

WESTERN AUSTRALIA  
**LEGISLATIVE COUNCIL**  
**MINUTES OF PROCEEDINGS**  
**No. 74**  
**TUESDAY, 28 AUGUST 2018**

**1. Meeting of Council**

The Council assembled at 2.00pm pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

**2. Messages from His Excellency the Governor — Assent to Bills**

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

<b>21 August 2018 — Message No. 18</b>	<b>Act No.</b>
Natural Gas (Canning Basin Joint Venture) Agreement (Termination) Bill 2017	12 of 2018
<b>24 August 2018 — Message No. 19</b>	
Appropriation (Recurrent 2018–19) Bill 2018	13 of 2018
Appropriation (Capital 2018–19) Bill 2018	14 of 2018

**3. Papers**

The following Papers were laid on the Table by —

**Leader of the House**

*Local Laws* —

Local Government Act 1995 (City of South Perth Standing Orders Amendment Local Law 2018 G.G. 24/08/2018).....	1677
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*Regulations* —

Family Court Act 1997 (Family Court Amendment Regulations 2018 G.G. 24/08/2018).....	1678
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**Minister for Environment**

*Regulations* —

Transport Co-ordination Act 1966 (Transport (Country Taxi-cars Fares) Amendment Regulations 2018 G.G. 21/08/2018).....	1679
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**Minister for Regional Development**

*Notices* —

Financial Management Act 2006 (section 82) — Notice from the Minister for Regional Development in relation to Legislative Council Question on Notice No. 1407(d) asked by the Hon Martin Aldridge.....	1680
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*Reports* —

AQWEST — Statement of Corporate Intent (2018–19) .....	1681
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Busselton Water — Statement of Corporate Intent (2018–19) .....	1682
Water Corporation — Statement of Corporate Intent (2018–19).....	1683

#### **4. Shire of Dundas Standing Orders Local Law 2018 — Disallowance**

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

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Dundas Standing Orders Local Law 2018* published in the *Gazette* on 22 May 2018 and tabled in the Legislative Council on 12 June 2018 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper No. 1391).

#### **5. Jetties Amendment Regulations (No. 2) 2018 — Disallowance**

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

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Jetties Amendment Regulations (No. 2) 2018* published in the *Gazette* on 25 May 2018 and tabled in the Legislative Council on 12 June 2018 under the *Jetties Act 1926*, be and are hereby disallowed. (Tabled paper No. 1394).

#### **6. Order of Business**

Ordered — That Orders of the Day Nos 1, *Shire of Northam Cemeteries Amendment Local Law 2017 — Disallowance*, 2, *Shire of Toodyay Health Local Law 2017 — Disallowance*, 3, *Environmental Protection Amendment Regulations 2018 — Disallowance*, 4, *City of Karratha Fencing Local Law 2018 — Disallowance*, 5, *Environmental Protection (Plastic Bags) Regulations 2018 — Disallowance*, 6, *Environmental Protection (Plastic Bags) Regulations 2018 — Disallowance*, 7, *City of Kalgoorlie-Boulder Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2018 — Disallowance*, 8, *City of Kalgoorlie-Boulder Local Government Property Amendment Local Law 2018 — Disallowance*, 9, *City of Karratha Standing Orders Local Law 2018 — Disallowance*, and 10, *Health Services (Information) Amendment Regulations 2018 — Disallowance*, be taken after Order of the Day No. 31, *Road Traffic Amendment (Driving Offences) Bill 2018*. (Leader of the House).

#### **7. Occupational Safety and Health Amendment Bill 2017 and Mines Safety and Inspection Amendment Bill 2017**

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

Debate resumed.

Question — That the *Occupational Safety and Health Amendment Bill 2017* be read a second time — put and passed.

Bill read a second time.

Question — That the *Mines Safety and Inspection Amendment Bill 2017* be read a second time — put and passed.

Bill read a second time.

The Acting President left the Chair.

(Hon Martin Aldridge in the Chair)

#### ***Occupational Safety and Health Amendment Bill 2017***

Clause 1.

Debate ensued.

#### **8. Questions Without Notice**

Questions without notice were taken.

The Leader of the House representing the Attorney General, by leave, incorporated into *Hansard* a list of magistrates whose term of service has been extended, in response to a question without notice asked by Hon Michael Mischin.

The Minister for Education and Training tabled documents in relation to advertised teacher vacancies for regional learning specialists, in response to a question without notice asked by Hon Donna Faragher. (Tabled Paper 1684).

