

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 163

TUESDAY, 16 OCTOBER 2007

1. Meeting of Council

The Council assembled at 3.30pm pursuant to order.

The President, Hon Nick Griffiths, took the Chair and read prayers.

2. Messages from His Excellency the Governor - Assent to Bills

The President reported the receipt of Messages from His Excellency the Governor assenting to the following Bills -

3 October 2007 - Message No. 28	Act No.
Fiona Stanley Hospital Construction Account Bill 2007	22 of 2007
12 October 2007 - Message No. 32	Act No.
Biosecurity and Agriculture Management Rates and Charges Bill 2006	21 of 2007
Biosecurity and Agriculture Management Bill 2006	23 of 2007
Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Bill 2006	24 of 2007

3. Petition

Hon Peter Collier presented a petition from 405 residents of Western Australia requesting the Legislative Council oppose the rezoning of the 'A' Class Reserve on which the Claremont Tennis Club and the Par 3 golf course are currently situated. (Tabled paper 3347).

4. Papers

The following Papers were laid on the Table by -

President

Annual Reports -

Parliamentary Commissioner for Administrative Investigations [OMBUDSMAN] (2006-2007) (Deemed tabled 28/09/2007) (Date received 28/09/2007)	3314
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State Administrative Tribunal (2006-2007) (Date received 10/10/2007).....	3336

Parliamentary Secretary representing the Minister for Planning and Infrastructure*Annual Reports -*

Albany Port Authority (2006-2007) (Date received 04/10/2007)	3337
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<i>Ministerial Approvals -</i>	
Midland Redevelopment Act 1999 - Disposal of land of value in excess of \$1 Million - Lot 708, Foundry Road, Midland to TRGP Midland Pty Ltd.....	3346

5. Standing Committee on Legislation - Acts Amendment (Consent to Medical Treatment) Bill 2006 - Extension of Reporting Time

Hon Graham Giffard presented a Report of the Standing Committee on Legislation in relation to the *Acts Amendment (Consent to Medical Treatment) Bill 2006* seeking an extension of time from Thursday, 18 October 2007 to Thursday, 25 October 2007. (Tabled paper 3348).

Hon Graham Giffard moved, That the Report do lie upon the Table and be adopted and agreed to.

Question - put and passed.

6. Standing Committee on Uniform Legislation and Statutes Review - Twenty-First Report - Statutes (Repeals and Minor Amendments) Bill 2006

Hon Simon O'Brien presented the Twenty-First Report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Statutes (Repeals and Minor Amendments) Bill 2006*. (Tabled paper 3349).

Hon Simon O'Brien moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

7. Standing Committee on Uniform Legislation and Statutes Review - Twenty-Second Report - National Environment Protection Council (Western Australia) Amendment Bill 2007

Hon Simon O'Brien presented the Twenty-Second Report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *National Environment Protection Council (Western Australia) Amendment Bill 2007*. (Tabled paper 3350).

Hon Simon O'Brien moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

8. Standing Committee on Estimates and Financial Operations - Memorandum of Understanding between Balga Senior High School and Manufacturing Industry Training Services Pty Ltd - Special Report - Extension of Reporting Time

Hon Giz Watson presented a Special Report of the Standing Committee on Estimates and Financial Operations in relation to the Inquiry into the Memorandum of Understanding between Balga Senior High School and Manufacturing Industry Training Services Pty Ltd seeking an extension of time from Thursday, 18 October 2007 to Thursday, 6 December 2007. (Tabled paper 3351).

Hon Giz Watson moved, That the Report do lie upon the Table and be adopted and agreed to.

Question - put and passed.

9. Settlement Agents Amendment Regulations (No. 2) 2007 - Disallowance

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

That the *Settlement Agents Amendment Regulations (No. 2) 2007* published in the *Gazette* on 29 June 2007 and tabled in the Legislative Council on 15 August 2007 under the *Settlement Agents Act 1981*, be and are hereby disallowed.

10. Matter of Urgency - Midwest Corporation - Permit to Transport Iron Ore

The 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, the Government's action in introducing artificial restrictions on the carriage of iron ore by Midwest Corporation and the consequent exposure of the State to a possible claim for damages.

