

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 160

TUESDAY, 25 SEPTEMBER 2007

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### 1. Meeting of Council

The Council assembled at 3.30pm pursuant to order.

The Acting President, Hon George Cash, took the Chair and read prayers.

### 2. Petition

Hon Giz Watson presented a petition, by delivery to the Clerk, [SO 130], from 2 313 residents of Western Australia requesting the Legislative Council to support maintaining Western Australia as a Genetically Modified (GM) Free Zone. (Tabled paper 3173).

### 3. Papers

The following Papers were laid on the Table by -

#### **Acting President**

##### *Auditor General's Papers -*

Audit Opinion - Financial Statements and Key Performance Indicators (Year ended 30 June 2007) for the Administration of the Department of the Legislative Council ..... 3163

Audit Opinion - Financial Statements and Key Performance Indicators (Year ended 30 June 2007) for the Administration of the Parliamentary Services Department ..... 3164

#### **Leader of the House**

##### *Response to Reports -*

Standing Committee on Legislation - Trans-Tasman Mutual Recognition (Western Australia) Bill 2005 Report No. 8 (Minister for Agriculture and Food)..... 3174

#### **Minister for Local Government**

##### *Annual Reports -*

Gold Corporation (2006-2007) (Date received 20/09/2007) ..... 3165

Government Employees Superannuation Board [GESB] (2006-2007) (Date received 20/09/2007) ..... 3166

Training Accreditation Council (2006-2007) (Date received 24/09/2007) ..... 3167

**Minister for Regional Development***Annual Reports -*

Western Australian Police - Surveillance Devices Act 1998 (2006-2007)  
(Date received 20/09/2007) ..... 3168

**Minister for Child Protection***Annual Reports -*

Electoral Commission (2006-2007) (Date received 25/09/2007)..... 3169

Legal Aid (2006-2007) (Date received 24/09/2007) ..... 3170

Registrar, Department of the - Western Australian Industrial Relations Commission,  
(2006-2007) (Date received 20/09/2007) ..... 3171

*Response to Reports -*

Standing Committee on Environment and Public Affairs - A Petition on Primary  
Midwifery Care (Minister for Health) ..... 3172

**4. Rights in Water and Irrigation Amendment Regulations 2007 - Disallowance**

Hon Ray Halligan: To move on the next day of sitting -

That the *Rights in Water and Irrigation Amendment Regulations 2007* published in the *Gazette* on 22 June 2007 and tabled in the Legislative Council on 27 June 2007 under the *Rights in Water and Irrigation Act 1914*, be and are hereby disallowed.

**5. City of Armadale - Signs Local Law 2007 - Disallowance**

Hon Ray Halligan: To move on the next day of sitting -

That the *City of Armadale - Signs Local Law 2007* published in the *Gazette* on 19 June 2007 and tabled in the Legislative Council on 27 June 2007 under the *Local Government Act 1995*, be and is hereby disallowed.

**6. Environmental Protection Amendment Regulations 2007 - Disallowance**

Hon Ray Halligan: To move on the next day of sitting -

That the *Environmental Protection Amendment Regulations 2007* published in the *Gazette* on 22 June 2007 and tabled in the Legislative Council on 27 June 2007 under the *Environmental Protection Act 1986*, be and are hereby disallowed.

**7. Curtin University of Technology - Statute No. 7 - The Council - Disallowance**

Hon Ray Halligan: To move on the next day of sitting -

That the *Curtin University of Technology - Statute No. 7 - The Council* published in the *Gazette* on 24 July 2007 and tabled in the Legislative Council on 29 August 2007 under the *Curtin University of Technology Act 1966*, be and is hereby disallowed.

**8. Rights in Water and Irrigation Amendment Regulations 2007 - Disallowance**

Hon Paul Llewellyn: To move on the next day of sitting -

That the *Rights in Water and Irrigation Amendment Regulations 2007* published in the *Gazette* on 22 June 2007 and tabled in the Legislative Council on 27 June 2007 under the *Rights in Water and Irrigation Act 1914*, be and are hereby disallowed.