The Minister for Environment representing the Minister for Transport tabled documents in relation to Commonwealth funding for Tom Price Road Stages 3 and 4, in response to a question without notice asked by Hon Jacqui Boydell. (Tabled Paper 1685).

**9. Occupational Safety and Health Amendment Bill 2017 and Mines Safety and Inspection Amendment Bill 2017**

Resumption of consideration of these Bills in Committee of the Whole House (*see item 7 above*).

The Acting President left the Chair.

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(Hon Dr Steve Thomas in the Chair)

***Occupational Safety and Health Amendment Bill 2017***

Clause 1.

Debate resumed.

The Minister for Regional Development representing the Minister for Commerce and Industrial Relations tabled a document in relation to model work on Health and Safety Act penalty comparisons. (Tabled Paper 1686).

Debate resumed.

Clause agreed to.

Clause 2.

Debate ensued.

Clause agreed to.

Clauses 3 and 4 agreed to.

New Clause 5.

Hon Aaron Stonehouse moved —

Page 4, after line 1 — To insert:

**5. Section 18AA inserted**

After section 18A insert:

**18AA. Commissioner may accept undertakings for alleged offences**

- (1) The Commissioner may accept (by written notice) a written undertaking given by a person in connection with a matter relating to an alleged contravention by the person of this Act or the regulations.
- (2) Subsection (1) does not apply if the person giving the undertaking is liable to a level 4 penalty for an offence against this Act.
- (3) The person may withdraw or vary the undertaking at any time but only with the Commissioner's written consent.
- (4) Neither the Commissioner nor a person authorised by the Commissioner under section 52 may bring a proceeding for an offence against this Act or the regulations constituted by the alleged contravention to which the undertaking relates.

Debate ensued.

*Point of Order*

Hon Sue Ellery raised the following Point of Order —

Can I ask for a ruling on whether the amendment proposed is actually within the scope of the Bill we are dealing with right now?

*Deputy Chair's Ruling*

The Deputy Chair ruled as follows —

The amendment proposed by Hon Aaron Stonehouse is outside the scope and purpose of the Bill. The Standing Orders allow an amendment to be moved to any part of the Bill, provided the amendment is relevant to the subject matter of the Bill. 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 committed to the Committee of the Whole House.

The scope and purpose of a Bill is determined by its clauses. When the purpose of a Bill is restricted, the extent to which it may be amended is restricted. The second reading speech and explanatory memorandum will often assist in explaining a Bill's purpose. The clauses of the Bill increase penalties for offences under the *Occupational Safety and Health Act 1984*. The Minister's speech for this Bill states that the purpose of the Bill is to increase penalties to better align with the penalties in the model Work Health and Safety Act, with a further increase for inflation since 2010. Hon Aaron Stonehouse's amendment for a new clause 5 proposes to impose an alternative process for dealing with persons who commit certain offences by providing the WorkSafe Western Australia Commissioner with the discretion to accept an undertaking given by an alleged offender in lieu of bringing a proceeding for an offence against the act or regulations. The amendment proposed by Hon Aaron Stonehouse does not fall within the limited purpose of the Bill. The member seeks to introduce a new subject matter. I therefore rule the amendment out of order.

Amendment ruled out of order.

Debate resumed.

Title.

Debate resumed.

Title agreed to.

***Mines Safety and Inspection Amendment Bill 2017***

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 4 agreed to.

Title agreed to.

The Acting President resumed the Chair.

Bills reported without amendment.

Report adopted.

The Minister for Regional Development representing the Minister for Commerce and Industrial Relations moved, That the *Occupational Safety and Health Amendment Bill 2017* be read a third time.

The Acting President announced that the Deputy 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.

The Minister for Regional Development representing the Minister for Mines and Petroleum moved, That the *Mines Safety and Inspection Amendment Bill 2017* be read a third time.

The Acting President announced that the Deputy 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.

**10. Strata Titles Amendment Bill 2018**

The Acting President reported the receipt of Message No. 79 from the Legislative Assembly forwarding the Bill for concurrence.

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

Question — put and passed.

Bill read a first time.

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

The Minister for Environment representing the Minister for Lands tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1687).

Debate stands adjourned.

**11. Education and Care Services National Law (WA) Amendment Bill 2018**

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

Debate resumed.

*Interruption pursuant to order.*

**12. Members' Statements**

Statements were taken.

**13. Adjournment**

The Council adjourned at 10.05pm until Wednesday, 29 August 2018 at 1.00pm.

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

Attendance: Present all Members except Hon Colin Holt and Hon Dr Sally Talbot.

**NIGEL PRATT**  
Clerk of the Legislative Council

**HON KATE DOUST MLC**  
President of the Legislative Council