

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 34

TUESDAY, DECEMBER 10 2002

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### 1. Meeting of Council

The Council assembled at 3.00pm pursuant to order.

The President, Hon John Cowdell, took the Chair and read prayers.

### 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 -

December 5 2002 - Message No. 22	Act No.
Emergency Services Levy Bill 2002	39 of 2002
Railway (Jandakot to Perth) Bill 2002	40 of 2002

### 3. Petitions

Hon Alan Cadby presented a petition, by delivery to the Clerk, [SO 130], from 41 residents of Western Australia requesting an increase to State funding of Catholic and other non-Government school children. (Tabled paper 618).

Hon Derrick Tomlinson presented a petition from 1 158 residents of Western Australia requesting that the Legislative Council ensure that any changes resulting from the *Adoption Amendment Bill (No. 2) 2002* will make the Western Australian adoption laws, policies and practices adoption-friendly. (Tabled paper 619).

### 4. Ministerial Statement - Risk Levels in Kwinana Industrial Area

The Parliamentary Secretary to the Minister for State Development made a Ministerial Statement with respect to the risk levels in the Kwinana Industrial Area.

The Parliamentary Secretary to the Minister for State Development, by leave, tabled a report titled 'Kwinana Industrial Area Risk Analysis Update - Cumulative Risk Study - June 1995'. (Tabled paper 620).

### 5. Statement by President - State Records Keeping Plan for the Parliamentary Services Department and the Legislative Council

The President made the following Statement -

On 4 December 2002, in accordance with section 12 of the *State Records Act 2000*, the Speaker of the Legislative Assembly and I approved the Parliamentary Services department's record keeping plan. I further advise that, in accordance with section 12 of the *State Records*

*Act 2000*, I have approved the Legislative Council record keeping plan. Copies of both plans have been lodged with the Parliamentary Library.

## 6. Papers

The following Papers were laid on the Table by -

### **President**

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

List of Audit Opinions signed at 29 November 2002..... 594

#### *Reports -*

Legislative Council Departmental Record Keeping Plan (November 2002) ..... 595

### **Leader of the House**

#### *Annual Reports -*

Potato Marketing Corporation of Western Australia [WESTERN POTATOES] (2001-2002) (Date received 05/12/2002)..... 596

### **Minister for Housing and Works**

#### *Annual Reports -*

Gas Disputes Arbitrator, Western Australian (2001-2002) (Date received 10/12/2002) ..... 597

Independent Gas Pipelines Access Regulator, Western Australian [OFFGAR] (2001-2002) (Date received 10/12/2002)..... 598

International Centre for Application of Solar Energy [CASE] (2001-2002) (Date received 05/12/2002)..... 599

Kimberley Development Commission (2001-2002) (Date received 09/12/2002) ..... 600

Swan River Trust (2001-2002) (Date received 10/12/2002) ..... 601

#### *Local Laws -*

Local Government Act 1995 (Shire of Derby-West Kimberley - Local Government Property Local Law G.G. 06/12/2002 & City of Perth - Amendments to the Perth Parking Local Law 1999 G.G. 06/12/2002)..... 602

### **Minister for Racing and Gaming**

#### *Annual Reports -*

Burswood Park Board, The (2001-2002) (Date received 10/12/2002) ..... 603

Rail Access Regulator (1 September 2001 to 30 June 2002) (Date received 10/12/2002) ..... 604

#### *Regulations -*

Pawnbrokers and Second-hand Dealers Act 1994 (Pawnbrokers and Second-hand Dealers Amendment Regulations (No. 2) 2002 G.G. 03/12/2002)..... 605

Workers' Compensation and Rehabilitation (Acts of Terrorism) Act 2001 (Workers' Compensation and Rehabilitation (Acts of Terrorism) (Final Day) Regulations 2002 G.G. 03/12/2002)..... 606

#### *Rules -*

Western Australian Trotting Association Act 1946 (Rules of Harness Racing 1999 - Notice of Amendment G.G. 03/12/2002)..... 607

### **Parliamentary Secretary to the Minister for State Development**

#### *Annual Reports -*

Small Business Development Corporation [SBDC] (2001-2002) (Date received 10/12/2002) .....	608
---	-----

