

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 193

TUESDAY, 28 JUNE 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. Death of Alexander (Sandy) Ashley Lewis — Motion of Condolence

The Leader of the House moved, without notice —

That this House expresses its deep regret at the death of Sandy Lewis, a former Member of the Legislative Council for the Lower Central Province; and places on record its appreciation for his long public service, and tenders its profound sympathy to members of his family in their bereavement.

The motion was supported by all Members, including the President, and carried in silence; Members standing in their places.

3. Ministerial Statement — Review of the Dangerous Sexual Offenders Act 2006

The Attorney General made a Ministerial Statement with respect to a review conducted by the Department of the Attorney General in relation to specific aspects of the operation and effectiveness of the *Dangerous Sexual Offenders Act 2006*.

The Attorney General tabled the *Review of the Dangerous Sexual Offenders Act 2006*. (Tabled Paper 4277).

4. Standing Committee on Procedure and Privileges — Report No. 39 — Reference from the House on 25 February 2015; Standing Order 97: Strangers in the Council; and Standing Order 181: Witnesses' Entitlements

The President presented Report No. 39 of the Standing Committee on Procedure and Privileges, *Reference from the House on 25 February 2015; Standing Order 97: Strangers in the Council; and Standing Order 181: Witnesses' Entitlements*. (Tabled Paper 4240).

Hon Adele Farina moved, without notice —

That Recommendations 1 to 3 contained in Report No. 39 of the Standing Committee on Procedure and Privileges, *Reference from the House on 25 February 2015; Standing Order 97: Strangers in the Council; and Standing Order 181: Witnesses' Entitlements*, be adopted and agreed to.

Hon Adele Farina sought leave to continue her remarks at the next sitting.

Leave granted.

Debate stands adjourned pursuant to order.

5. Standing Committee on Procedure and Privileges — Report No. 40 — E-Petitions

The President presented Report No. 40 of the Standing Committee on Procedure and Privileges, *E-Petitions*. (Tabled Paper 4241).

Hon Adele Farina moved, without notice —

That Recommendation 1 contained in Report No. 40 of the Standing Committee on Procedure and Privileges, *E-Petitions*, be adopted and agreed to.

Hon Adele Farina sought leave to continue her remarks at the next sitting.

Leave granted.

Debate stands adjourned pursuant to order.

6. Papers

The following Papers were laid on the Table by —

Leader of the House

Regulations —

Gas Services Information Act 2012 (Gas Services Information Amendment Regulations 2016 G.G. 24/06/2016).....	4242
Pay-roll Tax Assessment Act 2002 (Pay-roll Tax Assessment Amendment Regulations (No. 2) 2016 G.G. 24/06/2016).....	4243
Taxation Administration Act 2003 (Taxation Administration Amendment Regulations 2016 G.G. 24/06/2016).....	4244

Attorney General

Management Plans —

Fish Resources Management Act 1994 (Pilbara Fish Trawl Interim Managed Fishery Management Plan Amendment 2016 [1278] G.G. 21/06/2016; and Pilbara Trap Managed Fishery Management Plan Amendment 2016 [1277] G.G. 21/06/2016).....	4245
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Notices —

Public Trustee Act 1941 (Public Trustee's Scale of Fees 2016 G.G. 22/06/2016).....	4246
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Regulations —

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Criminal Procedure Act 2004 (Criminal Procedure Amendment Regulations (No. 2) 2016 G.G. 24/06/2016).....	4249
Dangerous Goods Safety Act 2004, Mines Safety and Inspection Act 1994, Petroleum (Submerged Lands) Act 1982, Petroleum (Submerged Lands) Registration Fees Act 1982, Petroleum and Geothermal Energy Resources (Registration Fees) Act 1967, Petroleum and Geothermal Energy Resources Act 1967, Petroleum Pipelines Act 1969 (Mines and Petroleum Regulations Amendment (Fees and Levies) Regulations 2016 G.G. 24/06/2016).....	4250
Electricity Industry Act 2004 (Electricity Industry (Wholesale Electricity Market) Amendment Regulations 2016 G.G. 24/06/2016).....	4251
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Mining Act 1978, Offshore Minerals Act 2003 (Mining and Offshore Minerals Regulations Amendment (Fees and Rents) Regulations 2016 G.G. 24/06/2016).....	4253
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Minister for Planning*Local Laws —*

Local Government Act 1995 (Shire of Lake Grace Local Government Property Local Law 2015 G.G. 21/06/2016; and (Shire of Lake Grace Standing Orders Local Law 2015 G.G. 21/06/2016)..	4257
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Plans —

