

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 202

TUESDAY, 6 SEPTEMBER 2016

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**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 Bills**

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

**26 August 2016 — Message No. 23**

**Act No.**

Appropriation (Recurrent 2016–17) Bill 2016

20 of 2016

Appropriation (Capital 2016–17) Bill 2016

21 of 2016

**3. Statement by President — Legislative Council Vacancy — Resignation of Hon Ken Travers MLC**

The President made the following Statement —

I have a letter from Hon Ken Travers that reads as follows —

Dear Mr President

I hereby wish to notify you that I tender my resignation as a Member of the Legislative Council, effective as at 29 August 2016.

Yours sincerely

Ken Travers MLC

Member for North Metropolitan Region

Further to that letter, I advise that I have written to Her Excellency the Hon Kerry Sanderson AC, Governor, advising that pursuant to section 156B(2) of the *Electoral Act 1907*, a vacancy has occurred in the membership of the Legislative Council by reason of the resignation of Hon Ken Travers on Monday, 29 August 2016. I can also advise Members that I have received a letter from Her Excellency acknowledging receipt of my advice.

As a result of Hon Ken Travers resignation, I advise that there is now a vacancy in the membership of the Standing Committee on Estimates and Financial Operations and the Joint Standing Committee on Audit.

#### 4. Papers

The following Papers were laid on the Table by —

##### **Leader of the House**

###### *By-laws —*

Energy Operators (Powers) Act 1979 (Energy Operators (Electricity Generation and Retail Corporation) (Charges) Amendment By-laws (No. 2) 2016 G.G. 31/08/2016 and Energy Operators (Regional Power Corporation) (Charges) Amendment By laws (No. 2) 2016 G.G. 31/08/2016).....	4437
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###### *Reports —*

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##### **Attorney General**

###### *Addendums —*

Report on the Operation and Effectiveness of the Construction Contracts Act 2004 — Government Response.....	4439
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###### *Annual Reports —*

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Department of Fisheries (pursuant to section 76 (1) Criminal Investigation (Covert Powers) Act 2012 — Assumed Identities (2015–2016) (Date received 6/09/2016).....	4441
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Technology and Industry Advisory Council (2015–16) (Date received 5/09/2016) .....	4443

###### *Regulations —*

State Superannuation Act 2000 (State Superannuation Amendment Regulations (No. 3) 2016 G.G. 26/08/2016).....	4444
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##### **Minister for Planning**

###### *Local Laws —*

Cat Act 2011 (Shire of Chittering Cats Amendment Local Law 2016 G.G. 30/08/2016) .....	4445
Dog Act 1976 (Shire of Sandstone Dogs Local Law 2016 G.G. 26/08/2016).....	4446
Local Government Act 1995 (City of Armadale Activities and Trading in Thoroughfares and Public Places Amendment Local Law 2016 G.G. 26/08/2016, City of Armadale Fencing Amendment Local Law 2016 G.G. 26/08/2016, City of Armadale Standing Orders Amendment Local Law 2016 G.G. 26/08/2016, Shire of Kalamunda Fencing Local Law 2016 G.G. 02/09/2016, Shire of Mukinbudin Repeal Local Law 2016 G.G. 23/08/2016 and Town of Claremont Parking Local Law 2016 G.G. 02/09/2016).....	4447
Waste Avoidance and Resource Recovery Act 2007 (City of Bunbury Waste Local Law 2016 G.G. 24/08/2016).....	4448

###### *Regulations —*

Conservation and Land Management Act 1984 (Conservation and Land Management Amendment Regulations (No. 4) 2016 G.G. 30/08/2016).....	4449
Disability Services Act 1993 (Disability Services Amendment Regulations 2016 G.G. 26/08/2016) ..	4450
Wildlife Conservation Act 1950 (Wildlife Conservation Amendment Regulations 2016 G.G. 26/08/2016).....	4451

## **Parliamentary Secretary to the Minister for Agriculture and Food**

### *Direction —*

Pilbara Ports Authority — Ministerial Direction from the Minister for Transport concerning Utah Point Port charges under section 72 of the Port Authorities Act 1999 ..... 4452

### *Management Plans —*

Biosecurity and Agriculture Management Act 2007 (Biosecurity and Agriculture Management (Stable Fly) Management Plan 2016 G.G. 23/08/2016)..... 4453

### *Reports —*

Fremantle Ports — Statement of Corporate Intent 2016–17 (Deemed tabled 26/08/2016)..... 4454

Kimberley Ports Authority — Statement of Corporate Intent 2016–17 (Deemed tabled 26/08/2016) ..... 4455

Mid-West Ports — Statement of Corporate Intent 2016–17 (Deemed tabled 26/08/2016)..... 4456

Pilbara Ports Authority — Statement of Corporate Intent 2016–17 (Deemed tabled 26/08/2016) ..... 4457

Southern Ports Authority — Statement of Corporate Intent 2016–17 (Deemed tabled 26/08/2016) ..... 4458

## **5. Standing Committee on Estimates and Financial Operations — Appointment of Member**

The Leader of the House moved, without notice —

That Hon Sally Talbot be appointed as a Member to the Standing Committee on Estimates and Financial Operations.

