

WESTERN AUSTRALIA
LEGISLATIVE COUNCIL
MINUTES OF PROCEEDINGS
No. 10
THURSDAY, 15 JUNE 2017

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

The President, Hon Kate Doust, took the Chair and read prayers.

2. Petition

Hon Colin de Grussa presented a petition from 304 petitioners requesting the Legislative Council ensure the highest level of environmental scrutiny be placed on the proposed landfill site for Lot 12, Kirwin Road, Esperance. (Tabled Paper 273).

3. Papers

The following Papers were laid on the Table by —

Leader of the House

Reports —

Ministerial Resourcing Report (as at 18 May 2017) 270

Minister for Environment

Orders —

Planning and Development Act 2005 section 76(5) — relating to Pleasant Grove
Circle, Falcon 271

Proposals —

Proposal under the Land Administration Act 1997 Submission No. 1/2017 for the
excision of land from Class A Reserve No. 18705 272

4. Pilbara Port Assets (Disposal) Repeal Bill 2017

Non-Government Business No. 1 having been called, Hon Robin Chapple, pursuant to notice, moved —

That a Bill for “An Act to repeal the *Pilbara Port Assets (Disposal) Act 2016*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

Hon Robin Chapple moved, That the Bill be read a second time.

Hon Robin Chapple tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 274).

Debate stands adjourned.

5. Criminal Code Amendment (Industrial Manslaughter) Bill 2017

Non-Government Business No. 2 having been called, Hon Alison Xamon, 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.

Hon Alison Xamon moved, That the Bill be read a second time.

Hon Alison Xamon tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 275).

Debate stands adjourned.

6. Prevention of Forced Closure of Remote Aboriginal Communities Bill 2017

Non-Government Business No. 3 having been called, Hon Robin Chapple, pursuant to notice, moved —

That a Bill for “*An Act to provide for the prevention of the forced closure of remote Aboriginal communities.*” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

Hon Robin Chapple moved, That the Bill be read a second time.

Hon Robin Chapple tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 276).

Debate stands adjourned.

7. Health Care of People in Custody

Non-Government Business No. 4 having been called, Hon Alison Xamon moved, without notice —

That this Council —

- (a) recognises the health needs of men, women and children in Western Australian prisons and in Banksia Hill Detention Centre;
- (b) acknowledges that people in custody are entitled to receive the same level of access and quality of health care as the general population;
- (c) notes that prisoners and young people in detention are excluded from Medicare; and
- (d) calls on the State Labor Government to call on the federal Minister for Health to end prisoners’ exclusion from Medicare.

Debate ensued.

Motion lapsed.

8. Order of Business

Ordered — That Orders of the Day Nos 1, *Firearms Amendment Regulations 2017 — Disallowance*, and 2, *Road Traffic (Vehicles) Amendment Regulations (No. 2) 2017 — Disallowance*, be taken after Order of the Day No. 4, *Constitution Amendment (Demise of the Crown) Bill 2017*. (Leader of the House).

9. Order of Business

Ordered — That Order of the Day No. 6, *Joint Standing Committee on Delegated Legislation — Establishment*, be taken forthwith. (Leader of the House).

10. Joint Standing Committee on Delegated Legislation — Establishment

The Order of the Day having been read for the consideration of Legislative Assembly Message No. 5 as follows —

Madam President

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution —

That the House agrees to the resolution of the Legislative Council referred to in Legislative Council Message No. 1, subject to the following amendment to which the Legislative Assembly requests the concurrence of the Legislative Council:

No. 1

Delete paragraph 10.8.

Acting Speaker

Mr I.C. Blayney

Legislative Assembly Chamber

Perth, 13 June 2017

Which proposes to amend Legislative Council Message No. 1, which follows —

Mr Speaker

The Legislative Council acquaints the Legislative Assembly that it has passed the following resolution and invites the Legislative Assembly to concur with the resolution —

That the Legislative Assembly be invited to agree to the rules and orders of the Legislative Council contained in the schedule for the constitution, powers and procedure of a Joint Standing Committee on Delegated Legislation.

A copy of the proposed Standing Orders Clause 10 of Schedule 1 is attached.

Hon Kate Doust

President of the Legislative Council

Legislative Council Chamber

Perth, 24 May 2017

SCHEDULE

10. Joint Delegated Legislation Committee

10.1 A *Joint Delegated Legislation Committee* is established.

10.2 The Committee consists of 8 Members, 4 of whom are appointed from each House. The Chair must be a Member of the Committee who supports the Government.

10.3 A quorum is 4 Members of whom at least one is a Member of the Council and one a Member of the Assembly.

10.4 (a) A report of the Committee is to be presented to each House by a Member of each House appointed for the purpose by the Committee.

