

WESTERN AUSTRALIA  
**LEGISLATIVE COUNCIL**  
**MINUTES OF PROCEEDINGS**  
**No. 90**  
**WEDNESDAY, 31 OCTOBER 2018**

**1. Meeting of Council**

The Council assembled at 1.00pm pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

**2. Message from His Excellency the Governor — Assent to Bills**

The President reported the receipt of a Message from His Excellency the Governor assenting to the following Bills —

<b>30 October 2018 — Message No. 29</b>	<b>Act No.</b>
Transport (Road Passenger Services) Act 2018	26 of 2018
Transport (Road Passenger Services) Amendment Act 2018	27 of 2018

**3. Papers**

The following Papers were laid on the Table by —

**President**

*Auditor General's Papers —*

Opinion on Ministerial Notification (Report No. 6) (October 2018–19) ..... 2123

**Minister for Environment**

*Annual Reports —*

Waste Authority (2017–2018) (Date received 30/10/2018) ..... 2124

**4. Select Committee into the Government's Local Project Local Jobs program**

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

- (1) A Select Committee into the Government's *Local Projects Local Jobs* program is established.
- (2) The Select Committee is to inquire into the *Local Projects Local Jobs* program ("the program") with particular reference to the following —
  - (a) how each project was developed, evaluated and selected for funding;
  - (b) how payments were made and acquitted under each project to ensure financial probity and accountability;
  - (c) how actual or perceived conflicts of interest were declared and managed under each project;
  - (d) the number of projects funded and for each project the amount of funding provided and number of jobs created;

- (e) whether community, education, arts and sporting groups within the State were afforded an equal opportunity to access the program;
- (f) whether funding to the program affected the quantum of funds available for grants or other funding sources for community, education, arts and sporting groups within the State and if so in what way; and
- (g) any other related matter.
- (3) The Select Committee shall consist of five members.
- (4) The Select Committee is to report no later than twelve months after the Committee has been established.

The Leader of the House moved, without notice —

To amend the motion as follows —

- (1) Delete paragraph (1) and insert —

- (1) The Estimates and Financial Operations Committee shall conduct an inquiry into the Government's *Local Projects Local Jobs* program

- (2) Delete "Select" in paragraph (2).

- (3) Delete paragraph (3) and insert —

- (3) For the purposes of this inquiry only, the Hon Tjorn Sibma is appointed Chair of the Committee and the Hon Alanna Clohesy is appointed Deputy Chair.

- (4) Delete paragraph (4) and insert —

- (4) The Committee is to report no later than twelve months after the referral.

Debate ensued.

Amendment — put and passed.

Debate resumed.

*Point of Order*

Hon Stephen Dawson raised the following Point of Order —

Mr Acting President, we should be referred to across the Chamber as the honourable Members, not the Bolsheviks. I would ask the honourable Leader of the Opposition to withdraw that comment.

*Acting President's Ruling*

The Acting President ruled as follows —

The Deputy Leader of the House has moved a point of order with respect to comments made by the Leader of the Opposition. The standing practice of what constitutes unparliamentary language in this House comes down to context. On this occasion, I do not consider that the words used are unparliamentary. However, the practice in this place is that when a Member objects to certain words used, the Member is invited to withdraw those words as a courtesy. I invite the Member to withdraw those words; however, I will not insist on their withdrawal.

*Point of Order*

Hon Stephen Dawson raised the following Point of Order —

On a further point of order, Mr Acting President, I will ask that you take this ruling away, not today, but that you seek the advice of the President at another time. I am certainly offended by being called a Bolshevik. We are the Australian Labor Party, and for the Leader of the Opposition to suggest that we are some strange Russian group, which has a torrid history, is appalling. It does not matter that he has said it before. I will ask the President for a ruling in the

future. But I am offended by the use of that term. I am offended by the Leader of the Opposition suggesting that we are Bolsheviks.

*Acting President's Ruling*

The Acting President ruled as follows —

Deputy Leader of the House, there is no point of order. In the President's absence, I get to make the rulings on these matters. You have rights, as afforded to you in the Standing Orders, to challenge my ruling. I have given my ruling, and there is no point of order.

Debate resumed.

