

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 229

WEDNESDAY, 12 SEPTEMBER 2012

1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

The Deputy President, Hon Matt Benson-Lidholm, took the Chair and read prayers.

2. Statement by Deputy President — Further Review of the Standing Orders

The Deputy President made the following Statement —

The *Procedure and Privileges Committee* has been progressing steadily with its further review of the Standing Orders. Pursuant to the resolution of the Council on 23 August 2012, this review now includes consideration of a proposed Standing Order in relation to the protection of the identity of journalists' informants, arising from the *Evidence and Public Interest Disclosure Legislation Amendment Bill 2011*.

As part of this review, I have arranged for a paper produced by the Committee to be distributed to Members today, which has been placed on Members' desks in the Chamber a few moments ago. This paper is being circulated to inform Members of the Committee's progress thus far with this review, and to invite Members' comments and further suggestions in relation to the Standing Orders.

As noted in the paper, Members may make a formal submission to the Committee if desired, but otherwise should feel free to provide any oral feedback directly to the Members of the *Procedure and Privileges Committee*, or to the Clerks. On behalf of the Committee, I ask that this feedback be provided by Friday, 21 September 2012.

Subsequent to this, the Committee's intent is to produce a final report to the Council for presentation during the sitting week ending Thursday, 27 September. As usual, upon presentation of the formal report, consideration of the report will be made an order of the day for a later sitting of the Council, and the matters within the report will be formally considered by the Council at a later date.

3. Petitions

Hon Linda Savage presented a petition from 21 petitioners requesting the Legislative Council to oppose uranium mining in Western Australia. (Tabled Paper 4906).

Hon Alison Xamon presented a petition from 250 petitioners requesting the Legislative Council to urge the Attorney General to review the laws pertaining to domestic violence. (Tabled Paper 4907).

4. Ministerial Statement — Western Australian Suicide Prevention Strategy

The Minister for Mental Health made a Ministerial Statement with respect to two new Community Action Plans in the Kimberley, under the Western Australian Suicide Prevention Strategy.

5. Papers

The following Papers were laid on the Table by —

Minister for Finance

Annual Reports —

State Government Insurance Corporation — Final Report 2012 (Date received 11/09/12)..... 4903

Minister for Child Protection

Response to Reports —

Joint Standing Committee on Delegated Legislation Report No. 51 — *Town of Bassendean Repeal Local Law 2010 and Town of Bassendean Dust and Sand Local Law 2011* (Minister for Local Government)..... 4904

Minister for Mental Health

Lease —

CALM Lease No. 950/97 — between CALM and the Shire of Collie for the purpose of an aircraft landing strip within a portion of State Forest No. 4 4905

6. Submission No. 13/2012 — Amendment to Class A Reserve 8485 and Cancellation of Class A Reserve 28535 — Disallowance

Hon Giz Watson: To move on the next day of sitting —

That *Submission No. 13/2012 — Amendment to Class A Reserve 8485 and Cancellation of Class A Reserve 28535* made under Section 42(4)(c) of the *Land Administration Act 1997* and tabled in the Legislative Council on 11 September 2012 be and is hereby disallowed. (Tabled Paper 4881).

7. Pilbara Cities — Development Strategy and Plan

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

That the Legislative Council calls on the Minister for Regional Development and the Premier to explain to the people of Western Australia the strategy and plan to develop the Pilbara Cities policy including —

- (a) how water will be supplied and how much it will cost;
- (b) how power will be supplied and how much it will cost;
- (c) how many new schools will be built and how the staff will be housed;
- (d) how many new ancillary health providers are required and how they will be housed; and
- (e) what the Government will do to ensure there is adequate affordable housing.

Question — put and passed.

8. State Suicide Prevention Strategy

Motion No. 2 having been called, Hon Ljiljanna Ravlich, pursuant to notice, moved —

That this Council condemns the Barnett Government for its failure to honour its election commitment to spend \$13 million in the first two years of government to develop a comprehensive Western Australian State Suicide Prevention Strategy with a particular emphasis on young people, young men, Aboriginal people and people who live in rural and regional Western Australia, and calls on the Government to support a coronial investigation into the rate of suicide.

