

**LEGISLATIVE COUNCIL****THURSDAY, 21 SEPTEMBER 2023****10.00am****1. Meeting of Council**

The Council assembled at 10.00am pursuant to order.

The President, Hon Alanna Clohesy, took the Chair.

Prayers and an Acknowledgement of Country were read.

**2. Statement by President — Visit from the Speaker of the Cook Islands Hon Tai Tura**

The President made the following Statement —

I welcome the Speaker of the Parliament of the Cook Islands, Hon Tai Tura, to the Parliament of Western Australia. The Parliament of Western Australia has a long-standing twinning arrangement with the Cook Islands Parliament spanning over 25 years. During this time, we have warmly engaged to build knowledge across the two Parliaments.

Mr Tura is a former Member of the Parliament of the Cook Islands. Mr Tura was elected in 2010, re-elected in 2014 and again in 2018. Mr Tura did not stand for election in the 2022 Cook Islands General Election.

In March 2021, Mr Tura was elected Speaker, succeeding Ms Niki Rattle. Unlike our Standing Orders, the Speaker of the Cook Islands Parliament does not have to be a Member of Parliament but must be eligible to stand as a Member.

Mr Tura joins us today on a twinning attachment where he will be immersed in procedural, committee and parliamentary administration matters.

On behalf of all Members, I welcome Mr Tura to our Chamber.

**3. Petition**

Hon Neil Thomson presented an E-Petition from 1,032 petitioners requesting the Legislative Council to take urgent and immediate action to reduce crime in the Kimberley. (Tabled Paper 2616).

**4. Ministerial Statement — Extension of Time for 2022-2023 Annual Reports**

The Minister for Agriculture and Food on behalf of the Minister for Emergency Services made a Ministerial Statement with respect to a number of agencies unable to table their 2022-2023 annual reports in Parliament within the timeframe as stated in the *Financial Management Act 2006*.

The Minister for Agriculture and Food on behalf of the Minister for Emergency Services tabled the extension of time notices for the tabling of 2022-2023 Annual Reports (Tabled Paper 2617).

## 5. Papers

The following Papers were laid on the Table by —

### **President**

*Annual Reports — Extension of Time —*

Information Commissioner, Office of the — Annual Report (2022-23)  
(Date received 20/09/2023).....2576

*Annual Reports —*

Governor's Establishment (2022-23) (Date received 20/09/2023).....2577

Ombudsman, Western Australia (2022-23) (Date received 20/09/2023).....2580

### **Minister for Agriculture and Food on behalf of the Leader of the House**

*Annual Reports —*

Aboriginal Affairs Planning Authority (2022-23) (Date received 20/09/2023).....2582

Communities, Department of (2022-23) (Date received 20/09/2023).....2583

Director of Equal Opportunity in Public Employment (2022-23)  
(Date received 20/09/2023).....2584

Education, Department of (2022-23) (Date received 20/09/2023).....2585

Infrastructure Western Australia (2022-23) (Date received 20/09/2023).....2586

Lotterywest (2022-23) (Date received 20/09/2023).....2587

Premier and Cabinet, Department of the (2022-23) (Date received 20/09/2023).....2588

Public Sector Commission (2022-23) (Date received 20/09/2023).....2589

School Curriculum and Standards Authority (2022-23) (Date received 20/09/2023).....2590

Southern Ports Authority (2022-23) (Date received 20/09/2023).....2591

### **Minister for Agriculture and Food on behalf of the Minister for Emergency Services**

*Annual Reports —*

ChemCentre (2022-23) (Date received 20/09/2023).....2592

Fire and Emergency Services Superannuation Board (2022-23)  
(Date received 20/09/2023).....2593

Fire and Emergency Services, Department of (2022-23) (Date received 20/09/2023).....2594

Jobs, Tourism, Science and Innovation, Department of (2022-23)  
(Date received 20/09/2023).....2595

Public Transport Authority (2022-23) (Date received 20/09/2023).....2596

Rottnest Island Authority (2022-23) (Date received 20/09/2023).....2597

Tourism Western Australia (2022-23) (Date received 20/09/2023).....2598

Treasury, Department of (2022-23) (Date received 20/09/2023).....2599

### **Minister for Agriculture and Food**

*Annual Reports —*

DevelopmentWA (2022-23) (Date received 20/09/2023).....2600

Planning, Lands and Heritage, Department of (2022-23) (Date received 20/09/2023).....2601

