

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 249

TUESDAY, 27 NOVEMBER 2012

1. Meeting of Council

The Council assembled at 10.30am pursuant to order.

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

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 —

22 November 2012 — Message No. 22	Act No.
Aboriginal Affairs Planning Authority Amendment Bill 2012	38 of 2012
Child Support (Adoption of Laws) Amendment Bill 2012	39 of 2012
Disability Services Amendment Bill 2012	40 of 2012
Inheritance (Family and Dependants Provision) Amendment Bill 2012	41 of 2012
Sentencing Amendment Bill 2012	42 of 2012
Courts Legislation Amendment Bill 2012	43 of 2012
20 November 2012 — Message No. 23	Act No.
National Health Funding Pool Bill 2012	44 of 2012
Workers' Compensation and Injury Management Amendment (Jockeys) Bill 2012	45 of 2012

3. Mental Health Amendment (Psychiatrists) Bill 2012

The following Message from the Legislative Assembly was reported —

Mr President Message No. 304
The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Mental Health Amendment (Psychiatrists) Bill 2012* without amendment.
Mr M.W. Sutherland
Deputy Speaker
Legislative Assembly Chamber
Perth, 15 November 2012

4. Community Protection (Offender Reporting) Amendment Bill 2011

The following Message from the Legislative Assembly was reported —

Mr President

Message No. 305

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Community Protection (Offender Reporting) Amendment Bill 2011*.

Mr M.W. Sutherland

Deputy Speaker

Legislative Assembly Chamber

Perth, 15 November 2012

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

The following Message from the Legislative Assembly was reported —

Mr President

Message No. 306

The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2012* without amendment.

Hon G.A. Woodhams

Speaker

Legislative Assembly Chamber

Perth, 15 November 2012

6. Criminal Investigation (Covert Powers) Bill 2011

The following Message from the Legislative Assembly was reported —

Mr President

Message No. 307

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Criminal Investigation (Covert Powers) Bill 2011*.

Hon G.A. Woodhams

Speaker

Legislative Assembly Chamber

Perth, 15 November 2012

7. Petition

Hon Matt Benson-Lidholm presented a petition from 1,560 petitioners requesting the Legislative Council to support the current *Swan Valley Planning Act 1995*, without any changes relating to subdivision of land and minimum lot sizes. (Tabled Paper 5408).

8. Ministerial Statement — Partnership, Acceptance, Learning and Sharing Program

The Minister for Indigenous Affairs made a Ministerial Statement with respect to the success of the Partnership, Acceptance, Learning and Sharing (PALS) program.

9. Papers

The following Papers were laid on the Table by —

Leader of the House

Reports —

Public Sector Commission State of the Sector Report 2012..... 5406

Report on the Remuneration of Judges, District Court Judges, Master of the Supreme Court, Magistrates and the Parliamentary Inspector of the Corruption Crime Commission (23 November 2012)..... 5407

Minister for Education*Addendums* —

Education, Department of — Annual Report (2011–2012) (Date received 22/11/2012),..... 5405

10. Standing Committee on Environment and Public Affairs — Report No. 28 — Petition No. 137 — Emergency Accommodation for the Homeless

Hon Brian Ellis presented Report No. 28 of the Standing Committee on Environment and Public Affairs in relation to *Petition No. 137 – Emergency Accommodation for the Homeless*. (Tabled Paper 5409).

11. Standing Committee on Environment and Public Affairs — Report No. 29 — Interim Report in relation to the Inquiry into the Sandalwood Industry in Western Australia

Hon Brian Ellis presented Report No. 29 of the Standing Committee on Environment and Public Affairs being the Interim Report in relation to the *Inquiry into the Sandalwood Industry in Western Australia*. (Tabled Paper 5410).

12. Standing Committee on Environment and Public Affairs — Report No. 30 — Overview of Petitions

Hon Brian Ellis presented Report No. 30 of the Standing Committee on Environment and Public Affairs in relation to the *Overview of Petitions*. (Tabled Paper 5411).

