

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 46

THURSDAY, 20 AUGUST 2009

1. Meeting of Council

The Council assembled at 11.00am pursuant to order.

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

2. Ministerial Statement - Winter Sprinkler Ban Trial

The Parliamentary Secretary representing the Minister for Water made a Ministerial Statement with respect to the progress of the Winter Sprinkler Ban Trial.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

3. Papers

The following Papers were laid on the Table by -

Leader of the House

Management Plans -

Fish Resources Management Act 1994 (Joint Authority Southern Demersal Gillnet and Demersal
Longline Managed Fishery Management Plan Amendment (No. 2) 2009 G.G. 11/08/2009)..... 1053

Minister for Energy

Local Laws -

Local Government Act 1995 (Shire of Exmouth Activities on Thoroughfares and Trading In
Thoroughfares and Public Places Amendment Local Law 2009 G.G. 11/08/2009)..... 1054

Regulations -

Education Service Providers (Full Fee Overseas Students) Registration Act 1991
(Education Service Providers (Full Fee Overseas Students) Registration Amendment
Regulations 2009 G.G. 14/08/2009)..... 1055

Higher Education Act 2004 (Higher Education Amendment Regulations 2009 G.G. 14/08/2009) 1056

Local Government Act 1995 (Local Government (Elections) Amendment Regulations 2009 G.G.
14/08/2009)..... 1057

4. Appointment of Member to the Superannuation Board

The Leader of the House moved, without notice -

That Hon Ken Baston be appointed as a Member to the Superannuation Board.

Question - put and passed.

5. Appropriate Resourcing for Western Australian Not-for-Profit Sector

Motion No. 1 having been called, debate resumed on the amendment of the Minister for Child Protection as follows -

To delete all words after “notes the” and insert —

“ impact that the Global Financial Crisis is having upon the community, and notes the Government’s continued work towards providing appropriate resources to the not-for-profit sector. ”,

to the motion of Hon Sue Ellery as follows -

That this House notes the changing demands for assistance on the Western Australian not-for-profit sector and calls on the Barnett Government to ensure the sector has appropriate resources and capacity to meet demand.

Hon Lynn MacLaren moved, without notice -

To amend the amendment by deleting all words after “and notes the” and insert —

“ woefully inadequate funding to the not-for-profit sector by successive Governments and the consequent detrimental impacts on firstly those Western Australians who are doing it tough in times of and in circumstances when they are in greatest need of assistance and secondly upon the not-for-profit sector workforce which has suffered enormous stress for minimal pay over many years and now faces an even tougher battle to provide assistance to those W.A. battlers due to an increased demand for services by clients with a greater complexity of need and decreased funding. ”.

Debate ensued.

Question - put and negatived.

Debate resumed on the amendment of the Minister for Child Protection as follows -

To delete all words after “notes the” and insert —

“ impact that the Global Financial Crisis is having upon the community, and notes the Government’s continued work towards providing appropriate resources to the not-for-profit sector. ”,

to the motion of Hon Sue Ellery as follows -

That this House notes the changing demands for assistance on the Western Australian not-for-profit sector and calls on the Barnett Government to ensure the sector has appropriate resources and capacity to meet demand.

Interruption of Debate [SO 195].

6. Consideration of Committee Reports

Pursuant to Standing Orders for the consideration of Committee Reports.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Joint Standing Committee on the Corruption and Crime Commission - Report No. 2 - Report on the Relationship Between the Parliamentary Inspector and the Commissioner of the Corruption and Crime Commission

The Order of the Day having been read, debate resumed on the motion of Hon Ray Halligan, That the report be noted.

Question - put and passed.

Standing Committee on Estimates and Financial Operations - Report No. 19 - Follow-Up to Report 12 - Balga Works Program

The Order of the Day having been read, Hon Giz Watson continued her introductory remarks on the motion, That the Report be noted.

Debate ensued.

Interruption of Debate [SO 61A].

The President resumed the Chair.

The Chairman 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. 2 - Report on the Relationship Between the Parliamentary Inspector and the Commissioner of the Corruption and Crime Commission and had noted same.
- (2) Standing Committee on Estimates and Financial Operations - Report No. 19 - Follow-Up to Report 12 - Balga Works Program, made progress, and asked leave to sit again.

Report adopted.

7. Joint Standing Committee on the Corruption and Crime Commission - Report No. 2 - Report on the Relationship Between the Parliamentary Inspector and the Commissioner of the Corruption and Crime Commission

The Leader of the House moved, without notice -

That consideration of the recommendations contained in the *Joint Standing Committee on the Corruption and Crime Commission - Report No. 2 - Report on the Relationship Between the Parliamentary Inspector and the Commissioner of the Corruption and Crime Commission* be made an Order of the Day for the next sitting of the House.

Debate ensued.

Question - put and passed.

8. Property Law (Mortgagee's Power of Sale) Amendment Bill 2009

Hon Sally Talbot, pursuant to notice, moved -

That a Bill for "An Act to amend the *Property Law Act 1969* to require a mortgagee or chargee, in exercising a power of sale in respect of mortgaged or charged land, to take reasonable care to ensure that the land is sold for not less than its market value." be introduced and read a first time.