Western Australian Planning Commission (2022-23) (Date received 20/09/2023).....2602

**Parliamentary Secretary to the Attorney General***Annual Reports —*

Coal Miners Welfare Board (2022-23) (Date received 20/09/2023) .....	2603
Construction Industry Long Service Leave Scheme (2022-23) (Date received 20/09/2023).....	2604
Energy Disputes Arbitrator (2022-23) (Date received 20/09/2023).....	2605
Gold Corporation (2022-23) (Date received 20/09/2023).....	2606
Horizon Power (2022-23) (Date received 20/09/2023) .....	2607
Minerals Research Institute of Western Australia (2022-23) (Date received 20/09/2023) ...	2608
Mines, Industry Regulation and Safety, Department of (2022-23) (Date received 20/09/2023).....	2609
Registrar WA, Industrial Relations Commission, Department of (2022-23) (Date received 20/09/2023).....	2610
State Solicitors Office (2022-23) (Date received 20/09/2023) .....	2611
Synergy (2022-23) (Date received 20/09/2023) .....	2612
Western Power (2022-23) (Date received 20/09/2023).....	2613
Workcover WA (2022-23) (Date received 20/09/2023).....	2614

**Parliamentary Secretary to the Minister for Environment***Annual Reports —*

Zoological Parks Authority (2022-23) (Date received 20/09/2023).....	2615
--	------

**6. City of Bunbury Parking Local Law 2023 — Disallowance**

Hon Lorna Harper: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Bunbury Parking Local Law 2023* published in the *Gazette* on 19 June 2023 and tabled in the Legislative Council on 8 August 2023 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled Paper 2342).

**7. City of Swan Parking Local Law 2023 — Disallowance**

Hon Lorna Harper: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Swan Parking Local Law 2023* published in the *Gazette* on 19 June 2023 and tabled in the Legislative Council on 8 August 2023 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled Paper 2342).

**8. Town of Claremont Animal Local Law 2023 — Disallowance**

Hon Lorna Harper: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Town of Claremont Animal Local Law 2023* published in the *Gazette* on 28 July 2023 and tabled in the Legislative Council on 8 August 2023 under the *Dog Act 1976*, be and is hereby disallowed. (Tabled Paper 2341).

### 9. **Shire of Esperance Cemeteries Local Law 2023 — Disallowance**

Hon Lorna Harper: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Esperance Cemeteries Local Law 2023* published in the *Gazette* on 11 July 2023 and tabled in the Legislative Council on 8 August 2023 under the *Cemeteries Act 1986*, be and is hereby disallowed. (Tabled Paper 2340).

### 10. **Presence of THC in Drivers Oral Fluid, Bloods or Urine**

Hon Sophia Moermond, pursuant to Standing Order 62(a), amended Motion No. 12 to read as follows —

- (1) That this House welcomes the Cook Government's commitment to establish a working group to investigate sensible changes to our driving laws which would allow patients prescribed medicinal cannabis to drive if not impaired, and urges the working group to consider the establishment of a complete defence to the presence of THC in a driver's oral fluid, blood, or urine in circumstances where —
  - (a) the driver has a valid doctor's prescription for a medicine containing THC; and
  - (b) the offence does not involve dangerous or reckless driving; and
  - (c) an officer has not established driver impairment by another means.
- (2) This House further calls upon the Government to set a reporting date for the working group, such that legislative changes can be debated ahead of the next election.

### 11. **Daylight Saving Bill 2023**

Non-Government Business No. 1 having been called, Hon Wilson Tucker, pursuant to notice, moved —

That a Bill for "An Act to provide for a referendum on the question of daylight saving throughout the State, to alter standard time accordingly if the majority of electors indicates approval of daylight saving in the referendum, and for related purposes." be introduced and read a first time.

Question — put and passed.

Bill read a first time.

Hon Wilson Tucker moved, That the Bill be read a second time.

Hon Wilson Tucker tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 2618).

Debate stands adjourned.