13. Suspension of Standing Orders

The Leader of the House moved, without notice —

That so much of the Standing Orders be suspended as would enable —

- (1) On Tuesday, 27 November 2012, That proceedings be suspended —
 - (a) from 1.00pm to 2.00pm for lunch; and
 - (b) from 4.15pm to 4.30pm for afternoon tea.
- (2) On Wednesday, 28 November 2012, That Orders of the Day be taken instead of Motions on Notice.
- (3) On Thursday, 29 November 2012, That —
 - (a) Orders of the Day be taken instead of Private Members' Business;
 - (b) that the House continue to sit beyond 6.00pm for the purpose of taking Orders of the Day;
 - (c) that proceedings be suspended from 6.00pm to 7.30pm for dinner; and
 - (d) that Members' Statements or Adjournment Debate be taken at 9.45pm.
- (4) On Friday, 30 November 2012, That —
 - (a) the House commence sitting at 10.00am for the purpose of taking Orders of the Day;
 - (b) that proceedings be suspended —
 - (i) from 1.00pm to 2.00pm for lunch; and
 - (ii) from 4.15pm to 4.30pm for afternoon tea,
 - (c) that Questions without Notice be taken at 4.30pm;
 - (d) that Adjournment Debate be taken at 5.00pm.

Debate ensued.

The motion requiring the concurrence of an absolute majority.

Question — put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

14. Order of Business

Ordered — That Orders of the Day Nos 1, *Shire of Broomehill-Tambellup Removal of Refuse, Rubbish and Disused Materials Local Law 2012 — Disallowance*, 2, *Submission No. 13/2012 — Amendment to Class A Reserve 8485 and Cancellation of Class A Reserve 28535 — Disallowance*, 3, *City of Vincent Dogs Amendment Local Law No. 2, 2012 — Disallowance*, 4, *Metropolitan Region Scheme Amendment No. 1218/41 — Keralup Stage 1 — Disallowance*, 5, *City of Subiaco Meeting Procedures Local Law 2012 — Disallowance*, 6, *Metropolitan Region Scheme Amendment No. 1221/41 — Banjup Urban Precinct — Disallowance*, 7, *Metropolitan Region Scheme Amendment No. 1221/41 — Banjup Urban Precinct — Disallowance*, and 9, *City of Nedlands Parking and Parking Facilities Local Law 2012 — Disallowance*, be taken after Order of the Day No. 12, *Integrity (Lobbyists) Bill 2011*. (Leader of the House).

15. Western Australian Meat Industry Authority Amendment Regulations 2012 – Disallowance — Discharge from Notice Paper

Hon Sally Talbot moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 8, *Western Australian Meat Industry Authority Amendment Regulations 2012 – Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

16. Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012

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

Debate resumed on the motion of Hon Alison Xamon as follows —

That Order of the Day No. 14, *Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012*, be discharged and referred to the Standing Committee on Legislation for consideration and report not later than April 2013.

Question — put.

The Council divided.

Ayes (3)

Hon Robin Chapple
Hon Giz Watson

Hon Lynn MacLaren (*Teller*)

Noes (29)

Hon Liz Behjat
Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Ed Dermer
Hon Kate Doust
Hon Wendy Duncan
Hon Phil Edman
Hon Sue Ellery
Hon Brian Ellis
Hon Adele Farina
Hon Jon Ford
Hon Philip Gardiner

Hon Nick Goiran
Hon Nigel Hallett
Hon Alyssa Hayden
Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Question thus negatived.

Debate resumed.

17. Questions Without Notice

Questions without notice were taken.

The Minister for Education tabled, and by leave incorporated into Hansard, documents in relation to travel details of staff of the Department of Education for the period 26 October 2011 to 25 October 2012, in response to a question without notice asked by Hon Matt Benson-Lidholm. (Tabled Paper 5412).

The Leader of the House representing the Minister for State Development tabled documents in relation to the Department of State Development's budget from 2009–10 to 2013–14, in response to question on notice No. 6168 asked by Hon Robin Chapple. (Tabled Paper 5413).

The Minister for Fisheries tabled documents in relation to various fisheries matters, in response to question on notice No. 6221 asked by Hon Giz Watson. (Tabled Paper 5414).

The Minister for Finance representing the Minister for Transport tabled, and by leave incorporated into Hansard, documents in relation to the Midland to Perth Rail Service, correcting the answer provided to question on notice No. 6234 asked by Hon Linda Savage. (Tabled Paper 5415).

The Minister for Finance representing the Minister for Transport tabled documents in relation to a report on questions posed to, and answers provided by the Motor Vehicle Industry Board in relation to the proposed transfer of the Board's functions to the Department of Commerce and Commissioner for Consumer Protection, in response to a question without notice asked by Hon Kate Doust. (Tabled Paper 5416).

