concurrence of an absolute majority.

Question — put.

The 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.

12. Obsolete Legislation Repeal Bill 2015

The Attorney General moved, without notice —

That the *Obsolete Legislation Repeal Bill 2015* be discharged and referred to the Standing Committee on Uniform Legislation and Statutes Review for consideration.

Question — put and passed.

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

13. Order of Business

Ordered — That Order of the Day No. 1, *Planning and Development Amendment Regulations 2015 — Disallowance*, be taken after Order of the Day No. 10, *Western Australian Health Promotion Foundation Bill 2015*. (Leader of the House).

14. Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015

The Order of the Day having been read for the adjourned debate on the second reading of this Bill, debate resumed on the motion of Hon Robin Chapple, as follows —

That the *Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015* be discharged and referred to the Standing Committee on Legislation for consideration and report not later than 20 August 2015.

Hon Lynn MacLaren moved, without notice, to amend the motion as follows —

To delete “20 August 2015” and insert —

19 May 2016, and that the Committee has the power to inquire into and report on the policy of the Bill.

Amendment — put and passed.

Debate resumed on the motion, as amended.

Question — put.

The Council divided.

Ayes (13)

Hon Robin Chapple
 Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Lynn MacLaren

Hon Martin Pritchard
 Hon Amber-Jade Sanderson
 Hon Sally Talbot
 Hon Ken Travers
 Hon Darren West
 Hon Samantha Rowe (*Teller*)

Noes (22)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 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*)

Motion, as amended, thus negatived.

Debate resumed.

15. Questions Without Notice

Questions without notice were taken.

The Leader of the House representing the Minister for Training and Workforce Development tabled documents in relation to students completing the work requirements of their course in a simulated work environment at college, in response to question on notice No. 3749 asked by Hon Sally Talbot. (Tabled Paper 3765).

The Minister for Mental Health representing the Treasurer tabled documents in relation to the proposed sale of Forest Products Commission plantations, including a map showing softwood and hardwood plantations, by species and vesting, in response to question on notice No. 3764 asked by Hon Lynn MacLaren. (Tabled Paper 3766).

The Minister for Agriculture and Food tabled documents in relation to the State Asset Sales Probity Framework, in response to a question without notice asked by Hon Martin Pritchard. (Tabled Paper 3767).

16. Statement by President — Standing Committee on Public Administration — Resignation of Member

The President made the following Statement —

I have a letter that I would like to read to the House. It states —

Dear Mr President

As you know, I was appointed some months ago to fill a vacancy on the Standing Committee on Public Administration.

It is now my intention to resign from this committee.

I would appreciate it if you would accept my resignation and put in place the necessary processes to appoint my replacement.

Yours sincerely

Sally Talbot

17. Standing Committee on Public Administration — Appointment of Member

The Leader of the House moved, without notice —

That Hon Amber-Jade Sanderson be appointed as a Member to the Standing Committee on Public Administration.

Question — put and passed.

18. Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015

Debate resumed on the second reading of this Bill (*see item 14 above*).

The Attorney General tabled photographs and descriptions of devices used by protesters. (Tabled Paper 3768).

Debate resumed.

Question — put.

The Council divided.

Ayes (20)

Hon Martin Aldridge
Hon Liz Behjat
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*)

Noes (11)

Hon Robin Chapple
Hon Alanna Clohesy
Hon Stephen Dawson
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina

Hon Lynn MacLaren
Hon Martin Pritchard
Hon Sally Talbot
Hon Darren West
Hon Samantha Rowe (*Teller*)

Question thus passed.

Bill read a second time.

The Acting President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Clause 1.

Debate ensued.

Point of Order

Hon Kate Doust raised the following Point of Order —

Madam Deputy Chair, we would ask that you do leave the chair and seek further advice and report back to the Chamber in due course.

The Deputy Chair left the Chair at 9.07pm

The President resumed the Chair at 9.28pm

President's Ruling

The President ruled as follows —

Hon Kate Doust has asked for a ruling regarding the scope of the clause 1 debate. In particular, some Members have been asking questions of a technical nature regarding specific instruments that may be capable of falling within the offence provisions of the Bill. The offence provisions of the Bill are contained in clause 4. The Attorney General, who has charge of the Bill, has indicated that he will address questions of a technical nature relating to the offence provisions in this clause rather than in the clause 1 debate.

Other Members have also referred to various definitions and phrases used in the Attorney General's second reading speech and in the explanatory materials associated with the Bill. These phrases do not appear in the Bill itself but provide some guidance of the Government's policy intentions to Members. Although it is not appropriate to debate issues of policy at the committee stage of the Bill, it has been suggested by Hon Adele Farina that the clause 1 debate is the only opportunity to understand the practical aspects of these definitions and phrases as they relate to the offence provisions. This is not the case in circumstances in which other clauses, such as clause 4 in this case, afford an equivalent opportunity. My ruling in this respect is consistent with prior rulings of the Deputy Chairs of Committees presiding over the Committee of the Whole on this Bill. I also remind Members that the Member in charge of a bill takes responsibility for the answer he or she provides. Some Members may not like it or agree with it, but that is the answer. The point of order is not sustained.

The President left the Chair.

In Committee

(Hon Liz Behjat in the Chair)

Clause 1.

Debate resumed.

Interruption pursuant to order.

The President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again.

Ordered — That the Committee of the Whole House sit again.

19. Adjournment

There being no Members' Statements, the Council adjourned at 9.45pm until Wednesday, 17 February 2016 at 1.00pm.

Members present during the day's proceedings

Attendance: Present all Members.

NIGEL PRATT
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council