

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 232

WEDNESDAY, 19 SEPTEMBER 2012

1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

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

2. Petitions

Hon Philip Gardiner presented a petition from 1 petitioner requesting the Legislative Council to support the approval of funds to allow the Government to supply, in addition to the announced response program for plague locust hatchings in 2012, appropriate levels of approved chemicals and aerial spraying if required. (Tabled Paper 4976).

Hon Philip Gardiner presented a petition from 1 petitioner requesting the Legislative Council to oppose the Government's decision to send year seven students to high school. (Tabled Paper 4977).

3. Ministerial Statement — Fisheries — Independent Sustainability Certification

The Minister for Fisheries made a Ministerial Statement with respect to the appointment of the Marine Stewardship Council to conduct the assessment of Western Australian fisheries to enable them to secure independent sustainability accreditation.

4. Ministerial Statement — Smoke Free WA Health System Policy

The Minister for Mental Health made a Ministerial Statement with respect to the exemption of secure mental health facilities from the Smoke Free WA Health System Policy.

5. Ministerial Statement — Metropolitan Region Scheme Amendment No. 1221/41 — Banjup Urban Precinct

The Minister for Mental Health representing the Minister for Planning made a Ministerial Statement with respect to Metropolitan Region Scheme Amendment No. 1221/41 — Banjup Urban Precinct.

The Minister for Mental Health representing the Minister for Planning tabled plans relating to Metropolitan Region Scheme Amendment No. 1221/41 — Banjup Urban Precinct. (Tabled Paper 4978).

The Minister for Mental Health representing the Minister for Planning tabled a report on submissions and transcripts of hearings relating to Metropolitan Region Scheme Amendment No. 1221/41 — Banjup Urban Precinct. (Tabled Paper 4979).

6. Papers

The following Papers were laid on the Table by —

Minister for Child Protection

Annual Reports —

Metropolitan Cemeteries Board (2011–2012) (Date received 18/09/12) 4965

Minister for Mental Health

Annual Reports —

Animal Resources Authority (2011–2012) (Date received 18/09/12).....	4966
Art Gallery of Western Australia (2011–2012) (Date received 18/09/12)	4967
Culture and the Arts, Department of (2011–2012) (Date received 18/09/12)	4968
Metropolitan Redevelopment Authority (2011–2012) (Date received 18/09/12).....	4969
Museum, Western Australian (2011–2012) (Date received 18/09/12).....	4970
Perth Theatre Trust (2011–2012) (Date received 18/09/12).....	4971
Planning Commission and Department of Planning (2011–2012) (Date received 18/09/12)....	4972
ScreenWest (2011–2012) (Date received 18/09/12)	4973
State Library (2011–2012) (Date received 18/09/12).....	4974
Swan Bells Foundation Inc (2011–2012) (Date received 18/09/12)	4975

7. State Suicide Prevention Strategy

Motion No. 1 having been called, Hon Ljiljanna Ravlich continued her introductory remarks in moving the motion as follows —

That this House condemns the Barnett Government for its failure to honour its election commitment to spend \$13 million in the first two years of government to develop a comprehensive Western Australian State Suicide Prevention Strategy with a particular emphasis on young people, young men, Aboriginal people and people who live in rural and regional Western Australia, and calls on the Government to support a coronial investigation into the rate of suicide.

Debate ensued.

The Minister for Mental Health moved to amend the motion as follows —

To delete all words after “House” and insert —

commends the Barnett Government for its election commitment to spend \$13 million to develop a comprehensive Western Australian State Suicide Prevention Strategy with a particular emphasis on young people, young men, Aboriginal people and people who live in rural and regional Western Australia, and notes the comprehensive analysis being undertaken by Edith Cowan University into the rate of suicide and all other aspects of suicide in Western Australia.