Interruption pursuant to order.

9. Order of Business

The Leader of the House moved, without notice —

That Order of the Day No. 8, *Evidence and Public Interest Disclosure Legislation Amendment Bill 2011*, be taken forthwith.

Question — put and passed.

10. Evidence and Public Interest Disclosure Legislation Amendment Bill 2011

The Order of the Day having been read for the third reading of this Bill.

The Attorney General moved, That the Bill be read a third time.

The Deputy President having reported 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.

11. Questions Without Notice

Questions without notice were taken.

The Minister for Education tabled, and by leave incorporated into Hansard, documents in relation to teachers in the Kimberley, Pilbara and Gascoyne regions of Western Australia, in response to a question without notice asked by Hon Jon Ford. (Tabled Paper 4908).

The Minister for Education tabled documents in relation to projected year seven school enrolments based on continuing current enrolment practices, as at July 2012, in response to a question without notice asked by Hon Ed Dermer. (Tabled Paper 4909).

The Minister for Education tabled documents in relation to school networks organised by education region, as at July 2012, in response to a question without notice asked by Hon Ed Dermer. (Tabled Paper 4910).

The Minister for Finance representing the Treasurer, in accordance with Standing Order No. 107(2), advised that an answer to question on notice No. 5765 asked by Hon Lynn MacLaren will be provided on 20 September 2012.

12. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Standing Committee on Public Administration — Special Report

Hon Jon Ford moved, That the Report be noted.

Debate ensued.

Question — put and passed.

Joint Standing Committee on the Corruption and Crime Commission — Report No. 28 — Proceeds of crime and unexplained wealth: A role for the Corruption and Crime Commission?

Hon Nick Goiran moved, That consideration of the report be postponed to the next sitting.

Question — put and passed.

Joint Standing Committee on the Corruption and Crime Commission — Report No. 29 — Guarding the guardians

Hon Nick Goiran moved, That consideration of the report be postponed to the next sitting.

Question — put and passed.

The Deputy President resumed the Chair.

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

Standing Committee on Public Administration — Special Report — and had noted same.
Report adopted.

13. Standing Committee on Procedure and Privileges — Referral of Standing Committee on Public Administration — Special Report

The Leader of the House moved, without notice —

That, *Consideration of Committee Reports Item No. 1, Standing Committee on Public Administration — Special Report* be referred to the Procedure and Privileges Committee, so as to inquire into the impact of sections 4, 23 and 46 of the *Auditor General Act 2006*, and to report back to the Council by no later than Tuesday, 27 November 2012.

Question — put and passed.

14. Standing Committee on Legislation — Report No. 19 — Revenue Laws Amendment Bill 2012

Hon Donna Faragher presented Report No. 19 of the Standing Committee on Legislation in relation to the *Revenue Laws Amendment Bill 2012*. (Tabled Paper 4911).

15. Order of Business

Ordered — That Bills for Introduction be taken forthwith. (Leader of the House)

16. Building Amendment Bill 2012

The Minister for Commerce, pursuant to notice, moved —

That a Bill for “An Act to amend the *Building Act 2011* and validate certain actions and for related matters.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Commerce moved, That the Bill be read a second time.

The Minister for Commerce tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4912).

Debate stands adjourned.

17. Disability Services Amendment Bill 2012

The Minister for Disability Services, pursuant to notice, moved —

That a Bill for “An Act to amend the *Disability Services Act 1993*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Disability Services moved, That the Bill be read a second time.

Debate stands adjourned.

18. Child Support (Adoption of Laws) Amendment Bill 2012

The Attorney General, pursuant to notice, moved —

That a Bill for “An Act to amend the *Child Support (Adoption of Laws) Act 1990*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

The Attorney General moved, That the Bill be read a second time.

The Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4913).

Debate stands adjourned and the Bill referred to the Standing Committee on Uniform Legislation and Statutes Review [SO 126].

