



LEGISLATIVE COUNCIL

WEDNESDAY, 23 NOVEMBER 2022

1.00pm

1. Meeting of Council

The Council assembled at 1.00pm pursuant to order.

The President, Hon Alanna Clohesy, 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 —

21 November 2022 — Message No. 31	Act No.
Government Railways Amendment Bill 2021	40 of 2022
Human Tissue and Transplant Amendment Bill 2022	41 of 2022
Land Tax Assessment Amendment Bill 2022	42 of 2022

3. Ministerial Statement — Marlamanu On-Country Diversion Facility

The Minister for Regional Development made a Ministerial Statement with respect to the diversionary pilot program for at-risk youth at the Myroodah cattle station delivered by Marlamanu Pty Ltd.

4. Papers

The following Papers were laid on the Table by —

Leader of the House

Annual Reports —

Voluntary	Assisted	Dying	Board	Western	Australia	(2021-22)	
(Date received 23/11/2022)							1878

Annual Reports — Extension of Time —

Department of Planning, Lands and Heritage — Annual Report (2021-22)	1854
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5. Joint Standing Committee on Delegated Legislation — Appointment of Member

The Leader of the House moved, without notice —

That Hon Steve Martin be appointed as a member of the Joint Standing Committee on Delegated Legislation and that the Legislative Assembly be acquainted accordingly.

Question — put and passed.

6. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Dr Brian Walker in the Chair)

Standing Committee on Estimates and Financial Operations — Report 86 — Consideration of the 2020-21 Annual Reports

Debate resumed on the motion of Hon Peter Collier, That the Report be noted.

Debate interrupted and postponed pursuant to SO 110(2A).

Joint Standing Committee on Delegated Legislation — Report 2 — Annual Report 2021

Hon Martin Pritchard moved, That the Report be noted.

Debate ensued.

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) Standing Committee on Estimates and Financial Operations — Report 86 — *Consideration of the 2020-21 Annual Reports*, made progress, and postponed further consideration until the next sitting.
- (2) Joint Standing Committee on Delegated Legislation — Report 2 — *Annual Report 2021*, made progress, and seeks to sit again.

Report adopted.

7. Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022

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

Debate ensued.

Hon Dr Brad Pettitt, by leave, tabled correspondence outlining concerns regarding the proposed protected entertainment precincts. (Tabled Paper 1879).

Hon Dr Brad Pettitt moved, without notice —

That the *Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022* be discharged and referred to the Standing Committee on Legislation for consideration and report by 14 March 2023.

Debate ensued.

Question — put.

The Council divided.

Ayes (4)

Hon Sophia Moermond
Hon Dr Brad Pettitt

Hon Dr Brian Walker
Hon Wilson Tucker (*Teller*)

Noes (27)

Hon Martin Aldridge
 Hon Dan Caddy
 Hon Sandra Carr
 Hon Peter Collier
 Hon Stephen Dawson
 Hon Colin de Grussa
 Hon Kate Doust
 Hon Sue Ellery
 Hon Donna Faragher
 Hon Peter Foster
 Hon Lorna Harper
 Hon Jackie Jarvis
 Hon Alannah MacTiernan
 Hon Ayor Makur Chuot

Hon Steve Martin
 Hon Shelley Payne
 Hon Stephen Pratt
 Hon Martin Pritchard
 Hon Samantha Rowe
 Hon Rosie Sahanna
 Hon Tjorn Sibma
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Dr Steve Thomas
 Hon Neil Thomson
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Question thus negatived.

Debate resumed.

8. Questions Without Notice

Questions without notice were taken.

The Leader of the House representing the Minister for Transport tabled documents in relation to community travel surveys relating to the Mitchell Freeway and the Fremantle Line Principal Shared Paths, in response to a question without notice asked by Hon Tjorn Sibma. (Tabled Paper 1880).

The Parliamentary Secretary to the Attorney General tabled a discussion paper by the Department of Justice in relation to the review of part 9E of the *Guardianship and Administration Act 1990* (WA), in response to a question without notice asked by Hon Nick Goiran. (Tabled Paper 1881).

The Minister for Emergency Services representing the Treasurer, by leave, incorporated into *Hansard* information in relation to projected revenue WA will receive from the Commonwealth across all revenue streams in each year of the 2022-23 budget and each forward estimates year, in response to a question without notice asked by Hon Dr Steve Thomas.