Point of Order

Hon Sue Ellery raised the following Point of Order —

Currently the motion reads, “*this House condemns*”, and the Minister’s amendment would make it read, “*this House commends*”. I seek a ruling on how that amendment does not, in fact, constitute the complete opposite of what the original motion intended. The words “*condemn*” and “*commend*” could not be more opposite.

The President left the Chair at 2.35pm.

The President resumed the Chair at 2.45pm.

President’s Ruling

The President ruled as follows —

It seems that these things come around once a year because on 21 September last year an almost identical situation arose. I gave a ruling at that stage, and I can do no better, I believe, than to reiterate that ruling. On that occasion, it was an amendment made to a motion concerning culture and the arts funding. I will read the ruling that I gave then, which applies in this case —

On the last occasion the House debated this motion, the Leader of the Opposition asked whether the proposed amendment moved by the Minister for Mental Health —

The same players are involved, strangely! The ruling continues —

was a direct negative and thereby against standing orders. Firstly, I note that there is no Standing Order regarding direct negative amendments. Secondly, there have been few rulings in this House relating to direct negative amendments. On the last two occasions on which rulings were given, the substance of the ruling has been that the test is whether the amendment has the same effect as voting against the motion, and an amendment that is simply a positive reframe of the issue is not a direct negative.

The practice in the House of Commons, as in many other Australian Parliaments, is to allow significant latitude for amendments to motions. Amendments are permissible even when they effectively evade an expression of opinion on the main question by entirely altering the question's meaning and intent. An example of such permissible amendments are those that propose the omission of all or most words of the question after the word "that" and substitute an alternative proposition that must, however, be relevant to the subject of the question.

That is the important aspect of it, I believe. The ruling continues —

It is not in order to move the omission of all words of a question without inserting an alternative question. Similarly, to delete all words after the word "that" and not insert other words would also be interpreted as out of order.

That ruling goes on to explain the motion as it was before the House at that stage concerning culture and the arts funding. This is a direct parallel. The situation is that because not all words have been removed, and because the substance of the amendment is related to the substance of the original motion, the amendment is in order. Therefore, there is no point of order. I will give the call again to the Minister and we will have that amendment circulated

Debate resumed.

8. Questions Without Notice

Questions without notice were taken.

The Minister for Child Protection representing the Minister for Forestry tabled a schedule of base native forest stumpages, in response to a question without notice asked by Hon Giz Watson. (Tabled Paper 4980).

The Minister for Education tabled, and by leave incorporated into Hansard, a list of regional education offices, local education offices and central offices on land owned or leased by the Department of Education, in response to a question without notice asked by Hon Matt Benson-Lidholm. (Tabled Paper 4981).

The Minister for Mental Health representing the Minister for Environment tabled the terms of reference for the Great Western Woodlands Reference Group, in response to a question without notice asked by Hon Sally Talbot. (Tabled Paper 4982).

The Minister for Finance representing the Minister for Transport, in accordance with Standing Order No. 107(2), advised that an answer to question on notice No. 5807 asked by Hon Giz Watson will be provided on 27 September 2012.

The Minister for Mental Health, in accordance with Standing Order No. 107(2), advised that answers to questions on notice Nos 5811, 5824 and 5873 asked by Hon Alison Xamon will be provided on 27 September 2012.

The Minister for Mental Health, in accordance with Standing Order No. 107(2), advised that answers to questions on notice Nos 5881, 5883, 5884, 5886, 5888, 5890, 5891, 5892, 5893, 5894 and 5896 asked by Hon Ljiljanna Ravlich will be provided on 27 September 2012.

The Minister for Mental Health, in accordance with Standing Order No. 107(2), advised that an answer to question on notice No. 5898 asked by Hon Adele Farina will be provided on 27 September 2012.

9. State Suicide Prevention Strategy

Debate resumed on the amendment of the Minister for Mental Health to the motion of Hon Ljiljanna Ravlich (*see item 7 above*).

Interruption pursuant to order.

10. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Joint Standing Committee on the Corruption and Crime Commission — Report No. 28 — Proceeds of crime and unexplained wealth: A role for the Corruption and Crime Commission?

Hon Nick Goiran moved, That the Report be noted.

Question — put and passed.

Joint Standing Committee on the Corruption and Crime Commission — Report No. 29 — Guarding the guardians

Hon Nick Goiran moved, That the Report be noted.

Question — put and passed.

Joint Standing Committee on the Commissioner for Children and Young People — Report No. 10 — Annual Report 2011–12

Hon Nick Goiran moved, That the Report be noted.

Debate ensued.

Question — put and passed.

Joint Standing Committee on Delegated Legislation — Report No. 56 — The Ability to Conduct Electronic Meetings and the Trial of iPads by Committee Members

Hon Jim Chown moved, That consideration be postponed to the next sitting.

Question — put and passed.

Standing Committee on Environment and Public Affairs — Report No. 27 — Petition No. 161 — Requesting the Review of Laws Pertaining to Domestic Violence

Hon Brian Ellis moved, That the Report be noted.

Debate ensued.

The Deputy President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the —

- (1) Joint Standing Committee on the Corruption and Crime Commission — Report No. 28 — Proceeds of crime and unexplained wealth: A role for the Corruption and Crime Commission?, and had noted same.
- (2) Joint Standing Committee on the Corruption and Crime Commission — Report No. 29 — Guarding the guardians, and had noted same.
- (3) Joint Standing Committee on the Commissioner for Children and Young People — Report No. 10 — Annual Report 2011–12, and had noted same.
- (4) Standing Committee on Environment and Public Affairs — Report No. 27 — Petition No. 161 — Requesting the Review of Laws Pertaining to Domestic Violence made progress, and seeks to sit again.

Report adopted.

11. Order of Business

Ordered — That Bills for Introduction be taken forthwith. (Leader of the House).

12. Family Court Amendment (Family Violence and Other Measures) Bill 2012

The Attorney General, pursuant to notice, moved —

That a Bill for “An Act to amend the *Family Court Act 1997*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

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

The Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4983).

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

13. Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2012

The Attorney General, pursuant to notice, moved —

That a Bill for “An Act to amend the *Classification (Publications, Films and Computer Games) Enforcement Act 1996*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

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

The Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4984).

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

14. Integrity (Lobbyists) Bill 2011

The Deputy President reported the receipt of Message No. 274 from the Legislative Assembly forwarding the Bill for concurrence.

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

Question — put and passed.

Bill read a first time.

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

The Parliamentary Secretary representing the Premier tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4985).

Debate stands adjourned.

15. Order of Business

Ordered — That Orders of the Day Nos 1, *Mindarie Regional Council Standing Orders Amendment Local Law 2012 — Disallowance*, 2, *City of Bayswater Standing Orders Local Law 2012 — Disallowance*, 3, *City of Perth Standing Orders Amendment Local Law 2012 — Disallowance*, 4, *Pawnbrokers and Second-hand Dealers Amendment Regulations 2012 — Disallowance*, 5, *Security and Related Activities (Control) Amendment Regulations 2012 — Disallowance*, 6, *Shire of Broomehill-Tambellup Removal of Refuse, Rubbish and Disused Materials Local Law 2012 — Disallowance*, and 7, *Submission No. 13/2012 — Amendment to Class A Reserve 8485 and Cancellation of Class A Reserve 28535 — Disallowance*, be taken after Order of the Day No. 16, *Revenue Laws Amendment Bill 2012*. (Leader of the House).

16. Retirement Villages Amendment Bill 2012

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

The Deputy President left the Chair.

In Committee

(Hon Brian Ellis in the Chair)

Clause 8.

Debate resumed.

Clause agreed to.

Clauses 9 and 10 agreed to.

Clause 11.

Debate ensued.