19. Order of Business

Ordered — That Orders of the Day Nos 1, *Liquor Control Amendment Regulations (No. 10) 2011 — Disallowance*, 2, *Town of Bassendean Repeal Local Law 2010 — Disallowance*, 3, *Town of Bassendean Dust and Sand Local Law 2011 — Disallowance*, 4, *Mindarie Regional Council Standing Orders Amendment Local Law 2012 — Disallowance*, and 5, *City of Bayswater Standing Orders Local Law 2012 — Disallowance*, be taken after Order of the Day No. 14, *Workers' Compensation and Injury Management Amendment (Jockeys) Bill 2012*. (Leader of the House).

20. Criminal Investigation (Covert Powers) Bill 2011

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

The Deputy President left the Chair.

In Committee

(Hon Brian Ellis in the Chair)

Clause 25.

Debate ensued.

The Attorney General representing the Minister for Police moved —

Page 21, line 7 — To insert after “hours” —

(or any longer period that the authorising officer may, in exceptional circumstances, allow)

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 26.

The Attorney General representing the Minister for Police sought leave to put a number of amendments as one question [SO 132(b)].

Leave denied.

The Attorney General representing the Minister for Police moved —

Page 23, line 4 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

Amendment — put and passed.

The Attorney General representing the Minister for Police moved —

Page 23, line 10 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

Amendment — put and passed.

The Attorney General representing the Minister for Police moved —

Page 23, line 12 — To delete “Parliamentary Commissioner’s” and insert —

Corruption and Crime Commission’s

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 27 to 29 agreed to.

Clause 30, as amended, agreed to.

Clauses 31 to 34 agreed to.

Clause 35.

The Attorney General representing the Minister for Police moved —

Page 28, lines 26 and 27 — To delete “an authorised operation” and insert —

a controlled operation for which an authority is or was in force

Amendment — put and passed.

The Attorney General representing the Minister for Police moved —

Page 29, after line 11 — To insert —

- (ca) for the purpose of seeking legal advice; or
- (cb) to a government agency for the purposes of a law enforcement operation conducted by that agency or for intelligence-gathering purposes; or

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 36.

Hon Adele Farina moved the following Committee Recommendation —

Page 30, after line 8 — To insert —

- (g) information as to whether —
 - (i) in the course of the operation, any person engaged in conduct of a kind authorised by the authority for the operation (the relevant conduct) when the person was not so authorised; and
 - (ii) any criminal activity other than the relevant conduct was engaged in during the operation; and
 - (iii) any person is, because of section 31, not criminally responsible for ancillary conduct (as defined in that section) related to the relevant conduct; and
 - (iv) any variations were made to an authority for the operation; and
 - (v) any of those variations were to extend the period of validity of the authority; and
 - (vi) any retrospective authority was granted in respect of the operation; and
 - (vii) any urgent authority was granted in respect of the operation, and if so, whether the conduct authorised by that authority should, in the opinion of the principal law enforcement officer, have been authorised by a formal authority instead; and
 - (viii) any conditions of an authority for the operation were breached; and

- (ix) any loss of or serious damage to property, or any personal injuries, occurred as an indirect result of the operation.

Debate ensued.

Amendment — put and negatived.

The Attorney General representing the Minister for Police moved —

Page 30, after line 8 — To insert —

- (g) details (to the extent known) of any loss of or serious damage to property, or any personal injuries, occurring as an indirect result of the operation;
- (h) information as to whether —
 - (i) in the course of the operation, any participant engaged in unlawful conduct (other than controlled conduct that the participant was authorised to engage in for the purposes of the operation); and
 - (ii) any unlawful conduct (other than controlled conduct) was engaged in during the operation; and
 - (iii) any person is, because of section 31, not criminally responsible for ancillary conduct (as defined in that section); and
 - (iv) any variations were made to an authority for the operation; and
 - (v) any of those variations were to extend the period of validity of the authority; and
 - (vi) any retrospective authority was granted in respect of the operation; and
 - (vii) any urgent authority was granted in respect of the operation; and
 - (viii) any conditions of an authority for the operation were breached.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 37.

The Attorney General representing the Minister for Police moved —

Page 30, line 12 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

Amendment — put and passed.