*Interruption pursuant to order.*

## 5. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

### In Committee

(Hon Martin Aldridge in the Chair)

#### **Joint Standing Committee on the Corruption and Crime Commission — Report No. 7 — Unfinished business — The Corruption and Crime Commission's response to the Committee's report on Dr Cunningham and Ms Atoms**

Hon Alison Xamon moved, That consideration be postponed until the next sitting.

Question — put and passed.

#### **Joint Standing Committee on the Corruption and Crime Commission — Report No. 8 — Matters arising from the Corruption and Crime Commission's Report on Operation Aviemore: Major Crime Squad Investigation into the Unlawful Killing of Joshua Warneke**

Debate resumed on the motion of Hon Jim Chown, That the Report be noted.

Hon Alison Xamon moved, That consideration be postponed until the next sitting.

Question — put and passed.

#### **Standing Committee on Estimates and Financial Operations — Report No. 76 — 2018-19 Budget Cycle — Part 1: Estimates hearings and related matters**

Debate resumed on the motion of the Minister for Environment, That the Report be noted.

*Interruption pursuant to order.*

The Acting President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the —

- (1) Joint Standing Committee on the Corruption and Crime Commission — Report No. 7 — *Unfinished business — The Corruption and Crime Commission's response to the Committee's report on Dr Cunningham and Ms Atoms* and postponed consideration to the next sitting.
- (2) Joint Standing Committee on the Corruption and Crime Commission — Report No. 8 — *Matters arising from the Corruption and Crime Commission's Report on Operation Aviemore: Major Crime Squad Investigation into the Unlawful Killing of Joshua Warneke* made progress and postponed further consideration to the next sitting.
- (3) Standing Committee on Estimates and Financial Operations — Report No. 76 — *2018-19 Budget Cycle — Part 1: Estimates hearings and related matters* made progress and seeks to sit again.

Report adopted.

## 6. Order of Business

Ordered — That Orders of the Day Nos 1, *City of Kalgoorlie-Boulder Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2018 — Disallowance*, 2, *City of Kalgoorlie-Boulder Local Government Property Amendment Local Law 2018 — Disallowance*, 3, *Health Services (Information) Amendment Regulations 2018 — Disallowance*, 4, *Environmental*

*Protection Amendment Regulations (No. 2) 2018 — Disallowance, 5, Water Services Regulations Amendment (Fees and Charges) Regulations 2018 — Disallowance, 6, Commerce and Industrial Relations Regulations Amendment (Fees and Charges) Regulations 2018 — Disallowance, 7, Planning and Development (Development Assessment Panels) Amendment Regulations 2018 — Disallowance, 8, Public Transport Authority Amendment Regulations 2018 — Disallowance, 9, Shire of Morawa Fencing Local Law 2018 — Disallowance, and 10, Western Australian Meat Industry Authority Amendment Regulations (No. 2) 2018 — Disallowance, be taken after Order of the Day No. 15, Local Government Amendment (Suspension and Dismissal) Bill 2018. (Minister for Environment).*

## **7. Strata Titles Amendment Bill 2018**

The Minister for Environment representing the Minister for Lands moved, That the report be adopted.  
Report adopted.

The Minister for Environment representing the Minister for Lands moved, without notice —

That so much of Standing Orders be suspended so as to enable the *Strata Titles Amendment Bill 2018* to be read a third time.

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.

The Minister for Environment representing the Minister for Lands moved, That the Bill be read a third time.

The President announced that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Question — put and passed.

Bill read a third time and passed.

## **8. Questions Without Notice**

Questions without notice were taken.

The Minister for Regional Development tabled details of a wave energy meeting, in response to a question without notice asked by Hon Peter Collier. (Tabled Paper 2125).

The Minister for Environment representing the Minister for Transport tabled documents in relation to the Metronet Thornlie Cockburn Link, in response to a question without notice asked by Hon Michael Mischin. (Tabled Paper 2126).

The Minister for Education and Training tabled documents in relation to the School of Isolated and Distance Education language courses, in response to a question without notice asked by Hon Donna Faragher. (Tabled Paper 2127).

The Parliamentary Secretary to the Minister for Health tabled the Mental Health Commission Drug Attitudes 2016 summary report and presentation, in response to a question without notice asked by Hon Alison Xamon. (Tabled Paper 2128).

The Minister for Environment tabled a fact sheet on assessing whether material is waste, produced by the Department of Water and Environmental Regulation, in response to a question without notice asked by Hon Dr Steve Thomas. (Tabled Paper 2129).