The Minister for Commerce moved —

Page 8, after line 11 — To insert —

permanently vacated, in relation to a former resident and residential premises in a retirement village, means that —

- (a) if required by the residence contract — the administering body has been given notice of the former resident's intention to vacate the residential premises; and
- (b) the goods and belongings of the former resident have been removed from the residential premises; and
- (c) the former resident has ceased to reside in the residential premises; and
- (d) the right to exclusively occupy the residential premises has been given up by the former resident (or, if the former resident is deceased, by the estate of the former resident) by returning the keys to the residential premises to the administering body;

Debate ensued.

Amendment — put and passed.

The Minister for Commerce moved —

Page 8, line 7 — To delete “who does not” and insert —

who has permanently vacated residential premises in the retirement village and who does not

Amendment — put and passed.

Hon Lynn MacLaren moved —

Page 8, after line 11 — To insert —

personal representative includes a resident's attorney, guardian, executor, administrator or trustee in bankruptcy;

Debate ensued.

Amendment — put and negatived.

The Minister for Commerce, by leave, moved —

Page 8, lines 12 to 15 — To delete the lines and insert —

recurrent charges, means recurrent charges —

- (a) that are payable in respect of the residential premises in a retirement village that a former resident formerly occupied; and
- (b) that arise —
 - (i) after those premises have been permanently vacated by the former resident; and
 - (ii) on or after the commencement of the *Retirement Villages Amendment Act 2012* section 11.

Page 8, lines 16 to 21 — To delete the lines and insert —

- (2) This section applies to a former resident of residential premises in a retirement village, whether that former resident permanently vacated those premises before or after the commencement of the *Retirement Villages Amendment Act 2012* section 11.
- (3) Subject to subsection (4), a former resident's liability to pay recurrent charges —
 - (a) begins when the residential premises have been permanently vacated by the former resident; and
 - (b) ceases in accordance with the regulations.

Debate ensued.

Amendments — put and passed.

Debate resumed.

The Minister for Commerce moved —

Page 8, line 26 — To delete “subsection (3),” and insert —

subsection (3)(b),

Amendment — put and passed.

The Minister for Commerce moved —

Page 9, lines 27 and 28 — To delete the lines and insert —

- (i) after those premises have been permanently vacated by the former resident; and

Amendment — put and passed.

The Minister for Commerce moved —

Page 10, line 9 — To delete “cease to occupy” and insert —

permanently vacated

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 12 to 14 agreed to.

Clause 15.

Hon Lynn MacLaren, by leave, moved —

Page 15, line 10 — To delete “special resolution” and insert —

ordinary resolution

Page 15, lines 15 to 18 — To delete the lines and insert —

ordinary resolution means a resolution passed at a meeting of residents called either by the administering body or by the Residents Committee, or (in villages where there is no Residents Committee) by a minimum of 5 residents entitled to vote on the resolution or 30% of the number of residents entitled to vote on the resolution (whichever is the greater). The meeting must be held in accordance with subsection (4).

Page 15, after line 18 — To insert —

(4) To pass an ordinary resolution —

- (a) the residents must have been given notice of the meeting by the administering body or by the Residents Committee or by the residents calling the meeting; and
- (b) there must be a quorum present (whether in person or by proxy) of —
 - (i) a minimum of 5 residents entitled to vote on the resolution or 30% of the number of residents entitled to vote on the resolution (whichever is the greater); or
 - (ii) If the retirement village has fewer than 10 occupied residential premises, a majority of residents entitled to vote;
 and
- (c) the resolution must be carried by at least 51% of the number of residents who are present (whether in person or by proxy) and who are entitled to vote, and do vote.

Debate ensued.

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 sought to sit again.

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

17. Members' Statements

Statements were taken.

18. Adjournment

The Council adjourned at 9.55 pm until Thursday, 20 September 2012 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members Hon Liz Behjat, Hon Wendy Duncan and Hon Jon Ford.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council