The Attorney General representing the Minister for Police moved —

Page 31, line 16 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 38.

The Attorney General representing the Minister for Police, by leave, moved —

Page 31, line 31 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

Page 32, lines 22 and 23 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

Amendments — put and passed.

Hon Adele Farina moved the following Committee Recommendation —

Page 32, lines 14 to 16 — To delete the lines and insert —

(3) The Minister must —

- (a) exclude information from the report if satisfied on the advice of the chief officer of any of the grounds set out in subsection (2); and
- (b) insert a statement to the effect that information has been excluded from the report under paragraph (a).

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 39.

Debate ensued.

Clause, as amended, agreed to.

Clause 40 agreed to.

Clause 41.

Hon Adele Farina moved the following Committee Recommendation —

Page 35, line 18 — To insert after “**Inspections**” —

and investigations

Debate ensued.

Amendment — put and negatived.

The Attorney General representing the Minister for Police, by leave, moved —

Page 35, line 20 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

Page 35, lines 30 and 31 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

Page 35, line 31 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

Page 36, line 1 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

Debate ensued.

Amendments — put and passed.

The Attorney General representing the Minister for Police moved —

Page 35, lines 25 to 28 — To delete the lines and insert —

- (2) For the purposes of an inspection under this section, the Corruption and Crime Commission —
 - (a) after notifying the chief officer of the law enforcement agency, may enter at any reasonable time premises occupied by the agency; and
 - (b) is entitled to have full and free access at all reasonable times to all records of the law enforcement agency that are relevant to the inspection; and
 - (c) may require a person employed or engaged in the law enforcement agency to give the Corruption and Crime Commission any information that the Corruption and Crime Commission considers necessary, being information that is in the person’s possession, or to which the person has access, and that is relevant to the inspection.
- (2A) The Corruption and Crime Commission may delegate to an officer of the Commission (as defined in the *Corruption and Crime Commission Act 2003* section 3(1)) a power or duty of the Corruption and Crime Commission under this section and, for that purpose, the *Corruption and Crime Commission Act 2003* section 185(3) to (6) apply as if the delegation were a delegation under section 185.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 42 agreed to.

Clause 43.

The Attorney General representing the Minister for Police moved —

Page 37, lines 3 to 12 — To delete the lines and insert —

senior officer means —

- (a) in relation to an authorising officer or chief officer who is the Commissioner of Police — a police officer of or above the rank of Commander; or
 - (b) in relation to an authorising officer or chief officer who is the Chief Executive Officer of the Australian Crime Commission —
 - (i) an SES employee as defined in the *Australian Crime Commission Act 2002* (Commonwealth) section 4(1); or
 - (ii) a person holding a prescribed office in the Australian Crime Commission;
- or

- (c) in relation to a chief officer who is the chief executive officer of the fisheries department — a fisheries officer holding a prescribed office in the department.

Amendment — put and passed.

The Attorney General representing the Minister for Police moved —

Page 37, line 14 — To delete “of a” and insert —

of an authorising officer or

Amendment — put and passed.

The Attorney General representing the Minister for Police moved —

Page 37, line 16 — To delete “chief officer of” and insert —

authorising officer for, or chief officer of,

Amendment — put and passed.

The Attorney General representing the Minister for Police moved —

Page 37, lines 17 and 18 — To delete “of the agency any of the chief officer’s” and insert —

any of his or her

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 44 agreed to.

Clause 45.

Hon Adele Farina moved the following Committee Recommendation —

Page 40, line 3 — To insert after “Part” —

for 30 years after the commencement of this section

Debate ensued.

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Clause 46 agreed to.

Clause 47, as amended, agreed to.

Clause 48.

Hon Adele Farina moved the following Committee Recommendation —

Page 42, lines 22 to 25 — To delete the lines.

Debate ensued.

Amendment — put and negatived.

Clause, as amended, agreed to.

Clause 49.

The Attorney General representing the Minister for Police moved —

Page 45, lines 13 to 15 — To delete the lines and insert —

- (7) The authorising officer must, as soon as practicable after granting an urgent authority, make a record in writing of the particulars referred to in subsection (5) relating to the authority.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 50 agreed to.