### **Parliamentary Secretary to the Minister for Health**

#### *Annual Reports -*

Animal Resources Authority (2001-2002) (Date received 09/12/2002) .....	609
Health, Department of (Royal Street) (2001-2002) (Date received 10/12/2002) .....	610
Health Promotion Foundation, Western Australian [Healthway] (2001-2002) (Date received 09/12/2002) .....	611
Health Review, Office of (2001-2002) (Date received 09/12/2002) .....	612

#### *Regulations -*

Health Act 1911 (Health (Meat Hygiene) Amendment Regulations (No. 3) 2002 G.G. 03/12/2002) .....	613
--	-----

### **Parliamentary Secretary to the Minister for Planning and Infrastructure**

#### *Annual Reports -*

Institute of Sport, Western Australian [WAIS] (2001-2002) (Date received 10/12/2002) .....	614
Public Education Endowment Trust (2001-2002) (Date received 05/12/2002) .....	615

#### *Ministerial Approvals -*

East Perth Redevelopment Act 1991 - Amendment No. 14 to the East Perth Redevelopment Scheme .....	616
--	-----

#### *Statutes -*

University of Western Australia Act 1911 (Amending Statute No. 2 of 2002 G.G. 03/12/2002) .....	617
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## **7. Matter of Urgency - Decision Making Process relating to the Maud's Landing Project**

The President read the following letter -

Dear Mr President

At today's sitting it is my intention to move pursuant to SO 72 that the Council consider, as a matter of urgency the issues surrounding the decision-making process relating to the Maud's Landing project.

Yours sincerely

Hon Norman Moore

Member for Mining and Pastoral Region

Four members having risen in support.

Hon Norman Moore moved the motion.

Debate ensued.

Motion lapsed.

## **8. Australian Involvement in Military Action in Iraq**

Motion No. 6 having been called.

Debate resumed on the motion of Hon Dee Margetts as follows -

That this House notes -

- (1) The recent comments from the Prime Minister and Minister for Foreign Affairs regarding Australia's possible support for US military action in Iraq.
- (2) That these comments were made in the absence of any United Nations resolution or processes.
- (3) The threat to the livelihood of Western Australian agricultural producers and exporters in light of the Prime Minister's indication that any request for Australian assistance would be considered against the "national interest test".
- (4) The statements from Labour Leader Simon Crean that Mr Howard's and Mr Downer's statements are out of step with other international opinion.
- (5) The likely impact on the civilian population, particularly women and children.
- (6) Therefore, the Legislative Council informs the Federal Government that it does not support Australian involvement in military action in Iraq without UN backing.

Debate resumed.

*Interruption of Debate* [SO 195].

## **9. Address-In-Reply**

The Order of the Day having been read for the adjourned debate on the amendment of Hon Bruce Donaldson as follows -

That the following words be added to the end of the motion -

“

but regret to inform your Excellency that the Government is failing in its administration of the State of Western Australia.

”.

to the motion of Hon Sue Ellery as follows -

That the following address be presented to His Excellency -

To His Excellency, Lieutenant General John Murray Sanderson, Companion of the Order of Australia, Governor in and over the State of Western Australia and its dependencies in the Commonwealth of Australia.

May it please Your Excellency -

We, the Members of the Legislative Council of the Parliament of Western Australia, in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the Speech you have been pleased to deliver to Parliament.

Debate resumed.

On the motion of Hon Frank Hough the debate was adjourned to the next sitting.

## **10. Questions Without Notice**

Questions without notice were taken.

The Minister for Housing and Works tabled documents in relation to the licence conditions for the Kalgoorlie-Boulder Yarri Road Solid Waste Disposal Tip Facility in response to question on notice No. 283 asked by Hon Robin Chapple. (Tabled paper 621).

The Parliamentary Secretary representing the Minister for Planning and Infrastructure in accordance with Standing Order No 138(d), advised that a response to questions on notice Nos 259, 260 and 261 asked by Hon George Cash and question on notice No. 263 asked by Hon Ray Halligan would be provided in the near future.

**11. Taxation Administration Bill 2001, Taxation Administration (Consequential Provisions) Bill 2001 and Taxation Administration (Consequential Provisions) (Taxing) Bill 2001**

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

The President left the Chair.

**In Committee**

(Hon Simon O'Brien in the Chair)

***Recommittal of Taxation Administration Bill 2001 [Proof Copy 79-2C]***

Clause 90.

The Minister for Racing and Gaming moved -

Page 59, lines 3 and 4 - To delete "given the investigator prior authorisation in writing to do so" and inserting instead -

" authorised the investigator to do so ".