Planning and Development Act 2005 — Amended Improvement Plan No. 42 — Anketell Strategic Industrial Area (23 June 2015).....	4258
Planning and Development Act 2005 — Improvement Plan No. 44 — Maitland Strategic Industrial Area (12 October 2015)	4259

Regulations —

Adoption Act 1994, Children and Community Services Act 2004, Working with Children (Criminal Record Checking) Act 2004 (Child Protection Regulations Amendment Regulations 2016 G.G. 24/06/2016)	4260
Children and Community Services Act 2004 (Children and Community Services Amendment Regulations 2016 G.G. 24/06/2016).....	4261
Disability Services Act 1993 (Disability Services Amendment Regulations (No. 3) 2016 G.G. 24/06/2016).....	4262
Food Act 2008, Health Act 1911, Health and Disability Services (Complaints) Act 1995, Health Services Act 2016, Poisons Act 1964 (Health Services (Consequential Amendments) Regulations 2016 G.G. 24/06/2016).....	4263
Health Services Act 2016 (Health Services (Conduct and Traffic) Regulations 2016 G.G. 24/06/2016).....	4264
Mental Health Act 2014 (Mental Health Amendment Regulations 2016 G.G. 24/06/2016).....	4265
Planning and Development Act 2005 (Planning and Development (Local Planning Schemes) Amendment Regulations 2016 G.G. 24/06/2016)	4266
Working with Children (Criminal Record Checking) Act 2004 (Working with Children (Criminal Record Checking) Amendment Regulations 2016 G.G. 24/06/2016)	4267

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State Records Act 2000 (State Records Principles and Standards 2016 G.G. 21/06/2016).....	4268
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Parliamentary Secretary to the Minister for Agriculture and Food

Determinations —

Biosecurity and Agriculture Management Act 2007 (Local Government Districts - Rates and Charges G.G. 21/06/2016; and Shire of Carnarvon - Mediterranean Fruit Fly Declared Pest Area G.G. 21/06/2016)..... 4275

Regulations —

Road Traffic (Administration) Act 2008, Road Traffic (Vehicles) Act 2012 (Road Traffic Regulations Amendment Regulations 2016 G.G. 24/06/2016)..... 4276

7. Standing Committee on Uniform Legislation and Statutes Review — Report No. 100 — Energy Legislation Amendment and Repeal Bill 2016, National Electricity (Western Australia) Bill 2016 and National Gas Access (WA) Amendment Bill 2016 — Extension of Time

Hon Kate Doust presented Report No. 100 of the Standing Committee on Uniform Legislation and Statutes Review, *Energy Legislation Amendment and Repeal Bill 2016, National Electricity (Western Australia) Bill 2016 and National Gas Access (WA) Amendment Bill 2016 — Extension of Time*. (Tabled Paper 4278).

Hon Kate Doust moved, without notice —

That the reporting date for the Standing Committee's inquiry into the Energy Legislation Amendment and Repeal Bill 2016, National Electricity (Western Australia) Bill 2016 and National Gas Access (WA) Amendment Bill 2016, be extended from 16 August 2016 to 22 September 2016.

Hon Kate Doust sought leave to continue her remarks at a later stage of this day's sitting.

Leave granted.

Debate stands adjourned pursuant to order.

8. Bail Legislation Amendment Bill 2016

The Attorney General: To move on the next day of sitting —

That a Bill for “An Act to amend the *Bail Act 1982*, the *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* and the *Young Offenders Act 1994*, and for related purposes.” be introduced and read a first time.

9. Order of Business

Ordered — That Orders of the Day Nos 1, *Albany Cemetery Board By-laws Amendment 2015 — Disallowance*, 2, *Shire of Kellerberrin Dogs Local Law 2016 — Disallowance*, 3, *Magistrates Court (Minor Cases Procedure) Amendment Rules (No. 2) 2016 — Disallowance*, and 4, *Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2016 — Disallowance*, be taken after Order of the Day No. 14, *Graffiti Vandalism Bill 2015*. (Leader of the House).

10. Estimates of Revenue and Expenditure — Consolidated Account Estimates 2016–2017

The Order of the Day having been read for the adjourned debate on the motion of the Attorney General representing the Treasurer as follows —

That pursuant to Standing Order 69(1) the Legislative Council take note of Tabled Paper No. 4085 A-E (2016–2017 Budget Statements), laid upon the Table of the House on Thursday, 12 May 2016.

Debate resumed.

On the motion of Hon Samantha Rowe the debate was adjourned to the next sitting.

11. Genetically Modified Crops Free Areas Repeal Bill 2015

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

Debate resumed.

12. Questions Without Notice

Questions without notice were taken.