Clause 51.

The Attorney General representing the Minister for Police moved —

Page 47, lines 12 to 14 — To delete the lines and insert —

- (10) The authorising officer must, as soon as practicable after making an urgent variation of authority, make a record in writing of the particulars referred to in subsection (9) relating to the variation of authority.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 52.

The Attorney General representing the Minister for Police moved —

Page 48, lines 25 to 27 — To delete the lines and insert —

- (9) The authorising officer must, as soon as practicable after making an urgent cancellation of authority, make a record in writing of the particulars referred to in subsection (8) relating to the cancellation of authority.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 53, as amended, agreed to.

Clause 54 agreed to.

Clause 55.

The Attorney General representing the Minister for Police, by leave, moved —

Page 50, line 26 — To insert after “officer” —

of the law enforcement agency

Page 50, line 29 — To insert after “officer” —

of the law enforcement agency

Amendments — put and passed.

Clause, as amended, agreed to.

Clauses 56 and 57 agreed to.

Clause 58.

The Attorney General representing the Minister for Police moved —

Page 51, lines 23 and 24 — To delete “an authority granted under section 48 authorises” and insert —

the authorising officer for a law enforcement agency grants an authority under section 48 authorising

Amendment — put and passed.

The Attorney General representing the Minister for Police moved —

Page 51, line 25 — To delete “who grants the authority” and insert —

of the law enforcement agency

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 59 to 65 agreed to.

Clause 66.

The Attorney General representing the Minister for Police moved —

Page 55, line 10 — To insert after “officer” —

of the law enforcement agency

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 67 and 68 agreed to.

Clause 69.

The Attorney General representing the Minister for Police, by leave, moved —

Page 56, lines 22 and 23 — To delete “an authority granted under section 48 authorises” and insert —

the authorising officer for a law enforcement agency grants an authority under section 48 authorising

Page 56, line 24 — To delete “who grants the authority” and insert —

of the law enforcement agency

Amendments — put and passed.

Clause, as amended, agreed to.

Clauses 70 to 75 agreed to.

Clause 76.

Hon Adele Farina moved the following Committee Recommendation —

Page 61, line 11 — To delete “both Houses” and insert —

each House

Debate ensued.

Amendment — put and passed.

Hon Adele Farina moved the following Committee Recommendation —

Page 61, lines 18 to 20 — To delete the lines and insert —

- (3) The Minister must —
 - (a) exclude information from the report if satisfied on the advice of the chief officer of any of the grounds set out in subsection (2); and
 - (b) insert a statement to the effect that information has been excluded from the report under paragraph (a).

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 77 and 78 agreed to.

Clause 79.

The Attorney General representing the Minister for Police moved —

Page 63, lines 15 to 22 — To delete the lines and insert —

- (a) in relation to an authorising officer or chief officer who is the Commissioner of Police — a police officer of or above the rank of superintendent; or
- (b) in relation to an authorising officer or chief officer who is the Chief Executive Officer of the Australian Crime Commission —
 - (i) an SES employee as defined in the *Australian Crime Commission Act 2002* (Commonwealth) section 4(1); or
 - (ii) a person holding a prescribed office in the Australian Crime Commission;
- or
- (c) in relation to a chief officer who is the chief executive officer of the fisheries department — a fisheries officer holding a prescribed office in the department; or

Amendment — put and passed.

The Attorney General representing the Minister for Police, by leave, moved —

Page 63, line 28 — To delete “of a” and insert —

of an authorising officer or

Page 64, line 2 — To delete “of the agency any of the chief officer’s” and insert —

any of his or her

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 80.

Debate ensued.

Interruption pursuant to order.

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 sought to sit again.

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

21. Members' Statements

Statements were taken.

22. Adjournment

The Council adjourned at 10.18pm until Thursday, 13 September 2012 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Helen Bullock, Hon Mia Davies, Hon Barry House and Hon Max Trenorden.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON MATT BENSON-LIDHOLM
Deputy President of the Legislative Council