Question — put and passed.

## **6. Joint Standing Committee on Audit — Appointment of Member**

The Leader of the House moved, without notice —

That Hon Sally Talbot be appointed as a Member to the Joint Standing Committee on Audit and that the Legislative Assembly be advised of this appointment.

Question — put and passed.

## **7. Road Traffic Legislation Amendment Bill (No. 2) 2015**

The President reported the receipt of Message No. 167 from the Legislative Assembly forwarding the Bill for concurrence.

The Attorney General representing the Minister for Road Safety moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Attorney General representing the Minister for Road Safety moved, That the Bill be read a second time.

The Attorney General representing the Minister for Road Safety tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4459).

Debate stands adjourned.

## **8. Order of Business**

Ordered — That Order of the Day No. 1, *Shire of Donnybrook-Balingup Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2016 — Disallowance*, be taken after Order of the Day No. 9, *Retail Trading Hours Amendment Bill 2015*. (Leader of the House).

## **9. Marketing of Potatoes Amendment and Repeal Bill 2016**

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 to the Minister for Agriculture and Food moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

## **10. Biodiversity Conservation Bill 2015**

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

The President left the Chair.

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### **In Committee**

(Hon Amber-Jade Sanderson in the Chair)

Clause 64 agreed to.

Clause 65 agreed to.

The Minister for Planning representing the Minister for Environment tabled answers to questions taken on notice during consideration in Committee of the Whole House of the *Biodiversity Conservation Bill 2015* in the Legislative Council on 23 August 2016. (Tabled Paper 4460).

Clause 66.

Debate ensued.

Clause agreed to.

Clause 67 agreed to.

Clause 68 agreed to.

Clause 69.

Debate ensued.

Clause agreed to.

Clauses 70 and 71 agreed to.

Clause 72.

Debate ensued.

Clause agreed to.

Clauses 73 to 75 agreed to.

Clause 76.

Debate ensued.

Clause agreed to.

Clauses 77 to 80 agreed to.

Clauses 81 to 113 agreed to.

Clause 114.

Debate ensued.

Clause agreed to.

Clauses 115 to 120 agreed to.

Clauses 121 to 131 agreed to.

Clause 132.

Debate ensued.

Clause agreed to.

Clauses 133 to 144 agreed to.

Clauses 145 to 150 agreed to.

Clause 151.

The Minister for Planning representing the Minister for Environment, by leave, moved —

Page 95, line 26 — To delete “fauna;” and insert —

fauna (other than fish or pearl oyster);

Page 96, line 3 — To delete “fauna;” and insert —

fauna (other than fish or pearl oyster);

Debate ensued.

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 152.

Debate ensued.

Clause agreed to.

Clause 153.

The Minister for Planning representing the Minister for Environment, by leave, moved —

Page 98, line 15 — To delete “fauna;” and insert —

fauna (other than fish or pearl oyster);

The Minister for Planning representing the Minister for Environment moved —

Page 98, line 24 — To delete “fauna;” and insert —

fauna (other than fish or pearl oyster);

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 154 agreed to.

Clause 155.

Debate ensued.

Clause agreed to.

Clauses 156 to 170 agreed to.

Clause 171.

Debate ensued.

Clause agreed to.

Clause 172.

Debate ensued.

Clause agreed to.

Clause 173.

Debate ensued.

Clause agreed to.

Clauses 174 to 186 agreed to.

Clause 187.

Debate ensued.

## 11. Questions Without Notice

Questions without notice were taken.

The Minister for Education tabled a document in relation to student enrolments and full time equivalent teacher allocations for government schools in the South West region in 2016, in response to a question without notice asked by Hon Adele Farina. (Tabled Paper 4461).

The Minister for Planning representing the Minister for Environment tabled documents in relation to venting or leaks from either of the Yara facilities on the Burrup in the last 12 months, in response to question on notice No. 4287 asked by Hon Robin Chapple. (Tabled Paper 4462).

## 12. Biodiversity Conservation Bill 2015

Resumption of consideration of this Bill in Committee of the Whole House (*see item 10 above*).

The President left the Chair.

### In Committee

(Hon Simon O'Brien in the Chair)

Clause 187.

Debate resumed.

Hon Adele Farina, by leave, moved —

Page 118, after line 8 — To insert —

***green sandalwood*** means living sandalwood;

Page 118, after line 12 — To insert —

***state*** means condition of sandalwood population size, distribution and natural range;

Page 118, after line 14 — To insert —

***viability*** means ability to survive in the wild without becoming extinct or threatened.

Debate ensued.

Amendments — put.

The Committee divided.

### Ayes (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*)

**Noes (21)**

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

Amendments thus negatived.