Question - put and passed.

Bill read a first time.

Hon Sally Talbot moved, That the Bill be now read a second time.

Debate stands adjourned.

9. Order of Business

Ordered - That Orders of the Day Nos 1, *City of Joondalup Cats Local Law 2008 - Disallowance*, 2, *Genetically Modified Crops Free Areas Exemption Order (No. 3) 2009 - Disallowance*, and 3, *City of Stirling - Thoroughfares and Public Places Local Law 2009 - Disallowance*, be taken after Order of the Day No. 14, *First Home Owner Grant Amendment Bill 2009*. (Leader of the House).

10. Criminal Code Amendment Bill 2008

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

In Committee

(Hon Jon Ford in the Chair)

Clause 1.

Debate resumed.

11. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary representing the Minister for Corrective Services tabled, and by leave incorporated into Hansard, an answer in relation to the abolition of the parole system, in response to a question without notice asked by Hon Giz Watson. (Tabled paper 1058).

The Parliamentary Secretary representing the Treasurer tabled an answer in relation to grocery prices at different stores, in response to a question without notice asked by Hon Ken Travers. (Tabled paper 1059).

The Leader of the House representing the Minister for State Development tabled a Memorandum of Understanding between the Department of State Development, Government of Western Australia and Ashan Iron and Steel Group Company, in response to a question without notice asked by Hon Jock Ferguson. (Tabled paper 1060).

12. Criminal Code Amendment Bill 2008

The President left the Chair.

In Committee

(Hon Jon Ford in the Chair)

Clause 1.

Debate resumed.

The Parliamentary Secretary representing the Attorney General moved, That progress be reported and leave asked to sit again at a later stage of this day's sitting.

Question - put and passed.

The 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 at a later stage of this day's sitting.

Ordered - That the Committee have leave to sit again at a later stage of this day's sitting.

13. Temporary Orders - Adoption

The Leader of the House moved, without notice -

That the following Temporary Orders be adopted and agreed to —

1. Duration of Temporary Orders

These Temporary Orders apply until 31 December 2009.

2. Sitting and adjournment times¹

- (1) Unless otherwise ordered, the Council is to meet on the days and at the times as follows -

Tuesday	3.00 pm
Wednesday	2.00 pm
Thursday	10.00 am

- (2) Unless sooner adjourned or in accordance with Temporary Order 2(3), the House stands adjourned by operation of these Temporary Orders at the following times -

Tuesday	10.25 pm
Wednesday	10.25 pm
Thursday	6.00 pm

- (3) Business provided for under Standing Order 61(d)(i) may be taken on the days and at the times designated in Temporary Order 2(2).
- (4) Any sitting is suspended between 1.00 pm and 2.00 pm on Thursday, 6.00 pm and 7.30 pm on Tuesday and Wednesday, and between 4.15 pm and 4.30 pm on Wednesday and Thursday.

3. Committee meetings - SO 302B

Standing Order 302B is amended -

- (a) in paragraph (1), by deleting “3.30pm” and substituting -
“1.45pm”;

- (b) by deleting paragraph (2) and substituting -
“

- (2) Paragraph (1) does not affect the ability of a committee to meet at any time when the Council is not sitting or a sitting is suspended.

”.

4. Routine of business²

- (1) At each sitting after Prayers, the business of the House is to be taken as follows -
- (i) condolence motions and Governor’s message(s) notifying royal assent to bills;
 - (ii) presentation of petitions and tabling of papers;
 - (iii) notices of motions to introduce bills, disallow statutory instruments, and other matters for which notice is required;
 - (iv) statements under SO 125(aa); and
 - (v) motions without notice.
- (2) The question on a motion without notice for orders on tabling a paper is to be determined without amendment or debate, but the mover, at the time of moving or in answer to another member’s request, may give a brief statement of the reason for, or the purpose of, the order sought.
- (3) A motion without notice that is contingent upon an order of the day being called cannot be moved under subclause (1)(a)(v).

¹ See SO 61

² See SO 125

- (4) For the purpose of SO 139(b), questions under the Standing Order are to be taken at the times for each day as follows -

Tuesday	4.30 pm
Wednesday	4.30 pm
Thursday	4.30 pm

- (5) If there is no business or consideration of such business is disposed of before the expiry of the time reserved, the House is to proceed to the orders of the day in a sequence determined by the Leader of the House.

5. Arrangement of business for each sitting day³

- (1) If business under Temporary Order 4 (1) is not completed within an hour of the time at which the Council met, any matter then under consideration and any business not reached is held over to the next sitting.
- (2) A Minister must exercise a discretion under SO 127, or a power under SO 129, in accordance with the express provisions of this Temporary Order.
- (3) A motion moved under SO 129 that complies with subclause (2) passes with a simple majority.

6. Motions on Notice - when debated - maximum time for debate⁴

- (1) Upon completion of business under Temporary Order 4(1) on a Wednesday, motions on notice may be moved and debated for 120 minutes (two hours) and a debate in progress at that time is interrupted until the next sitting Wednesday.
- (2) The maximum time for debate on any motion on notice, including the mover's reply where permitted, is 240 minutes (4 hours) at which time any debate is interrupted and the question must be resolved immediately.