Debate ensued.

Amendment - put.

The Committee divided.

**Ayes (9)**

Hon Kim Chance  
Hon Sue Ellery  
Hon Adele Farina  
Hon Jon Ford  
Hon Graham Giffard

Hon Nick Griffiths  
Hon Louise Pratt  
Hon Ljiljanna Ravlich  
Hon Ed Dermer (*Teller*)

**Noes (15)**

Hon Alan Cadby  
Hon George Cash  
Hon Robin Chapple  
Hon Murray Criddle  
Hon Paddy Embry  
Hon Peter Foss  
Hon Ray Halligan  
Hon Barry House

Hon Dee Margetts  
Hon Norman Moore  
Hon Simon O'Brien  
Hon Barbara Scott  
Hon Bill Stretch  
Hon Giz Watson  
Hon Bruce Donaldson (*Teller*)

Amendment thus negatived.

Question - That Clause stand as printed - put and passed.

Clause 91.

The Minister for Racing and Gaming moved -

Page 59, lines 15 and 16 - To delete "except where the power of entry is exercised pursuant to a warrant under section 90(2)(b)".

Debate ensued.

Amendment - put.

The Committee divided.

**Ayes (9)**

Hon Kim Chance  
Hon Sue Ellery  
Hon Adele Farina  
Hon Jon Ford  
Hon Graham Giffard

Hon Nick Griffiths  
Hon Louise Pratt  
Hon Ljiljanna Ravlich  
Hon Ed Dermer (*Teller*)

**Noes (16)**

Hon Alan Cadby  
Hon George Cash  
Hon Robin Chapple  
Hon Murray Criddle  
Hon Paddy Embry  
Hon Peter Foss  
Hon Ray Halligan  
Hon Barry House

Hon Robyn McSweeney  
Hon Dee Margetts  
Hon Norman Moore  
Hon Simon O'Brien  
Hon Barbara Scott  
Hon Jim Scott  
Hon Giz Watson  
Hon Bruce Donaldson (*Teller*)

Amendment thus negatived.

Debate ensued.

Question - That the Clause stand as printed - put and passed.

Clause 93 agreed to.

Clause 94.

The Minister for Racing and Gaming moved -

Page 63, after line 5 - To insert the following subclauses -

“

- (3) A person who claims, either on the person's own behalf or on behalf of another person, to be excused from complying with a requirement under this Part to provide information or relevant material on the grounds that the information or material is protected by legal professional privilege commits an offence if the person knew, or could reasonably be expected to have known, that he or she does not have reasonable grounds for making the claim.

”.

Debate ensued.

Amendment - put.

The Committee divided.

**Ayes (8)**

Hon Kim Chance  
Hon Sue Ellery  
Hon Adele Farina  
Hon Jon Ford

Hon Graham Giffard  
Hon Nick Griffiths  
Hon Ljiljanna Ravlich  
Hon Ed Dermer (*Teller*)

**Noes (16)**

Hon Alan Cadby  
 Hon George Cash  
 Hon Robin Chapple  
 Hon Murray Criddle  
 Hon Paddy Embry  
 Hon Peter Foss  
 Hon Ray Halligan  
 Hon Barry House

Hon Dee Margetts  
 Hon Norman Moore  
 Hon Simon O'Brien  
 Hon Barbara Scott  
 Hon Jim Scott  
 Hon Bill Stretch  
 Hon Giz Watson  
 Hon Bruce Donaldson (*Teller*)

Amendment thus negatived.

Question - That the Clause stand as printed - put and passed.

Clause 94A agreed to.

Clause 100 agreed to.

Clause 102.

The Minister for Racing and Gaming moved -

Page 68, line 8 - To delete "12 months" and insert instead -

" 5 years ".

Debate ensued.

The Minister for Racing and Gaming, by leave, withdrew the amendment standing in his name.

The Minister for Racing and Gaming moved -

Page 68, line 8 - To delete "12 months" and insert instead -

" 3 years ".

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 107.

The Minister for Racing and Gaming moved -

Page 72, after line 3 - To insert the following subclause -

"

- (1) A notice or other document to be served on taxpayers who are jointly liable for tax is taken to have been served on both or all the taxpayers if served on any one of them.

".

Debate ensued.

The Minister for Racing and Gaming, by leave, withdrew the amendment standing in his name.

