

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 149

THURSDAY, 17 SEPTEMBER 2015

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

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

2. Statement by President — Emergency Familiarisation Exercises

The President made the following Statement —

Next Tuesday, 22 September 2015, the Parliament will be conducting emergency familiarisation exercises at approximately 1.50pm, prior to the House's sitting. During the exercises two distinctly different sounding alarm signals will be tested. Members will not be required to do anything; however, these exercises may provide valuable information to Members about what to expect in the event that either alarm signal is activated.

Prior to the exercises, the Speaker and I have authorised the Usher of the Black Rod and the Sergeant-at-Arms, respectively, to provide a short identical address to the Members of each House regarding the exercises. The information to be provided will seek to inform Members about each of the exercises and assist Members to make a decision about their actions. As these exercises will affect Members directly, I ask that all Members make themselves available to attend the Chamber from 1.45pm on Tuesday in order to hear the addresses from the Usher of the Black Rod and to familiarise themselves with the alarm signals. A follow-up email will be sent on Monday afternoon to remind Members of the exercises.

3. Papers

The following Papers were laid on the Table by —

Attorney General

Response to Reports —

Joint Standing Committee on the Corruption and Crime Commission — Parliamentary Inspector's Report on Misconduct and Related Issues in the Corruption and Crime Commission (Report No. 19) (Attorney General) 3287

Joint Standing Committee on the Corruption and Crime Commission — Recent Amendments to the Corruption and Crime Commission Act 2003 — Some Implications for Western Australia's Integrity Framework (Report No. 21) (Attorney General) 3288

Minister for Agriculture and Food

Annual Reports —

Water Corporation (2014-2015) (Date received 16/09/2015) 3289

4. Joint Standing Committee on the Corruption and Crime Commission — Report No. 24 — Annual Report 2014-15

Hon Nick Goiran presented Report No. 24 of the Joint Standing Committee on the Corruption and Crime Commission, *Annual Report 2014-15*. (Tabled Paper 3290).

5. Standing Committee on Estimates and Financial Operations — Report No. 54 — 2014-15 Annual Report Hearings: Sitting Schedule

Hon Ken Travers presented Report No. 54 of the Standing Committee on Estimates and Financial Operations, *2014-15 Annual Report Hearings: Sitting Schedule*. (Tabled Paper 3291).

6. Shire of Ravensthorpe Fencing Local Law 2015 — Disallowance

Hon Peter Katsambanis: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Ravensthorpe Fencing Local Law 2015* published in the *Gazette* on 22 May 2015 and tabled in the Legislative Council on 16 June 2015 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper No. 2929).

7. South Coast Crustacean Managed Fishery Management Plan 2015 — Disallowance

Hon Peter Katsambanis: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *South Coast Crustacean Managed Fishery Management Plan 2015* published in the *Gazette* on 29 May 2015 and tabled in the Legislative Council on 16 June 2015 under the *Fish Resources Management Act 1994*, be and is hereby disallowed. (Tabled paper No. 2942).

8. Climate Change and the Impact on Human Health

Non-Government Business No. 1 having been called, Hon Lynn MacLaren moved, without notice —

Recognising the *AMA position statement on Climate Change and Human Health*, which states that climate change is a serious threat to Australians' health, this Council asks the Barnett Government to implement a strategic response to the human health impacts of climate change in Western Australia.

Debate ensued.

Motion lapsed.

9. Repeal of the Genetically Modified Crop Free Areas Act 2003

Private Members' Business No. 1 having been called, Hon Paul Brown moved, without notice —

That this House recognises the benefits to the State that repeal of the *Genetically Modified Crop Free Areas Act 2003* will bring through increased confidence in investment and in research and development extension in agriculture.

Debate ensued.

Motion lapsed.

10. Alumina Refinery (Mitchell Plateau) Agreement (Termination) Bill 2015

The Deputy President reported the receipt of Message No. 119 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 3292).

Debate stands adjourned.

11. Order of Business

Ordered — That Orders of the Day Nos 1, *City of Fremantle Plastic Bag Reduction Local Law 2015 — Disallowance*, and 2, *Regulation 6(1) of the Conservation and Land Management Amendment Regulations 2015 — Disallowance*, be taken after Order of the Day No. 6, *Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015*. (Leader of the House).