7. Time reserved on Thursday for business not subject to SO 127⁵

- (1) On the completion of business under Temporary Order 4(1) on a Thursday, the Council is to consider the business appearing on the Business Program determined under Temporary Order 8.
- (2) Any debate stands adjourned after 120 minutes (2 hours) and the House is to proceed to orders of the day.
- (3) More than one matter may be listed for consideration including a motion without notice, a motion under SO 72, or an order of the day but excluding business in the name of a minister or parliamentary secretary.

8. How non-official business determined - SO 72 modified

- (1) Business subject to Temporary Order 7 -
 - (a) shall be allocated by weekly rotation among the political groups of members on a *pro rata* basis over every seven (7) week sitting period as follows -

ALP	3 sessions
Liberal	2 sessions

³ See SO 125

⁴ See SO 125

⁵ See SO 125

National 1 session

Greens 1 session

- (b) is to be provided, together with the text of any motion without notice or a motion under SO 72, to the Clerk by 10.00pm on the Wednesday prior.

(2)⁶ Standing Order 72 is altered -

- (a) in subclause (1) by substituting “Thursday” for “Tuesday”;
- (b) by deleting subclause (2) and (3); and
- (c) in subclause (5)(a) by deleting all words after “exceed” and substituting “120 minutes⁷, and the speeches of the mover and other speakers having a maximum of 20 minutes.”.

9. Committee reports and ministerial statements

- (1) At the conclusion of questions without notice or motions on notice on each Wednesday, the Council is to proceed to consideration, in committee of the whole, of orders of the day under SO 336(b) (standing committee reports excluding reports on bills, select committee reports, and ministerial statements) for one hour.
- (2) Orders of the day under subclause (1) are to be listed in order of tabling and in alternating sequence between reports and ministerial statements.
- (3) Debate on an order of the day under subclause (1) is not to exceed 60 minutes (1 hour).
- (4) If the committee of the whole reports prior to the expiry of one hour, the House is to proceed to orders of the day.

10. Members’ statements⁸

- (1) Business under consideration on Tuesday and Wednesday -
 - (a) 40 minutes before the time of adjournment; or
 - (b) 45 minutes before the time of adjournment if the House is in committee at that time,

is to be interrupted and stands adjourned where paragraph (a) applies or reported to the House where paragraph (b) applies. The question to adopt a report is to be determined forthwith and is not capable of being superseded by a motion to recommit or for any other purpose.
- (2) In the time between the interruption of business under subclause (1) and the time fixed for the adjournment of the House, a member may speak on any matter without need for a motion, for not more than 10 minutes.

11. Documents quoted from by Minister or Parliamentary Secretary

Standing Order 47 is altered by inserting after Minister -

“ or a Parliamentary Secretary ”

⁶ See SO 72

⁷ 2 hours

⁸ See SO 125

12. Interpretation and application

- (1) These Temporary Orders are to be read and applied so as to give effect, to the fullest extent, to the purpose for which they are made without regard to technicalities or matters solely of form.
- (2) Where a provision of a Temporary Order conflicts, or is inconsistent, with a Rule or Standing Order, the provision of the Temporary Order is to be preferred and applied accordingly.
- (3) A motion to amend or rescind any Temporary Order, or to repeal these Temporary Orders or any part of them, or to extend their operation beyond the date of expiry, is subject to SO 171.
- (4) An amendment to a Standing Order made by a provision of these Temporary Orders lapses on expiry under Temporary Order 1.

The Leader of the House, by leave, tabled and incorporated into Hansard the Temporary Orders. (Tabled paper 1061).

Debate ensued.

The motion requiring the concurrence of an absolute majority.

Question - put.

There being a dissentient voice the President ordered the House to divide.

Ayes (16)

Hon Liz Behjat
Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Phil Edman
Hon Brian Ellis
Hon Philip Gardiner
Hon Nick Goiran

Hon Nigel Hallett
Hon Alyssa Hayden
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Noes (11)

Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust
Hon Jock Ferguson
Hon Lynn MacLaren
Hon Ljiljanna Ravlich

Hon Sally Talbot
Hon Ken Travers
Hon Giz Watson
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

The concurrence of an absolute majority of the whole number of Members not being met Standing Orders not suspended.

14. Road Traffic Amendment (Hoons) Bill 2009

The President reported the receipt of Message No. 38 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Energy representing the Minister for Police moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Energy representing the Minister for Police moved, That the Bill be now read a second time.

Debate stands adjourned.

15. National Gas Access (WA) Bill 2008

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 39

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *National Gas Access (WA) Bill 2008*.

Hon G.A. Woodhams

Speaker

Legislative Assembly Chamber

Perth, 20 August 2009

16. Special Adjournment

The Leader of the House moved, without notice -

That the House at its rising adjourn until Tuesday, 8 September 2009 at 3.30pm.

Question - put and passed.

17. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 5.29pm until Tuesday, 8 September 2009 at 3.30pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Wendy Duncan and Hon Robyn McSweeney.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council