## **9. Rights in Water and Irrigation Amendment Regulations 2007 - Disallowance**

Hon Barry House: To move on the next day of sitting -

That the *Rights in Water and Irrigation Amendment Regulations 2007* published in the *Gazette* on 22 June 2007 and tabled in the Legislative Council on 27 June 2007 under the *Rights in Water and Irrigation Act 1914*, be and are hereby disallowed.

## **10. Matter of Urgency - Regional Western Australia - Services and Infrastructure**

The Acting President read the following letter -

Dear Mr President

At today's sitting it is my intention to move under SO 72 that the Council consider, as a matter of urgency, that this House expresses its grave concern at the Carpenter Government's continued erosion of essential services and delays in the provision of infrastructure in Regional Western Australia.

Yours sincerely

Hon Nigel Hallett

Member for South West Region

Four members having risen in support.

Hon Nigel Hallett moved the motion.

Debate ensued.

*Motion lapsed.*

## **11. Statement by Acting President - Clerk of the Legislative Council and Clerk of the Parliaments**

The Acting President made the following Statement -

I am delighted to announce that the Governor, His Excellency, Dr Ken Michael AC in Executive Council today, approved the appointment of Mr Malcolm Peacock as Clerk of the Legislative Council and Clerk of the Parliaments.

Mr Peacock is well regarded for his high level of professionalism and extensive Parliamentary experience of 23 years.

I congratulate Mr Peacock on his appointment.

## **12. Order of Business**

Ordered - That Orders of the Day Nos 456, *Road Traffic (Charges and Fees) Amendment Regulations (No. 3) 2007 - Disallowance* and 457, *Motor Vehicle Drivers Instructors Amendment Regulations (No. 2) 2007 - Disallowance*, be taken after Order of the Day No. 371, *Police Amendment Bill 2006*. (Leader of the House).

## **13. State Superannuation Amendment Bill 2007**

The Order of the Day having been read for the consideration of the Committee's report upon this Bill.

The Minister for Local Government on behalf of the Parliamentary Secretary representing the Treasurer moved, That the report be adopted.

Question - put and passed.

Ordered - That the third reading of the Bill be made an Order of the Day for the next sitting.

## **14. Water Resources Legislation Amendment Bill 2006**

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

The Acting President left the Chair.

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**In Committee**

(Hon George Cash in the Chair)

Clause 1.

Debate ensued.

*Want of Quorum*

There not being a quorum present, the Chairman of Committees gave instructions for the ringing of the Bells.

A quorum being formed, the debate continued.

**15. Questions Without Notice**

Questions without notice were taken.

The Minister for Regional Development representing the Minister for Police and Emergency Services tabled, and by leave incorporated into Hansard, details in relation to the dates that the charge relating to Brief No 428058-1 appeared at the Perth Magistrates Court, in response to a question without notice asked by Hon Bruce Donaldson on behalf of Hon George Cash. (Tabled paper 3175).

The Minister for Regional Development representing the Minister for Police and Emergency Services tabled a document informing the House of a correction to the answer to question on notice No. 4999 asked by Hon George Cash. (Tabled paper 3176).

The Parliamentary Secretary representing the Minister for Planning and Infrastructure tabled a document in relation to the Traffic Noise Measurement Report, Dunstone Road, Bayswater, prepared for Main Roads, Western Australia - March 2007, in response to question on notice No. 4998 asked by Hon Helen Morton. (Tabled paper 3177).

The Parliamentary Secretary representing the Minister for Planning and Infrastructure on behalf of the Parliamentary Secretary representing the Minister for the Environment tabled a document in relation to details of infringements, write-offs, final demand fees and fines enforcement, and registry fees write-offs for the Botanic Garden & Parks Authority 2006-2007, in response to question on notice No. 5146 asked by Hon Ray Halligan. (Tabled paper 3178).

**16. Water Resources Legislation Amendment Bill 2006**

The Acting President left the Chair.

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**In Committee**

(Hon George Cash in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clause 2 agreed to.

Clause 3.

Debate ensued.

Clause agreed to.

Clauses 4 to 6 agreed to.