Hon Adele Farina moved —

Page 118, lines 16 and 17 — To delete the lines and insert —

- (a) fix the maximum quantity of green and dead sandalwood that can be taken in a specified period; and

Debate ensued.

Amendment — put and negatived.

Hon Adele Farina moved —

Page 118, lines 24 to 27 — To delete the lines and insert —

- (4) Before making an order under subsection (2), or amending or repealing such an order, the Minister must —
  - (a) obtain and consider scientific advice on the state and trends of the sandalwood population in the wild; and
  - (b) take into consideration management requirements for the conservation and use of sandalwood in a biodiversity management programme, made under Part 5 of this Act, to maintain species viability and minimise environmental impacts; and
  - (c) consult with the Minister responsible for the administration of the *Forest Products Act 2000*.

Debate ensued.

Amendment — put.

The Committee divided.

**Ayes (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*)

**Noes (21)**

Hon Martin Aldridge  
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 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*)

Amendment thus negatived.

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

Clauses 188 to 270 agreed to.

Clause 271.

Debate ensued.

Clause agreed to.

Clauses 272 to 313 agreed to.

Clause 314.

Hon Lynn MacLaren, by leave, moved —

Page 198, line 4 — To insert —

(d) after paragraph (j) insert:

(k) it includes critical habitat.

Page 198, after line 11 — To insert —

***critical habitat*** has the same meaning as it has in the *Biodiversity Conservation Act 2016*;

Debate ensued.

Amendments — put.

The Committee divided.

**Ayes (10)**

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 Samantha Rowe (*Teller*)



**Noes (19)**

Hon Martin Aldridge  
 Hon Ken Baston  
 Hon Liz Behjat  
 Hon Jacqui Boydell  
 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 Rick Mazza  
 Hon Robyn McSweeney  
 Hon Michael Mischin  
 Hon Simon O'Brien  
 Hon Phil Edman (*Teller*)

Amendments thus negatived.

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

Clauses 315 to 320 agreed to.

Schedule 1 agreed to.

Postponed Clause 7.

Debate resumed on the amendment moved by the Minister for Planning representing the Minister for Environment as follows —

Page 18, after line 10 — To insert —

***biodiversity conservation conditions*** means conditions or requirements relating to the conservation or protection of biodiversity or biodiversity components;

Amendment — put and passed.

The Minister for Planning representing the Minister for Environment moved —

Page 18, line 23 to page 19, line 2 — To delete the lines and insert —

act if —

(a) it is —

- (i) an act that is authorised by a relevant authorisation or is otherwise authorised or required under a State agreement; or
- (ii) an act that is a likely consequence of an act referred to in subparagraph (i);

and

- (b) all biodiversity conservation conditions that apply to or in relation to it are complied with, whether those conditions are imposed under the relevant authorisation, or State agreement referred to in paragraph (a)(i) or imposed in some other way.

Amendment — put and passed.

Question, That the clause, as amended, be agreed to — put.

The Committee divided.

**Ayes (19)**

Hon Martin Aldridge  
Hon Ken Baston  
Hon Liz Behjat  
Hon Jacqui Boydell  
Hon Robin Chapple  
Hon Jim Chown  
Hon Peter Collier  
Hon Donna Faragher  
Hon Nick Goiran  
Hon Dave Grills

Hon Alyssa Hayden  
Hon Col Holt  
Hon Peter Katsambanis  
Hon Mark Lewis  
Hon Lynn MacLaren  
Hon Rick Mazza  
Hon Robyn McSweeney  
Hon Michael Mischin  
Hon Phil Edman (*Teller*)

**Noes (7)**

Hon Alanna Clohesy  
Hon Stephen Dawson  
Hon Sue Ellery  
Hon Adele Farina

Hon Martin Pritchard  
Hon Sally Talbot  
Hon Amber-Jade Sanderson (*Teller*)

Question thus passed.

Clause, as amended, agreed to.

Title agreed to.

The Acting President resumed the Chair.

Bill reported with amendments.

Ordered — That consideration of the Committee's Report be made an Order of the Day for the next sitting.

**13. Terrorism (Preventative Detention) Amendment Bill 2016**

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 representing the Minister for Police moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

**14. Retail Trading Hours Amendment Bill 2015**

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

Debate resumed.

Hon Kate Doust moved, without notice —

- (1) That the *Retail Trading Hours Amendment Bill 2015*, be discharged and referred to the Standing Committee on Legislation for consideration and report by no later than Friday, 11 November 2016.

- (2) The Committee has the power to inquire into and report on the policy of the Bill.

Debate ensued.

*Interruption pursuant to order.*

**15. Members' Statements**

Statements were taken.

**16. Adjournment**

The Council adjourned at 9.51pm until Wednesday, 7 September 2016 at 1.00pm.

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

Attendance: Present all Members except Hon Paul Brown.

**NIGEL PRATT**

Clerk of the Legislative Council

**HON BARRY HOUSE**

President of the Legislative Council