The Minister for Housing representing the Minister for Regional Development tabled documents in relation to the Regional Development Commission's Regional Development Strategy, in response to a question without notice asked by Hon Rick Mazza. (Tabled Paper 4279).

The Minister for Education tabled documents in relation to the Contractor Service Agreement for the State of Western Australia acting through its Department for Child Protection and Family Support, in response to a question without notice asked by Hon Alanna Clohesy. (Tabled Paper 4280).

The Attorney General representing the Minister for Small Business tabled documents in relation to business and investment migration, in response to a question without notice asked by Hon Kate Doust. (Tabled Paper 4281).

The Minister for Planning tabled documents in relation to memberships and sponsorships for each agency, department and government trading enterprises within the Minister's portfolio, in response to question on notice No. 3945 asked by Hon Kate Doust. (Tabled Paper 4282).

The Minister for Planning tabled documents in relation to Bush Forever sites, in response to question on notice No. 4132 asked by Hon Lynn MacLaren. (Tabled Paper 4283).

The Minister for Planning representing the Minister for Environment tabled documents in relation to conservation areas in the Kimberley, in response to question on notice No. 4110 asked by Hon Robin Chapple. (Tabled Paper 4284).

The Minister for Planning representing the Minister for Environment tabled documents in relation to staff employed by the Department of Parks and Wildlife in the South West region, in response to question on notice No. 4115 asked by Hon Adele Farina. (Tabled Paper 4285).

The Minister for Housing tabled documents in relation to Department of Housing water quality testing in the Tjuntjuntjara Aboriginal community, in response to a question without notice asked by Hon Robin Chapple. (Tabled Paper 4286).

13. President's Ruling — Withdrawal of Remark

The President ruled as follows —

Last Thursday I undertook to provide a ruling on a point of order raised by the Hon Helen Morton relating to the attribution to her of certain words by Hon Amber-Jade Sanderson. The claim by Hon Amber Jade Sanderson on Thursday, 23 June 2016 was that the Hon Helen Morton had said certain words by way of interjection the previous day and that the *Hansard* would confirm this.

The words claimed to have been said were, "Well, it was only a hairline fracture", during an interjection to the Hon Amber-Jade Sanderson's speech referring to an elderly patient at Royal Perth Hospital who waited four days for surgery on a fractured leg.

The Hon Helen Morton seeks a withdrawal from the Member who attributed those words to her because in her view the Member had misled the House by claiming the words were attributed to her in the record of debates when they were not. The Hon Helen Morton also sought a withdrawal on the ground that the words claimed to be attributed to her were repeated inaccurately and in a manner that breached Standing Order 45.

At the outset I remind Members that *Hansard* is not omniscient. It cannot and does not record every word said in this Chamber. There are internal guidelines used by *Hansard* to ensure that what we say in this Chamber is placed in a written record which is intelligible and coherent. One such guideline is that generally, only interjections responded to by the Member with the call are reported. Interjections between interjectors are generally not reported. Words that are not heard by the *Hansard* reporter or cannot be determined from the audio or video tape or cannot be attributed to a particular Member are not reported even when responded to. The most common occurrence where words cannot be attributed is when there is an interjection or series of interjections, particularly when they are unruly. At their own peril, Members should not assume that *Hansard* will record and attribute every interjection made in this place.

The *Hansard* record of last Wednesday's debate was only available in uncorrected form at the time when the point of order was raised. The uncorrected *Hansard* did not attribute the words

quoted by the Hon Amber-Jade Sanderson to the Hon Helen Morton or indeed to any Member. The emphatic claim by the Hon Amber-Jade Sanderson that the words she attributed to the Hon Helen Morton were indeed said by that Member appears to be founded on her genuine belief that this would be confirmed in the record of debate at some point. This belief was misconceived. *Hansard* has reviewed the recordings of Wednesday, 22 June 2016. Neither the reporter nor the audio or visual recordings support the contention of the Hon Amber-Jade Sanderson that the words she attributes to the Hon Helen Morton were said by that Member. At no point are they attributed in *Hansard* to the Hon Helen Morton and that Member asserts she did not say the words as quoted by the Hon Amber-Jade Sanderson.

As a matter of logic, just because words do not appear in *Hansard* does not mean that they were not said. The admission by the Hon Helen Morton during Members' Statements last Thursday that she did use the word "hairline" in her interjection is a case in point. However, in the absence of the Presiding Member hearing the words or a recording or transcript containing the words and their clear attribution I cannot satisfactorily resolve the claims and counterclaims as to what precisely was said. However, it is clear that the words quoted by the Hon Amber-Jade Sanderson and attributed by her to the Hon Helen Morton are not supported by the official record. There is no evidence, however, to support the view that the Member or any other Member had an intention to mislead the House. I remind Members that they should not make an allegation that another Member has misled the House unless they intend to proceed with such a claim by substantive motion as a matter of privilege under Chapter Ten of the Standing Orders.

