

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 112

WEDNESDAY, 25 FEBRUARY 2015

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### 1. Meeting of Council

The Council assembled at 1.00pm pursuant to Temporary Orders.

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

### 2. Petition

Hon Robin Chapple presented a petition from 38 petitioners requesting the Legislative Council to withdraw the *Aboriginal Heritage Amendment Bill 2014*; establish an inquiry into the Department of Aboriginal Affairs' management of Aboriginal heritage in Western Australia; and form a select committee to develop a proper framework to reform the *Aboriginal Heritage Act 1972* by involving Aboriginal peoples in meaningful ways and by building on previous suggestions from previous reviews. (Tabled Paper 2592).

### 3. Ministerial Statement — National Disability Insurance Scheme My Way Second Quarterly Report

The Minister for Disability Services made a Ministerial Statement with respect to the second quarterly report for Western Australia's National Disability Insurance Scheme My Way trial.

### 4. Business of the House — Thursday, 26 February 2015

The Leader of the House moved, without notice —

That so much of Standing Orders be suspended as to enable Questions without Notice to be taken at 2.00pm on Thursday, 26 February 2015.

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.

### 5. Disability Services

Motion No. 1 having been called, debate resumed on the motion of Hon Alanna Clohesy as follows —

That this Council condemns the Barnett Government for its lack of leadership in the area of Disability Services and calls on the Government to put people before politics and adequately and sustainably fund services and operate trials and evaluations in a transparent and accountable way.

Question — put.

The Council divided.

**Ayes (12)**

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

Hon Lynn MacLaren  
Hon Ljiljanna Ravlich  
Hon Amber-Jade Sanderson  
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 Paul Brown  
Hon Jim Chown  
Hon Peter Collier  
Hon Brian Ellis  
Hon Donna Faragher  
Hon Nick Goiran  
Hon Dave Grills

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*)

Question thus negatived.

**6. Waterways — Environmental Degradation**

Motion No. 2 having been called, Hon Sally Talbot, pursuant to notice, moved —

That this Council condemns the Barnett Government for its failure to take effective action to protect Western Australia's rivers, estuaries and inlets from environmental degradation.

*Interruption pursuant to order.*

**7. North West Gas Development (Woodside) Agreement Amendment Bill 2014**

The Acting President reported the receipt of Message No. 93 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for State Development moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House representing the Minister for State Development moved, That the Bill be read a second time.

The Leader of the House representing the Minister for State Development tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 2593).

Debate stands adjourned.

**8. Order of Business**

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

**9. Directors' Liability Reform Bill 2015**

The Attorney General, pursuant to notice, moved —

That a Bill for "An Act to amend *The Criminal Code* and various other Acts in relation to the criminal liability of directors and other persons involved in the management of bodies corporate, and for related purposes." 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 2594).

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

#### **10. Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015**

The Attorney General representing the Minister for Police, pursuant to notice, moved —

That a Bill for “An Act to amend *The Criminal Code*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

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

The Attorney General representing the Minister for Police tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 2595).

Debate stands adjourned.

#### **11. Order of Business**

Ordered — That Orders of the Day Nos 1, *City of Fremantle Alfresco Dining Local Law 2014 – Disallowance*, and 2, *School Education Amendment Regulations 2014 – Disallowance*, be taken after Order of the Day No. 7, *Standing Committee on Procedure and Privileges — Report No. 32 — Further Review of Standing Orders 174 to 178: Committee Evidence, Documentation, Deliberation and Proceedings*. (Leader of the House).

#### **12. Order of Business**

The Leader of the House moved, without notice —

That Orders of the Day Nos 6, *Standing Committee on Procedure and Privileges — Report No. 29 — Review of the Report of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament*, and 7, *Standing Committee on Procedure and Privileges — Report No. 32 — Further Review of Standing Orders 174 to 178: Committee Evidence, Documentation, Deliberations and Proceedings*, be considered in the Committee of the Whole House.

Question — put and passed.

#### **13. Standing Committee on Procedure and Privileges — Report No. 29 — Review of the Report of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament and Standing Committee on Procedure and Privileges — Report No. 32 — Further Review of Standing Orders 174 to 178: Committee Evidence, Documentation, Deliberations and Proceedings**

The Orders of the Day having been read.

The President left the Chair.

#### **In Committee**

(President in the Chair)

*Standing Committee on Procedure and Privileges — Report No. 29 — Review of the Report of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament*

Debate resumed on the motion of Hon Kate Doust as follows —

That Recommendations 1 and 2 contained in Report No. 29 of the Standing Committee on Procedure and Privileges, *Review of the Report of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament*, be adopted and agreed to.

The Attorney General moved to amend the motion as follows —

To delete all words after “Recommendations 1” and insert —

, 2(b) and 2(d) be adopted and agreed to.

- (2) That Recommendations 2(a) and 2(c) be referred to the *Procedure and Privileges Committee* for further consideration and report.

Debate ensued.

#### 14. Questions Without Notice

Questions without notice were taken.