The Minister for Regional Development representing the Minister for Racing and Gaming, in accordance with Standing Order No. 108(2), advised that an answer to question on notice No. 1656 asked by Hon Colin Holt will be provided on 8 November 2018.

## **9. Community Titles Bill 2018 and Community Titles Amendment (Consistency of Charging) Bill 2018**

The Orders of the Day for the further consideration of these Bills, in Committee of the Whole House, having been read.

The President left the Chair.

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**In Committee**

(Hon Dr Steve Thomas in the Chair)

***Community Titles Bill 2018***

Clause 148.

Debate resumed.

The Minister for Environment representing the Minister for Lands moved —

Page 177, line 12 — To delete the words “the independent person must”.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 149.

The Minister for Environment representing the Minister for Lands moved —

Page 178, lines 25 to 28 — To delete the lines and insert:

- (b) if all or part of the tier parcel of the community titles scheme is or is included in a retirement village within the meaning of the *Retirement Villages Act 1992* — serve notice of the application on the Commissioner within the meaning of that Act; and

Debate ensued.

Amendment — put and passed.

The Minister for Environment representing the Minister for Lands moved —

Page 184, after line 13 — To insert:

- (18A) If the Tribunal orders a person under subsection (18)(b) to take steps for the discharge, withdrawal or removal of an estate, interest or right the Tribunal may order the proponent or the owner of a lot in the community titles scheme to make a payment to that person in respect of the discharge, withdrawal or removal of the estate, interest or right.
- (18B) If the whole or part of the tier parcel of a community titles scheme is subject to a residential tenancy agreement within the meaning given in the *Residential Tenancies Act 1987* section 3, the Tribunal may order that on the termination of the community titles scheme —
  - (a) the tenant and the lessor must terminate the residential tenancy agreement under that Act; and
  - (b) the premises subject to the residential tenancy agreement are taken for the purposes of section 69 of that Act to cease to be lawfully usable as a residence; and
  - (c) if the tenant is given notice of termination under section 69 of that Act, then despite section 69(2) of that Act the period of notice must be not less than a period specified by the Tribunal; and
  - (d) the proponent or the owner of a lot in the scheme is to make a payment to the tenant under the residential tenancy agreement in respect of the termination of the residential tenancy agreement.
- (18C) If the whole or part of the tier parcel of a community titles scheme is subject to a retail shop lease within the meaning given in the *Commercial Tenancy (Retail Shops) Agreements Act 1985* section 3(1), then despite anything in that Act the Tribunal may order that —
  - (a) the retail shop lease is terminated on the termination of the community titles scheme; and

- (b) the proponent or the owner of a lot in the scheme is to make a payment to the tenant under the retail shop lease in respect of the termination of the retail shop lease.
- (18D) If the whole or part of the tier parcel of a community titles scheme is subject to a lease or licence not referred to in subsection (18B) or (18C), the Tribunal may, subject to any other written law, order that —
- (a) the lease or licence is terminated on the termination of the community titles scheme; and
  - (b) the proponent or the owner of a lot in the scheme is to make a payment to the lessee or licensee in respect of the termination of the lease or licence.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 150

The Minister for Environment representing the Minister for Lands moved —

Page 185, lines 17 and 18 — To delete “modifications set out in the regulations.” and insert:

appropriate modifications.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 151 to 158 agreed to.

Clause 159

The Minister for Environment representing the Minister for Lands moved —

Page 193, lines 3 to 13 — To delete the lines and insert:

(1) The regulations —

- (a) must require the proponent of a termination proposal to enter into specified arrangements for the owners of lots in the community titles scheme proposed to be terminated to obtain independent advice or representation in connection with the proposal; and
- (b) must specify arrangements for obtaining fuller or more extensive advice or representation for a class or classes of owner identified in or under the regulations as vulnerable, having regard to —
  - (i) age, illness, trauma, disability or other factors that may impair the ability of an owner to consider and make an informed decision in relation to a termination proposal; or
  - (ii) financial disadvantage which would significantly impair the ability of the owner to bear the cost of obtaining appropriate professional advice in relation to a termination proposal.

(2) Without limitation, the arrangements may include a requirement for the proponent of a termination proposal to pay an amount to a trustee to be held in trust for owners to obtain independent legal advice or representation, valuation advice or reports or financial or taxation advice in connection with the proposal.