The Minister for Racing and Gaming moved -

Page 72, after line 3 - To insert the following subclause -

"

- (1) A notice or other document to be served on taxpayers who are jointly liable for land tax or debits tax is taken to have been served on both or all the taxpayers if served on any one of them.

".

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 108 agreed to.

Clause 118.

Debate ensued.

Clause agreed to.

Glossary.

The Minister for Racing and Gaming moved -

Page 80, line 24 - To delete the line and insert the following definition instead -

“

“**publish**”, for the purposes of sections 30 and 118, means —

- (a) arrange for a summary of a new policy or a change in policy to be advertised in the *Gazette*; and
- (b) arrange for the current policy to be made available, at no cost, on an appropriate internet site or from the Office of State Revenue;

”.

Debate ensued.

Amendment - put and passed.

Glossary, as amended, agreed to.

Postponed Clause 69.

Debate resumed on the amendment of the Minister for Racing and Gaming as follows -

Page 45, after line 5 - To insert the following subclause -

“

- (1) If stamp duty payable under item 4, 10, 14A, 15, 17 or 19 of the Second Schedule to the *Stamp Act 1921* on an instrument in relation to land as defined in section 76 of that Act is not paid by the due date, the Commissioner may lodge a memorial with the Registrar of Titles to create a charge on the land for the unpaid stamp duty.

”.

The Minister for Racing and Gaming, by leave, amended his amendment by inserting after “due date” the following words -

“ because it is taken not to be paid under subsection(4) ”.

Debate ensued.

Amendment - put and passed.

The Minister for Racing and Gaming moved -

Page 45, after line 28 - To insert -

“

- (5) A memorial under subsection (1) creating a charge on land for stamp duty payable in relation to a transaction cannot be lodged until the title to the land has been transferred in accordance with the transaction.

”.

Amendment - put and passed.

Clause, as amended, agreed to.

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The Deputy President resumed the Chair.



Bill reported with further amendments.

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

## 12. Order of Business

Ordered - That Order of the Day No. 116 be taken forthwith. (Leader of the House).

## 13. Acts Amendment (Student Guilds and Associations) Bill 2002

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

Hon Norman Moore moved, without notice -

That the Order of the Day for resumption of the second reading of the *Acts Amendment (Student Guilds and Associations) Bill 2002* be discharged and the Bill be referred to the Standing Committee on Legislation.

That the Committee report finally not later than Thursday, March 6 2003.

That the Committee have power to consider the policy of the Bill.

Debate ensued.

Question - put.

The House divided.

### Ayes (12)

Hon Alan Cadby  
Hon George Cash  
Hon Murray Criddle  
Hon Paddy Embry  
Hon Peter Foss  
Hon Ray Halligan

Hon Barry House  
Hon Robyn McSweeney  
Hon Norman Moore  
Hon Simon O'Brien  
Hon Barbara Scott  
Hon Bruce Donaldson (*Teller*)

### Noes (13)

Hon Kim Chance  
Hon Robin Chapple  
Hon Sue Ellery  
Hon Adele Farina  
Hon Jon Ford  
Hon Graham Giffard  
Hon Nick Griffiths

Hon Dee Margetts  
Hon Louise Pratt  
Hon Ljiljana Ravlich  
Hon Jim Scott  
Hon Giz Watson  
Hon Ed Dermer (*Teller*)

Question thus negatived.

Debate resumed.

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

## 14. Appropriation (Consolidated Fund) Bill (No. 3) 2002

The President reported the receipt of Message No. 42 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Racing and Gaming moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Racing and Gaming moved, That the Bill be now read a second time.

Debate stands adjourned.

**15. Appropriation (Consolidated Fund) Bill (No. 4) 2002**

The President reported the receipt of Message No. 43 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Racing and Gaming moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Racing and Gaming moved, That the Bill be now read a second time.

Debate stands adjourned.

**16. Regional Development Commissions Amendment Bill 2002**

The President reported the receipt of Message No. 44 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House on behalf of the Minister for Housing and Works moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Leader of the House on behalf of the Minister for Housing and Works moved, That the Bill be now read a second time.

Debate stands adjourned.

**17. Adjournment**

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

Debate ensued.

Question - put and passed.

The House adjourned at 11.21pm until Wednesday, December 11 2002 at 3.30pm.

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

Attendance: Present all Members except Hon Christine Sharp.

**L B MARQUET**  
Clerk of the Legislative Council

**HON JOHN COWDELL**  
President of the Legislative Council