The Minister for Finance representing the Minister for Transport tabled documents in relation to the Motor Vehicle Industry Board response to Mr Gary Newcombe, in response to a question without notice asked by Hon Kate Doust. (Tabled Paper 5417).

The Minister for Mental Health representing the Minister for Environment tabled, and by leave incorporated into Hansard, documents in relation to the current membership of the Keep Australia Beautiful Council, in response to a question without notice asked by Hon Lynn MacLaren. (Tabled Paper 5418).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to the translocation of Western Ringtail possums from the Busselton Hospital site in 2012, in response to question on notice No. 6341 asked by Hon Giz Watson. (Tabled Paper 5419).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to prescribed burn BB125 in the Milyeannup National Park and bushfire BWD 11, in response to question on notice No. 6343 asked by Hon Giz Watson. (Tabled Paper 5420).

18. Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012

Debate resumed on the second reading of this Bill (*see item 16 above*).

Question — put.

The Council divided.

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Ayes (27)

Hon Liz Behjat
Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Ed Dermer
Hon Kate Doust
Hon Wendy Duncan
Hon Phil Edman
Hon Brian Ellis
Hon Adele Farina
Hon Jon Ford
Hon Philip Gardiner

Hon Nick Goiran
Hon Nigel Hallett
Hon Alyssa Hayden
Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Linda Savage
Hon Sally Talbot
Hon Ken Travers
Hon Ken Baston (*Teller*)

Noes (4)

Hon Robin Chapple
Hon Lynn MacLaren

Hon Giz Watson
Hon Alison Xamon (*Teller*)

Question thus passed.

Bill read a second time.

On the motion of Leader of the House the debate was adjourned to a later stage of this day's sitting.

19. Standing Committee on Estimates and Financial Operations — Report No. 37 — Report in relation to a possible contempt regarding summonses to produce documents issued pursuant to Section 5 of the *Parliamentary Privileges Act 1891*

Hon Giz Watson presented Report No. 37 of the Standing Committee on Estimates and Financial Operations being the *Report in relation to a possible contempt regarding summonses to produce documents issued pursuant to Section 5 of the Parliamentary Privileges Act 1891*. (Tabled Paper 5421).

Hon Giz Watson moved, That the Report be adopted and agreed to.

President's Ruling

The President ruled as follows —

Standing Order 92 deals with a matter of privilege. Standing Order 92(4)(b) states that the President may “defer the matter and provide a ruling to the Council at the earliest possible opportunity.” Given that Members of the House and I are not aware of what is in the Report at this stage, I will defer that matter and report back to the House as soon as possible.

20. Standing Committee on Estimates and Financial Operations — Report No. 38 — Activity Report for the period 1 January 2011 to 30 June 2012

Hon Giz Watson presented Report No. 38 of the Standing Committee on Estimates and Financial Operations in relation to the *Activity Report for the period 1 January 2011 to 30 June 2012*. (Tabled Paper No. 5422).

21. Order of Business

Ordered — That Order of the Day No. 14, *Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012*, be taken forthwith. (Leader of the House).

22. Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012

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

The President left the Chair.

In Committee

(Hon Alyssa Hayden in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clause 2.

Debate ensued.

Clause agreed to.

Clause 3 agreed to.

Clause 4.

Debate ensued.

Hon Hon Philip Gardiner moved —

Page 3, line 9 — To delete “is” and insert —

can be

Debate ensued.

The Attorney General moved, That the Chair report progress and seek to sit again.

Question — put and passed.

The Deputy President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again.

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

23. Order of Business

Ordered — That Order of the Day No. 1, *Shire of Broomehill-Tambellup Removal of Refuse, Rubbish and Disused Materials Local Law 2012 – Disallowance*, be now taken. (Leader of the House).

24. Shire of Broomehill-Tambellup Removal of Refuse, Rubbish and Disused Materials Local Law 2012 – Disallowance — Disallowance

Motion No. 1 having been called, Hon Sally Talbot, pursuant to notice, moved —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Broomehill-Tambellup Removal of Refuse, Rubbish and Disused Materials Local Law 2012* published in the *Gazette* on 6 July 2012 and tabled in the Legislative Council on 14 August 2012 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper 4766).

Debate ensued.

Question — put and passed.

25. Members’ Statements

Statements were taken.

26. Adjournment

The Council adjourned at 10.22pm until Wednesday, 28 November 2012 at 2.00 pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Donna Faragher.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council