The Minister for Disability Services tabled the Disability Services Commission Disability Access and Inclusion Plan 2011–2016, in response to a question without notice asked by Hon Stephen Dawson. (Tabled Paper 2596).

#### 15. Standing Committee on Procedure and Privileges — Report No. 29 — Review of the Report of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament and Standing Committee on Procedure and Privileges — Report No. 32 — Further Review of Standing Orders 174 to 178: Committee Evidence, Documentation, Deliberations and Proceedings

Resumption of consideration of these Motions in Committee of the Whole House (*see item 13 above*).

#### In Committee

(President in the Chair)

*Standing Committee on Procedure and Privileges — Report No. 29 — Review of the Report of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament*

Debate resumed on the amendment of the Attorney General as follows —

To delete all words after “Recommendations 1” and insert —

, 2(b) and 2(d) be adopted and agreed to.

- (2) That Recommendations 2(a) and 2(c) be referred to the *Procedure and Privileges Committee* for further consideration and report.

to the motion of Hon Kate Doust as follows —

That Recommendations 1 and 2 contained in Report No. 29 of the Standing Committee on Procedure and Privileges, *Review of the Report of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament*, be adopted and agreed to.

Amendment — put and passed.

Motion, as amended, agreed to.

*Standing Committee on Procedure and Privileges — Report No. 32 — Further Review of Standing Orders 174 to 178: Committee Evidence, Documentation, Deliberations and Proceedings*

Debate resumed on the motion of Hon Adele Farina as follows —

That Recommendations 1 to 6 contained in Report No. 32 of the Standing Committee on Procedure and Privileges, *Further Review of Standing Orders 174 to 178: Committee Evidence, Documentation, Deliberations and Proceedings*, be adopted and agreed to.

Motion put and passed.

The Deputy President resumed the Chair.

The President reported that the Committee of the Whole House had considered the —

- (1) Standing Committee on Procedure and Privileges — Report No. 29 — *Review of the Report of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament* and agreed to the following resolutions —
  - (1) That Recommendations 1, 2(b) and 2(d) be adopted and agreed to.
  - (2) That Recommendations 2(a) and 2(c) be referred to the *Procedure and Privileges Committee* for further consideration and report.

Report adopted.

- (2) Standing Committee on Procedure and Privileges — Report No. 32 — *Further Review of Standing Orders 174 to 178: Committee Evidence, Documentation, Deliberations and Proceedings* and agreed to the following resolution —
 

That Recommendations 1 to 6 contained in Report No. 32 of the Standing Committee on Procedure and Privileges, *Further Review of Standing Orders 174 to 178: Committee Evidence, Documentation, Deliberations and Proceedings*, be adopted and agreed to.

The motion requiring the concurrence of an absolute majority.

Question — put.

The Deputy 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.

Report adopted.

## 16. Order of Business

Ordered — That Members' Statements be taken forthwith. (Leader of the House).

## 17. Members' Statements

Statements were taken.

Hon Peter Katsambanis, by leave, tabled newspaper photographs of an assault on a reporter by an MUA member. (Tabled Paper 2597).

*Point of Order*

Hon Helen Morton raised the following Point of Order —

I did not quite catch the last comment that was made, although it appears that the Member suggested that I sought to mislead the House. If that was the case, I ask the Member to either formally move that as a concern or withdraw it before I make a further statement.

*President's Ruling*

The President ruled as follows —

No Member should make an allegation that another Member has misled the House unless they intend to follow that up with a referral to the Standing Committee on Procedure and Privileges. I believe that the Minister for Mental Health has asked for the withdrawal of the last remark about misleading the House. I ask the Member to withdraw that particular remark.

*Point of Order*

Hon Adele Farina raised the following Point of Order —

The Minister has suggested that I made a statement that I did not make and again has impugned my reputation by suggesting that I have got it wrong, when I have referred to a number of reports that clearly link the rollout of the NDIS with the axing of block funding. If it is necessary, I will table all those documents to which I have referred. I do not have them all with me now, but I will get them overnight and table them tomorrow. I ask that the Minister withdraw her statement, because yet again she is misrepresenting what I said.

*President's Ruling*

The President ruled as follows —

Members, I believe that the Minister for Mental Health said that it was her recollection that the Member said something to that effect. The standing orders allow for any Member to stand at the conclusion of another Member's contribution to correct the record about what has been said by a previous member and I believe that that is what Hon Adele Farina has done in taking a point of order and making those comments. As to the withdrawal of the remark, I do not consider the remarks were unparliamentary; therefore, I will not insist on their withdrawal. But I invite the Minister for Mental Health to withdraw, if she wishes, as a courtesy or to state her case in response to the point of order.

**18. Adjournment**

The Council adjourned at 6.10pm until Thursday, 26 February 2015 at 10.00am.

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

Attendance: Present all Members except Hon Ken Travers.

**NIGEL PRATT**

Clerk of the Legislative Council

**HON BARRY HOUSE**

President of the Legislative Council