(3) The regulations may specify terms of a trust referred to in subsection (2).

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 160.

The Minister for Environment representing the Minister for Lands moved —

Page 194, lines 1 to 5 — To delete the lines and insert:

- (3) The *Planning and Development Act 2005* applies to the required approval subject to —
  - (a) the modification that a reference to subdivision is to be read as including a reference to termination of a community scheme; and
  - (b) any other appropriate modifications.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 161.

Debate ensued.

Clause agreed to.

Clause 162.

Debate ensued.

Clause agreed to.

Clauses 163 to 224 agreed to.

Clause 225.

The Minister for Environment representing the Minister for Lands moved —

Page 231, lines 15 to 17 — To delete the lines and insert:

the meaning of the *Community Titles Act 2018*.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 226 to 273 agreed to.

Title agreed.

***Community Titles Amendment (Consistency of Charging) Bill 2018***

Clause 1 agreed to.

Clauses 2 to 4 agreed to.

Title agreed to.

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The Acting President resumed the Chair.

*Community Titles Bill 2018* reported with amendments.

*Community Titles Amendment (Consistency of Charging) Bill 2018* reported without amendment.

Ordered — That consideration of the Committee's Report be made an Order of the Day for the next sitting.

# 10. Criminal Law Amendment (Intimate Images) Bill 2018

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

Debate resumed.

Question — put and passed.

Bill read a second time.

Ordered — That consideration of the Bill, in Committee of the Whole House, be made an Order of the Day for the next sitting.

# 11. Order of Business

Ordered — That Order of the Day No. 1, *City of Kalgoorlie-Boulder Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2018 — Disallowance*, and 2, *City of Kalgoorlie-Boulder Local Government Property Amendment Local Law 2018 — Disallowance* be taken forthwith. (Leader of the House).

# 12. Cognate Debate — City of Kalgoorlie-Boulder Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2018 — Disallowance and City of Kalgoorlie-Boulder Local Government Property Amendment Local Law 2018 — Disallowance

The Leader of the House sought leave of the Council to debate Order of the Day No. 1, *City of Kalgoorlie-Boulder Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2018 — Disallowance*, and Order of the Day No. 2, *City of Kalgoorlie-Boulder Local Government Property Amendment Local Law 2018 — Disallowance*, cognately [SO 127].

Leave granted.

# 13. City of Kalgoorlie-Boulder Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2018 — Disallowance and City of Kalgoorlie-Boulder Local Government Property Amendment Local Law 2018 — Disallowance

Pursuant to SO 67(3) the following motions were moved *pro forma* by Hon Robin Chapple —

- (1) That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Kalgoorlie-Boulder Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2018* published in the *Gazette* on 4 May 2018 and tabled in the Legislative Council on 8 May 2018 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper No. 1303).
- (2) That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Kalgoorlie-Boulder Local Government Property Amendment Local Law 2018* published in the *Gazette* on 4 May 2018 and tabled in the Legislative Council on 8 May 2018 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled paper No. 1303).

Debate ensued.

Question — That the *City of Kalgoorlie-Boulder Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2018 — Disallowance* published in the *Gazette* on 4 May 2018 and tabled in the Legislative Council on 8 May 2018 under the *Local Government Act 1995*, be and is hereby disallowed.

Question — put and passed.

Question — That the *City of Kalgoorlie-Boulder Local Government Property Amendment Local Law 2018 — Disallowance* published in the *Gazette* on 4 May 2018 and tabled in the Legislative Council on 8 May 2018 under the *Local Government Act 1995*, be and is hereby disallowed.

Question — put and passed.

**14. Legislation Bill 2018**

The President reported the receipt of Message No. 92 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Attorney General 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 Attorney General moved, That the Bill be read a second time.

The Leader of the House representing the Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 2130).

Debate stands adjourned.

**15. Members' Statements**

Statements were taken.

Hon Robin Chapple tabled a document from the Fortescue Metals Group, programme of work application for groundwater exploration activities in the Stingray area. (Tabled paper 2131).

**16. Adjournment**

The Council adjourned at 6.54pm until Thursday, 1 November 2018 at 10.00am.

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

Attendance: Present all Members except Hon Adele Farina, Hon Kyle McGinn (leave of absence) and Hon Simon O'Brien.

**NIGEL PRATT**

Clerk of the Legislative Council

**HON KATE DOUST MLC**

President of the Legislative Council