The Leader of the House representing the Minister for Housing; Lands; Homelessness; Local Government, in accordance with Standing Order 108(2), advised that answers to questions on notice 1049, 1050 and 1051 asked by Hon Dr Brad Pettitt will be provided by 29 November 2022.

The Parliamentary Secretary to the Minister for Corrective Services, by leave, incorporated into *Hansard* information in relation to random drug tests of Western Australian prison in the last 12 months, in response to a question without notice asked by Hon Sophia Moermond.

The Parliamentary Secretary to the Minister for corrective Services, by leave, incorporated into *Hansard* information in relation to action taken by the Department of Justice in relation to youth detention, in response to a question without notice asked by Hon Dr Brad Pettitt.

The Parliamentary Secretary to the Attorney General tabled the Office of the Public Advocate, Practice Standard Notification to Key Parties on the Death of a Represented Person (version 4), in response to a question without notice asked by Hon Nick Goiran. (Tabled Paper 1882).

9. President's Ruling — Matter of Privilege Raised by the Hon Martin Aldridge

The President ruled as follows —

I have considered the matter of privilege raised on Tuesday by Hon Martin Aldridge under Standing Order 93(2) in relation to the possible misleading of the Council in answers to questions without notice.

Standing Order 93(5) provides that, upon a matter of privilege being raised in the House, the President shall determine whether "there is some substance to the matter" and, if so, "refer the matter to the Procedure and Privileges Committee for inquiry and report to the Council".

The question as to whether "some substance" exists in relation to a particular matter requires me to make a preliminary assessment. Importantly, Standing Order 93(5) does not require me to undertake a detailed inquiry into the correctness of an answer provided to a question without notice.

On 25 October 2022, question without notice 1022 sought information about "the \$104.5 million disaster recovery package for communities impacted by cyclone Seroja", including the amount spent to date out of that fund. On the following day, 26 October 2022, an answer to the question was incorporated into *Hansard*. The answer listed some specific expenditure items and stated that "The Department of Fire and Emergency Services (DFES) and our recovery partners have done an outstanding job in supporting the recovery from Tropical Cyclone Seroja. With over \$25.42 million dispersed to date."

In a Members' Statement on 27 October 2022, Hon Martin Aldridge expressed dissatisfaction with the answer provided, particularly as to whether the quoted figure of \$25.42 million had accurately addressed his question. Hon Martin Aldridge followed up the matter with question without notice 1161 on 17 November 2022. The Minister's answer reiterated the information previously provided, with the addition of an answer that "No-one has ever stated that \$25.42 million of DRFA funding has been expended".

In the absence of any procedural concerns with an answer arising from the Standing Orders, it is not for me as President to rule on the sufficiency of an answer. A much-quoted ruling of President House from 12 August 2010 states:

"Whatever way the question may be answered, that is the answer. That does not mean that some people will like that answer. That does not mean that everybody has to agree with the answer. But that is the answer that is presented to the Parliament."

I am of the view that, *prima facie*, the answers given by and on behalf of the Minister were neither false, knowingly misleading or an attempt to substantially obstruct the work of the Council.

Hon Martin Aldridge has stated that he has exhausted all of the options available to him to get greater clarity from the Minister. I advise there are still a number of options available to the Member. The Member may, for instance, place a question on notice seeking more fulsome financial information, lodge a freedom of information application, put forward a motion on notice seeking an order of the Council that the Minister table relevant documents, ask questions during the current annual report hearings of the Estimates and Financial Operations Committee, or write to the Estimates and Financial Operations Committee and request that it consider inquiring into the matter in detail.

I am of the opinion that there is no substance in the matters raised by Hon Martin Aldridge and accordingly I will not be referring them to the Procedure and Privileges Committee.

10. Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022

Debate resumed on the second reading of this Bill (*see item 7 above*).

Interruption pursuant to order.

11. Members' Statements

Statements were taken.

12. Directors' Liability Reform Bill 2022

The President reported the receipt of Message No. 89 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary to the Attorney General moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

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

The Parliamentary Secretary to the Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1883).

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

13. Adjournment

The Council adjourned at 6.56pm until Thursday, 24 November 2022 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Klara Andric, Hon James Hayward (*suspended*) and Hon Kyle McGinn.

SAM HASTINGS

Clerk of the Legislative Council

HON ALANNA CLOHESY MLC

President of the Legislative Council