(b) Where a notice of motion to disallow an instrument has been given in either House pursuant to recommendation of the Committee, the Committee shall present a report to both Houses in relation to that instrument prior to the House's consideration of that notice of motion. If the Committee is unable to report a majority position in regards to the instrument, the Committee shall report the contrary arguments.

10.5 Upon its publication, whether under section 41(1)(a) of the *Interpretation Act 1984* or another written law, an instrument stands referred to the Committee for consideration.

- 10.6 In its consideration of an instrument, the Committee is to inquire whether the instrument —
- (a) is within power;
 - (b) has no unintended effect on any person's existing rights or interests;
 - (c) provides an effective mechanism for the review of administrative decisions; and
 - (d) contains only matter that is appropriate for subsidiary legislation.
- 10.7 It is also a function of the Committee to inquire into and report on —
- (a) any proposed or existing template, pro forma or model local law;
 - (b) any systemic issue identified in 2 or more instruments of subsidiary legislation; and
 - (c) the statutory and administrative procedures for the making of subsidiary legislation generally, but not so as to inquire into any specific proposed instrument of subsidiary legislation that has yet to be published.
- 10.8 In relation to the constitution, powers and procedure of the Joint Standing Committee on Delegated Legislation —
- (a) The Standing Orders applicable to committees of the Legislative Council will apply to the Committee's proceedings except to the extent that they impinge upon the functioning of the Committee;
 - (b) Legislative Assembly Standing Orders 249(1), (2) and (3), 252, 254, 262, 263 and 264 will apply to the Legislative Assembly Members of the Committee;
 - (c) Any Member of the Legislative Council or Legislative Assembly may participate in the taking of oral evidence by the Committee, and by leave of the Committee, its deliberations and proceedings but may not vote, move any motion, or be counted for the purpose of a quorum;
 - (d) Leave under (c) may be given only for a specific inquiry, but any Member of the Legislative Council or Legislative Assembly may be given leave in relation to more than one inquiry.
- 10.9 In this order —
- “instrument” means —
- (a) subsidiary legislation in the form in which, and with the content it has, when it is published;
 - (b) an instrument, not being subsidiary legislation, that is made subject to disallowance by either House under a written law;
- “subsidiary legislation” has the meaning given to it by section 5 of the *Interpretation Act 1984*.

The Leader of the House moved, without notice —

That in response to Legislative Assembly Message No. 5, the Legislative Council agrees to the Legislative Assembly's proposed amendment and appoints the following Members to the Joint Standing Committee on Delegated Legislation —

Hon Robin Chapple;
 Hon Martin Pritchard;
 Hon Kyle McGinn; and
 Hon Charles Smith,

and that the Legislative Assembly be advised of this resolution and of these appointments.

Motion — put and passed.

Legislative Assembly acquainted accordingly.

11. Address-In-Reply

The Order of the Day having been read for the adjourned debate on the Address-in-Reply.
Debate resumed.

Hon Martin Aldridge, by leave, tabled documents relating to the costing of the Liberal Party Election Commitments for the 2017 Western Australian State Government Election. (Tabled paper 277).

On the motion of Hon Ken Baston the debate was adjourned to the next sitting.

12. Loan Bill 2017

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

13. Questions Without Notice

Questions without notice were taken.

The Minister for Environment representing the Minister for Transport tabled the *Public Transport Authority Annual Report 2015-16*, in response to a question without notice asked by Hon Martin Aldridge. (Tabled Paper 278).

The Minister for Environment representing the Minister for Corrective Services, by leave, incorporated into *Hansard* information in relation to parole cancellations for reoffending in 2007-2015, in response to a question without notice asked by Hon Simon O'Brien.

The Minister for Environment representing the Minister for Transport tabled documents in relation to advertisements approved for display on Transperth buses, in response to question on notice No. 3 asked by Hon Nick Goiran. (Tabled Paper 279).

14. Loan Bill 2017

Debate resumed on the second reading of this Bill (*see item 12 above*).

Interruption pursuant to order.

15. Members' Statements

Statements were taken.

16. Supply Bill 2017

The President reported the receipt of Message No. 8 from the Legislative Assembly forwarding the Bill for concurrence.

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

Question — put and passed.

Bill read a first time.

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

The Minister for Environment representing the Treasurer tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 280).

Debate stands adjourned.

17. Adjournment

The Council adjourned at 5.46pm until Tuesday, 20 June 2017 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Jacqui Boydell, Hon Alannah MacTiernan, Hon Michael Mischin and Hon Darren West.

NIGEL PRATT
Clerk of the Legislative Council

HON KATE DOUST MLC
President of the Legislative Council