Yours sincerely

Hon Simon O'Brien

Member for South Metropolitan Region

Four members having risen in support.

Hon Simon O'Brien moved the motion.

Debate ensued.

The Leader of the House, by leave, tabled documents in relation to ASX Announcements by Midwest Corporation Limited seeking an urgent meeting with the Minister for Planning and Infrastructure and agreement to extend the Company's permit to haul its ore. (Tabled paper 3352).

Debate resumed.

Motion lapsed.

11. Order of Business

Ordered - That Orders of the Day be now taken.

Ordered - That Orders of the Day Nos 484, *Mooring Amendment Regulations 2007 - Disallowance*, 485, *Rights in Water and Irrigation Amendment Regulations 2007 - Disallowance*, 486, *City of Armadale - Signs Local Law 2007 - Disallowance*, 487, *Environmental Protection Amendment Regulations 2007 - Disallowance*, 488, *Curtin University of Technology - Statute No.7 - The Council - Disallowance*, 489, *Rights in Water and Irrigation Amendment Regulations 2007 - Disallowance* and 490, *Rights in Water and Irrigation Amendment Regulations 2007 - Disallowance*, be taken after Order of the Day No. 478, *Surrogacy Bill 2007*. (Leader of the House).

12. Fish Resources Management Amendment Bill 2006

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

Debate resumed.

Question - put and passed.

Bill read a second time.

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 and 3 agreed to.

Clause 4.

Debate ensued.

Clause agreed to.

Clause 5.

Debate ensued.

Clause agreed to.

Clause 6.

Debate ensued.

13. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary representing the Minister for Planning and Infrastructure on behalf of the Parliamentary Secretary representing the Minister for the Environment tabled a report, including test results, in relation to Port Geographe: Sediment and Water Quality Monitoring Program, in response to a question without notice asked by Hon Nigel Hallett. (Tabled paper 3353).

The Minister for Local Government representing the Minister for Education and Training tabled a list of names of members of advisory bodies and if any of these people received payments, under the Minister for Education and Training's portfolio over the past two years, in response to question on notice No. 5065 asked by Hon Helen Morton. (Tabled paper 3354).

The Minister for Regional Development representing the Minister for Corrective Services tabled a table of committees established between 1 July 2006 and 30 June 2007 within the Minister for Corrective Services' portfolio, in response to question on notice No. 5253 asked by Hon Ray Halligan. (Tabled paper 3355).

The Minister for Regional Development representing the Minister for Corrective Services tabled a list of employment positions under the Minister for Corrective Services' portfolio for which an exception under section 50(d) of the *Equal Opportunity Act 1984* applied as at 1 January 2007, in response to question on notice No. 5425 asked by Hon Helen Morton. (Tabled paper 3356).

The Minister for Child Protection representing the Minister for Health tabled a list of committees established between 1 July 2006 and 30 June 2007 within the Minister for Health's portfolio, in response to question on notice No. 5236 asked by Hon Ray Halligan. (Tabled paper 3357).

The Minister for Child Protection representing the Minister for Health tabled details of patients diagnosed with illicit drug - induced psychosis that have been admitted to Western Australian hospitals, in response to question on notice No. 5448 asked by Hon Donna Faragher. (Tabled paper 3358).

The Parliamentary Secretary representing the Minister for Planning and Infrastructure tabled documents in relation to Esperance Port Authority half year reports for 2004-05 and 2005-06, in response to a question without notice asked by Hon Norman Moore. (Tabled paper 3359).

14. Fish Resources Management Amendment Bill 2006

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 6 agreed to.

Clause 7.

Debate ensued.

Clause agreed to.

Clause 8 agreed to.

Title agreed to.

The Acting President resumed the Chair.

Bill reported without amendment.

Report adopted.

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

15. 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.

In Committee

(Hon George Cash in the Chair)

Clause 191.

Debate resumed.

Hon Paul Llewellyn moved -

Page 99, line 19 — To insert after “misuses” —

“ confidential ”.

Page 99, line 23 — To insert after “misuses” —

“ confidential ”.

Debate ensued.

Amendments - put and passed.