12. Partial Revocation of State Forest Nos 14, 22, 23, 39, 49 and 65

The Order of the Day having been read for the consideration of Legislative Assembly Message No. 116 as follows —

That the proposal for the partial revocation of State Forest No. 14, 22, 23, 39, 49 and 65, laid on the Table of the Legislative Assembly on Tuesday 11 August 2015, by command of Her Excellency the Governor, be carried out.

The Minister for Mental Health representing the Minister for Environment moved, without notice —

That in response to Legislative Assembly Message No. 116, the proposal for the Partial Revocation of State Forest Nos 14, 22, 23, 39, 49 and 65, laid on the Table of the Legislative Council on Tuesday, 11 August 2015, by command of Her Excellency the Governor be carried out, and that the Legislative Assembly be acquainted accordingly.

Debate ensued.

Question — put and passed.

13. Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015

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 Robin Chapple, as follows —

That the *Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015* be discharged and referred to the Standing Committee on Legislation for consideration and report not later than 20 August 2015.

14. Questions Without Notice

Questions without notice were taken.

The Minister for Housing, by leave incorporated into *Hansard*, documents in relation to all current and ongoing maintenance jobs in Brownlie Towers, in response to a question without notice asked by Hon Kate Doust.

The Parliamentary Secretary representing the Minister for Health, by leave incorporated into *Hansard*, documents in relation to the rates of whooping cough vaccination in Bridgetown, Nannup, Boyup Brook and Manjimup, in response to a question without notice asked by Hon Sally Talbot.

15. Statement by President — Parliamentary Questions — Freedom of Information Act 1992

The President made the following Statement —

As Members are aware, when asked questions in this place, Ministers may answer a question in any way they choose, subject to the answer being in conformity with the Standing Orders and the practice and custom of this House. There is no obligation to provide an answer. If an answer is provided, Standing Order 106 requires the answer to be concise and relevant to the question. It is well settled that Ministers are responsible to this House for their answers, even when those answers are provided in their representative capacity.

I have noted recently that in response to questions asked in this place, Ministers have often referred Members to the *Freedom of Information Act 1992* as a method for obtaining the requested documents. A Minister has also declined a request to table documents on the ground that the relevant agency is considering an application under the FOI Act for these same documents. Many Members would be aware that the FOI Act arose from a recommendation of the Royal Commission into Commercial Activities of Government and Other Matters. Reference to the royal commission reports, the reports of the subsequent Commission on Government and the second reading debates on the FOI Act demonstrates that the Act was

always intended to operate in addition to the accountability function provided by the Parliament. In this respect, I remind all Members of the following comments of the royal commission in the second chapter of its second report—

Parliament is the primary instrument through which the public should be able to obtain much of its knowledge about the conduct of government in all its manifestations. Many of our recommendations aim to enhance this role for the Parliament.

In my view, the primary purpose of this House in achieving its accountability objectives would be undermined if the FOI Act came to be seen as a substitute for the accountability functions provided by this Chamber. One accountability mechanism used by this House is the seeking of information from Ministers by the asking of questions. I take this opportunity to strongly encourage Ministers not to frame their answers in a way that gives an impression that the tabling of documents requested by a Member is in any way dependent upon the outcome of an FOI Act application.

16. Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015

Debate resumed on the motion of Hon Robin Chapple, as follows (*see item 13 above*) —

That the *Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015* be discharged and referred to the Standing Committee on Legislation for consideration and report not later than 20 August 2015.

Interruption pursuant to order.

17. Statement by President — Grant and Michelle Hitchcock

The President made the following Statement —

On Saturday, Usher of the Black Rod, Grant Hitchcock, will be walking down the aisle and marrying Michelle. They will be attended by their children, Ethan and Ava, as part of the bridal party. Congratulations and best wishes to Grant and Michelle.

18. Adjournment

The Council adjourned at 5.21pm until Tuesday, 22 September 2015 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Martin Aldridge, Hon Stephen Dawson, Hon Phil Edman, Hon Rick Mazza and Hon Amber-Jade Sanderson (*leave of absence*).

NIGEL PRATT
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council