### 12. **Flexible Working Arrangements — 4-day Working Week**

Non-Government Business No. 2 having been called, Hon Wilson Tucker moved, without notice —

That this House recognises that —

- (a) labour markets in Australia and across the world are embracing flexible working arrangements including job sharing, remote and hybrid work, and compressed hours and shorter working weeks;
- (b) employers in Western Australia are starting to embrace a 4-day working week, joining many others across the world who have seized upon the opportunity;
- (c) Western Australia stands to benefit by joining the movement before other States and Territories, and being a 'first mover';

- (d) not only would a 4-day working week help employers to retain and attract staff, it would be inline with our State's character as a laid-back place to live and work; and
- (e) encourages the Western Australian Government, as one of the largest employers in the State, to set an example for businesses, and to trial a 4-day working week within the public sector.

Debate ensued.

*Motion lapsed.*

### **13. Western Australia's Trading Hour Laws — Community Expectations**

Non-Government Business No. 3 having been called, Hon Wilson Tucker moved, without notice —

That this House recognises that —

- (a) the Perth CBD is dying, with many businesses struggling to remain open and attract staff after the COVID-19 pandemic, and with many Western Australians actively choosing to avoid the area;
- (b) Western Australia's trading hour laws are archaic and outdated, and are among the most restrictive in Australia;
- (c) time and time again, Western Australians express their wish for more flexibility as to when they can shop, including via a Painted Dog Research poll dated January 2023; and
- (d) calls on the Government to bring inline Western Australia's trading hour laws with community wishes and expectations.

Debate ensued.

*Interruption pursuant to order.*

### **14. Indo-China Region Relations**

Private Members' Business No. 1 having been called, Hon Dan Caddy moved, without notice —

That the Legislative Council —

- (a) acknowledges the importance of the Indo-Pacific region to the State;
- (b) recognises the opportunities that exist in the near and long term future; and
- (c) commends the Cook Government for their proactive agenda in this space, exemplified by the recent delegation to Indonesia, and the Premier's visit to Korea.

Debate ensued.

*Motion lapsed.*

### **15. Order of Business**

Ordered — That Orders of the Day Nos 1, *Aboriginal Cultural Heritage Amendment Regulations (No. 2) 2023 — Disallowance*, 2, *Shire of Westonia Fencing Local Law 2023 — Disallowance*, 3, *Shire of Westonia Westonia Historical Precinct Local Law 2023 — Disallowance*, 4, *Shire of Westonia Shipping and/or Sea Container Local Law 2023 — Disallowance*, 5, *Shire of Chittering Keeping and Control of Cats Local Law 2023 — Disallowance*, 6, *City of Gosnells Bush Fire Brigade Local Law 2023 — Disallowance*, and 7, *Shire of Waroona Cat Local Law 2023 — Disallowance*, be taken after Order of the Day No. 12, *School Education Amendment Bill 2023*. (Leader of the House).

**16. Workers Compensation and Injury Management Bill 2023 and Workers Compensation and Injury Management Amendment Bill 2023**

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

The Acting President left the Chair.

---

**In Committee**

(Hon Dr Sally Talbot in the Chair)

***Workers Compensation and Injury Management Bill 2023***

Clause 365.

Debate resumed.

Clause agreed to.

Clauses 366 to 382 agreed to.

Clause 383.

Debate ensued.

The Parliamentary Secretary to the Minister for Industrial Relations moved —

Page 271, lines 8 and 9 — To delete “in the *Gazette*” and insert:

in accordance with the *Interpretation Act 1984* section 41

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 384 to 390 agreed to.

Clause 391.

Debate ensued.

Clause agreed to.

Clauses 392 to 420 agreed to.

Clause 421.

Debate ensued.

Clause agreed to.

Clause 422 agreed to.

Clause 423 agreed to.

Clauses 424 to 433 agreed to.

Clause 434.

Debate ensued.

Clause agreed to.

Clauses 435 to 504 agreed to.

Clause 505.

Debate ensued.

Clause agreed to.

Clause 506.

Debate ensued.

Clause agreed to.

Clauses 507 to 537 agreed to.

Clause 538.

Debate ensued.

The Parliamentary Secretary to the Minister for Industrial Relations tabled the WorkCover WA *Indexation of Worker's Compensation Payments 2023-24*. (Tabled Paper 2619).

Clause agreed to.

Clauses 539 to 543 agreed to.

Clause 544.

Debate ensued.

The Parliamentary Secretary to the Minister for Industrial Relations moved —  
Page 358, lines 22 and 23 — To delete “in the *Gazette*,” and insert:

in accordance with the *Interpretation Act 1984* section 41;

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 545 to 550 agreed to.