Clause 7.

Debate ensued.

Clause agreed to.

Clauses 8 to 20 agreed to.

Clause 21.

Debate ensued.

Clause agreed to.

Clause 22 agreed to.

Clause 23.

Debate ensued.

Clause agreed to.

Clauses 24 to 36 agreed to.

Clause 37.

Debate ensued.

Clause agreed to.

Clauses 38 to 52 agreed to.

Clause 53.

Debate ensued.

Clause agreed to.

Clause 54.

Debate ensued.

Clause agreed to.

Clauses 55 and 56 agreed to.

Clause 57.

Debate ensued.

Clause agreed to.

Clauses 58 to 75 agreed to.

Clause 76.

The Hon Paul Llewellyn moved -

Page 27, after line 2 — To insert —

“

(2) At the end of section 27 the following subsection is inserted —

“

(3) Without limiting the generality of paragraph (g) of subsection (1) the fees referred to in that paragraph may be set by reference to the volume of water allocated under a license.

”  
.”

Debate ensued.

*The Deputy Chairman left the Chair at 8.59pm*

*The Deputy Chairman resumed the Chair at 9.31pm*

*Deputy Chairman's Ruling*

The Deputy Chairman ruled as follows -

Members, prior to me leaving the chair, the Leader of the House asked me to consider whether the amendment moved by Hon Paul Llewellyn was within the scope and purpose of the Bill as provided for under standing order 237(a); that is, whether the amendment was within the powers, and whether the implication of volumetry charge would be considered an excise.

With respect to the first point raised by the Leader of the House, obviously many of these amendments can variably be viewed in both lights. However, the practice and procedures of this place has been to seek to ensure and not limit the House in exercising its rights and privileges. I draw the attention of Members to the ruling that was made on 26 October 2006 and I will briefly quote one line as follows -

Members will know that this place has always applied standing order 237(a) in a very wide manner so as not to restrict this House's rights and privileges.

Obviously that ruling included a lot more detail on these matters.

Further, in considering the question raised by the Leader of the House, I accept that the primary purpose of the Bill relates to the administrative framework relating to water resource legislation within Western Australia, but it does deal with the consequential implications of the manner in which the powers under the various Water Acts in this State can be exercised.

The Member's amendment does not seek to introduce a new power, but simply highlights an option that may be considered under section 27(g) of the *Rights in Water and Irrigation Act 1914*, but it is certainly not a mandatory provision. It provides an option for how the existing powers of the Bill can be administered under the administrative framework. In light of that, I believe that on that point the Member's amendment is within the scope of this Bill. As I mentioned earlier, the Member's amendment does not seek to introduce a new power, but simply provides an option under an existing power within the substantive Act.

Finally, the question of whether it is an excise can be determined only by the commission. If the commission chooses to exercise that power, it can only look at the question of an excise when it seeks to implement and set the fee. That is the appropriate time to consider whether it is an excise. It is my intention to accept the Member's amendment.

The Leader of the House moved -

That further consideration of Clause 76 be postponed until after Clause 233.

Question - put and passed.

Clauses 77 to 88 agreed to.

Clause 89.

The Leader of the House moved -

Page 30, line 10 — To delete "officer" and insert instead —

" authority ".

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 90 to 102 agreed to.

Clauses 103 to 109.

Debate ensued.

The Leader of the House moved -

That further consideration of Clauses 103 to 109 be postponed until after Clause 233.

Question - put and passed.

Clauses 110 and 111 agreed to.

Clause 112.

Debate ensued.

*Interruption of Debate* [SO 61(c)].

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The Acting President resumed the Chair.

The Deputy Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again.

Ordered - That the Committee have leave to sit again.

# **17. Adjournment**

The Leader of the House moved, That the House do now adjourn.

Debate ensued.

Question - put and passed.

The House adjourned at 10.26pm until Wednesday, 26 September 2007 at 4.00pm.

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

Attendance: Present all Members except Hon Nick Griffiths.

Member granted leave: Hon Sally Talbot.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

**HON GEORGE CASH**  
Acting President of the Legislative Council