I also take this opportunity to counsel Members on the risks that you take by interjecting on another Member's speech, particularly when multiple persons interject at the same time. By doing so you place yourself at risk of being misunderstood by the Member with the call and perhaps other Members. Complications may flow from such a misunderstanding as has been demonstrated with this matter even where, as in this case, there is no intention on the part of any Member to deliberately misrepresent the facts.

Nevertheless, the Hon Amber-Jade Sanderson's claim that the official record would attribute certain words to the Hon Helen Morton is clearly incorrect. Taken in their context the words may also constitute an inappropriate personal reflection that breaches Standing Order 45 but I will not make that determination unless the usual convention of this House is resisted.

Accordingly, and consistent with the long standing practice in this place I invite the Hon Amber-Jade Sanderson to withdraw those words.

14. Genetically Modified Crops Free Areas Repeal Bill 2015

Debate resumed on the second reading of this Bill (*see item 11 above*).

Hon Martin Pritchard moved, without notice —

- (1) That the *Genetically Modified Crops Free Areas Repeal Bill 2015*, be discharged and referred to the Standing Committee on Legislation for consideration and report no later than Thursday, 8 September 2016.
- (2) The Committee has the power to inquire into and report on the policy of the Bill.

Debate ensued.

Question — put.

The Council divided.

Ayes (9)

Hon Robin Chapple
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Lynn MacLaren

Hon Martin Pritchard
 Hon Sally Talbot
 Hon Ken Travers
 Hon Samantha Rowe (*Teller*)

Noes (18)

Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 Hon Paul Brown
 Hon Jim Chown
 Hon Peter Collier
 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 Michael Mischin
 Hon Simon O'Brien
 Hon Phil Edman (*Teller*)

Question thus negatived.

Debate resumed.

Question — put.

The Council divided.

Ayes (18)

Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 Hon Paul Brown
 Hon Jim Chown
 Hon Peter Collier
 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 Michael Mischin
 Hon Simon O'Brien
 Hon Phil Edman (*Teller*)

Noes (9)

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

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

Question thus 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

The Council divided.

Ayes (18)

Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 Hon Paul Brown
 Hon Jim Chown
 Hon Peter Collier
 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 Michael Mischin
 Hon Simon O'Brien
 Hon Phil Edman (*Teller*)

Noes (9)

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

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

Question thus passed.

Bill read a third time and passed.

15. Order of Business

Ordered — That the Order of the Day in relation to the Standing Committee on Uniform Legislation and Statutes Review Report No. 100, *Energy Legislation Amendment and Repeal Bill 2016, National Electricity (Western Australia) Bill 2016 and National Gas Access (WA) Amendment Bill 2016 — Extension of Time*, be taken forthwith. (Leader of the House).

16. Standing Committee on Uniform Legislation and Statutes Review — Report No. 100 — Energy Legislation Amendment and Repeal Bill 2016, National Electricity (Western Australia) Bill 2016 and National Gas Access (WA) Amendment Bill 2016 — Extension of Time

The Order of the Day having been called for the adjourned debate on the motion of Hon Kate Doust as follows —

That the reporting date for the Standing Committee's inquiry into the *Energy Legislation Amendment and Repeal Bill 2016, National Electricity (Western Australia) Bill 2016 and National Gas Access (WA) Amendment Bill 2016*, be extended from 16 August 2016 to 22 September 2016.

Question — put and passed.

17. Order of Business

Ordered — That Order of the Day No. 18, *Public Health Bill 2014*, be taken forthwith. (Leader of the House).

18. Cognate Debate — Public Health Bill 2014 and Public Health (Consequential Provisions) Bill 2014

The Minister for Planning representing the Minister for Health sought leave of the Council to debate Order of the Day No. 18, *Public Health Bill 2014*, and Order of the Day No. 19, *Public Health (Consequential Provisions) Bill 2014*, cognately [SO 127].

Leave granted.

19. Public Health Bill 2014 and Public Health (Consequential Provisions) Bill 2014

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

Debate resumed.

Interruption pursuant to order.

20. Members' Statements

Statements were taken.

Pursuant to the President's Ruling (see item 13 above), Hon Amber-Jade Sanderson withdrew her remark.

21. Adjournment

The Council adjourned at 9.50pm until Wednesday, 29 June 2016 at 1.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Martin Aldridge, Hon Stephen Dawson, Hon Brian Ellis, Hon Robyn McSweeney, Hon Helen Morton and Hon Darren West.

NIGEL PRATT
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council