Clause 551.

Debate ensued.

Clause agreed to.

New Clause 551A.

The Parliamentary Secretary to the Minister for Industrial Relations moved —  
Page 363, after line 16 — To insert:

**551A. Pending matters exclusion of injury: reasonable administrative action**

If a pending matter relates to a disease caused by stress that is not an injury under this Act because of the operation of section 7 —

- (a) section 7 does not apply in respect of the pending matter; and
- (b) the definition of ***injury*** in section 5 of the former Act continues to apply in respect of the pending matter.

Debate ensued.

Amendment — put and passed.

New clause agreed to.

Clause 552.

Debate ensued.

Clause agreed to.

Clauses 553 to 576 agreed to.

Clause 577.

Debate ensued.

Clause agreed to.

Clauses 578 to 627 agreed to.

Clause 628.

Debate ensued.

Clause agreed to.

Clause 629.

Debate ensued.

Clause agreed to.

Clause 630.

Debate ensued.

Hon Martin Aldridge moved —

Page 401, after line 31 — To insert:

**36ZNA. When post-traumatic stress disorder taken to be injury caused while engaged in volunteer activities**

(1) In this section —

**DSM-5** means the Diagnostic and Statistical Manual of Mental Disorders, 5<sup>th</sup> edition, published by the American Psychiatric Association in 2013.

(2) An injury by contracting post-traumatic stress disorder suffered by a volunteer is, for the purposes of this Part, taken to be caused to the volunteer while engaged in volunteer activities if all of the requirements for the application of this section to the injury as specified in subsection (3) are satisfied, unless the responsible agency proves that the injury was not caused to the volunteer while engaged in volunteer activities.

(3) The requirements for the application of this section to an injury by post-traumatic stress disorder contracted by a volunteer are as follows —

- (a) the volunteer is diagnosed as having post-traumatic stress disorder by a psychiatrist in accordance with the diagnostic criteria in DSM-5 for post-traumatic stress disorder;
- (b) the volunteer is first diagnosed as having post-traumatic stress disorder (whether in accordance with paragraph (a) or otherwise) on or after 6 May 2023.

Debate ensued.

Amendment — put.

The Committee divided.

**Ayes (10)**

Hon Martin Aldridge  
 Hon Peter Collier  
 Hon Ben Dawkins  
 Hon Donna Faragher  
 Hon Nick Goiran

Hon Steve Martin  
 Hon Dr Steve Thomas  
 Hon Wilson Tucker  
 Hon Dr Brian Walker  
 Hon Colin de Grussa (*Teller*)



**Noes (19)**

Hon Klara Andric  
 Hon Dan Caddy  
 Hon Sandra Carr  
 Hon Stephen Dawson  
 Hon Sue Ellery  
 Hon Lorna Harper  
 Hon Jackie Jarvis  
 Hon Ayor Makur Chuot  
 Hon Shelley Payne  
 Hon Dr Brad Pettitt

Hon Stephen Pratt  
 Hon Martin Pritchard  
 Hon Samantha Rowe  
 Hon Rosie Sahanna  
 Hon Matthew Swinbourn  
 Hon Dr Sally Talbot  
 Hon Darren West  
 Hon Pierre Yang  
 Hon Peter Foster (*Teller*)

Amendment thus negatived.

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

Clauses 631 to 708 agreed to.

Title agreed to.

***Workers Compensation and Injury Management Amendment Bill 2023***

Clause 1 agreed to.

Clauses 2 to 8 agreed to.

Title agreed to.

—————  
 The President resumed the Chair.

The *Workers Compensation and Injury Management Bill 2023* was reported with amendments.

The *Workers Compensation and Injury Management Amendment Bill 2023* was reported without amendment.

The Parliamentary Secretary to the Minister for Industrial Relations, by leave, moved, That the report be adopted.

Report adopted.

The Parliamentary Secretary to the Minister for Industrial Relations moved, without notice —

That so much of Standing Orders be suspended so as to enable the *Workers Compensation and Injury Management Bill 2023* to be read a third time.

The motion requiring the concurrence of an absolute majority.

Question — put.

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

**Ayes (30)**

Hon Martin Aldridge	Hon Dr Brad Pettitt
Hon Klara Andric	Hon Stephen Pratt
Hon Dan Caddy	Hon Martin Pritchard
Hon Sandra Carr	Hon Samantha Rowe
Hon Peter Collier	Hon Rosie Sahanna
Hon Stephen Dawson	Hon Tjorn Sibma
Hon Colin de Grussa	Hon Matthew Swinbourn
Hon Sue Ellery	Hon Dr Sally Talbot
Hon Donna Faragher	Hon Dr Steve Thomas
Hon Lorna Harper	Hon Neil Thomson
Hon Jackie Jarvis	Hon Wilson Tucker
Hon Ayor Makur Chuot	Hon Dr Brian Walker
Hon Steve Martin	Hon Darren West
Hon Sophia Moermond	Hon Pierre Yang
Hon Shelley Payne	Hon Peter Foster ( <i>Teller</i> )

**Noes (1)**

Hon Ben Dawkins (*Teller*)

The concurrence of an absolute majority of the whole number of Members being met Standing Orders suspended.

The Parliamentary Secretary to the Minister for Industrial Relations moved, That the *Workers Compensation and Injury Management Bill 2023* be read a third time.

The President announced 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.

Debate ensued.

**17. Questions Without Notice**

Questions without notice were taken.

The Minister for Agriculture and Food on behalf of the Parliamentary Secretary to the Minister for Electoral Affairs tabled a response to a question without notice asked by Hon Ben Dawkins. (Tabled Paper 2620).

The Leader of the House representing the Minister for Health, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Donna Faragher.

The Minister for Emergency Services representing the Minister for Police, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Peter Collier.

The Minister for Emergency Services representing the Minister for Police, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Peter Collier.

The Minister for Emergency Services representing the Minister for Police, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Dr Brad Pettitt.

The Parliamentary Secretary to the Attorney General, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Nick Goiran.

## 18. Papers

The following Papers were laid on the Table by —

### President

*Annual Reports —*

Legislative Council, Department of (2022-23) (Date received 20/09/2023).....	2579
Legislative Assembly, Department of (2022-23) (Date received 20/09/2023).....	2578
Parliamentary Services, Department of (2022-23) (Date received 20/09/2023).....	2581

### Leader of the House

*Addendums —*

Communities, Department of — Annual Report (2021-22).....	2621
---	------

*Annual Reports —*

Biodiversity Conservation and Attractions (2022-23) (Date received 21/09/2023).....	2622
Burswood Park Board (2022-23) (Date received 21/09/2023).....	2623
Electoral Commission (2022-23) (Date received 21/09/2023).....	2624
Heritage Council (2022-23) (Date received 21/09/2023).....	2625
Law Reform Commission (2022-23) (Date received 21/09/2023).....	2626
Local Government, Sport and Cultural Industries, Department of (2022-23) (Date received 21/09/2023).....	2627
National Trust (2022-23) (Date received 21/09/2023).....	2628
Racing Penalties Appeal Tribunal (2022-23) (Date received 21/09/2023).....	2629
Swan River Trust (2022-23) (Date received 21/09/2023).....	2630

## 19. Workers Compensation and Injury Management Bill 2023 and Workers Compensation and Injury Management Amendment Bill 2023

The Orders of the Day having been read for the third reading of these Bills.

Debate resumed.

*Interruption pursuant to order.*

## 20. Members' Statements

Statements were taken.

The Leader of the House tabled the Western Australia Police Force Annual Report 2022-23. (Tabled Paper 2631).

## 21. Aboriginal Heritage Legislation Amendment and Repeal Bill 2023

The President reported the receipt of Message No. 124 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary to the Minister for Culture and the Arts on behalf of the Leader of the House representing the Minister for Aboriginal Affairs moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Parliamentary Secretary to the Minister for Culture and the Arts on behalf of the Leader of the House representing the Minister for Aboriginal Affairs moved, That the Bill be read a second time.

The Parliamentary Secretary to the Minister for Culture and the Arts on behalf of the Leader of the House representing the Minister for Aboriginal Affairs tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 2632).

Debate stands adjourned.

## **22. Adjournment**

The Council adjourned at 6.13pm until Tuesday, 10 October 2023 at 1.00pm.

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

Attendance: Present all Members except Hon Kyle McGinn.

**SAM HASTINGS**

Clerk of the Legislative Council

**HON ALANNA CLOHESY MLC**

President of the Legislative Council