The Minister for Agriculture and Food moved -

Page 100, lines 14 and 15 — To delete “*Financial Administration and Audit Act 1985*” and insert instead —

“ *Financial Management Act 2006* ”.

Page 100, lines 22 and 23 — To delete “section 69 of the *Financial Administration and Audit Act 1985*” and insert instead —

“ section 64 of the *Financial Management Act 2006* ”.

Amendments - put and passed.

Hon Norman Moore on behalf of Hon Barry House moved -

Page 100, lines 24 to 26 — To delete “, except where the document is to be laid before either House of Parliament by its own order”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 192 to 201 agreed to.

Clause 202.

The Minister for Agriculture and Food moved -

Page 108, lines 9 and 10 — To delete “*Financial Administration and Audit Act 1985*” and insert instead —

“ *Financial Management Act 2006* ”.

Amendment - put and passed.

The Minister for Agriculture and Food moved -

Page 108, line 11 — To delete the line and insert instead —

“

[* *Act No. 76 of 2006.*

For subsequent amendments see Act No. 77 of 2006.]

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 203 to 205 agreed to.

Clause 206.

The Minister for Agriculture and Food moved -

Page 110, line 6 — To delete “as follows:”.

Page 110, lines 7 to 10 — To delete the lines.

Amendments - put and passed.

Clause, as amended, agreed to.

Clauses 207 to 213 agreed to.

Clause 214.

The Minister for Agriculture and Food moved -

Page 118, lines 7 and 8 — To delete “*Financial Administration and Audit Act 1985* section 15B” and insert instead —

“ *Financial Management Act 2006* section 16 ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 215.

The Minister for Agriculture and Food moved -

Page 118, lines 24 to 26 — To delete “officer of the Department under the *Financial Administration and Audit Act 1985*” and insert instead —

“ authority of the Department under the *Financial Management Act 2006* ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 216 to 231 agreed to.

Clause 232.

Hon Norman Moore moved -

Page 126, lines 8 to 11 — To delete the lines.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 233 agreed to.

Postponed Clause 76.

Debate resumed on the amendment of Hon Paul Llewellyn as follows -

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.

”
.”
”
.”

Hon Paul Llewellyn, by leave, withdrew the amendment standing in his name.

Hon Paul Llewellyn moved -

Page 27, after line 2 — To insert —

“

(2) Subsection 27(1) is amended by inserting after section 27(1)(ga) —

“

(h) the fees or charges payable in respect of licenses under section 5C;

”
.”

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

“

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

”
.”
”
.”

Debate ensued.

Amendment - put and negatived.

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

Postponed Clauses 103 to 109.

Debate ensued.

Clauses put and negatived.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments.

Hon Paul Llewellyn moved -

That the Bill be recommitted for the purpose of further considering Clause 76.

Question - put and passed.

The Deputy President left the Chair.

In Committee

(Hon Ray Halligan in the Chair)

Recommittal.

Clause 76.

Hon Paul Llewellyn moved -

Page 27, after line 2 — To insert —

“

(2) Subsection 27(1) is amended by inserting after section 27(1)(ga) —

“

(h) the fees or charges payable in respect of licenses under section 5C;

”.

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

“

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

”.

”.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (14)

Hon Shelley Archer
Hon Vincent Catania
Hon Kim Chance
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford

Hon Graham Giffard
Hon Paul Llewellyn
Hon Louise Pratt
Hon Ljiljanna Ravlich
Hon Ken Travers
Hon Giz Watson
Hon Ed Dermer (*Teller*)

Noes (13)

Hon Ken Baston
Hon George Cash
Hon Peter Collier
Hon Murray Criddle
Hon Brian Ellis
Hon Donna Faragher
Hon Anthony Fels

Hon Nigel Hallett
Hon Ray Halligan
Hon Norman Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon Bruce Donaldson (*Teller*)

Amendment thus passed.

Clause, as amended, agreed to.

The Acting President resumed the Chair.

Bill reported with further amendment.

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

16. Wills Amendment Bill 2006

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

Want of Quorum

There not being a quorum present, the Acting President gave instructions for the ringing of the Bells.
A quorum being formed, the debate continued.

Question - put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the Bill.

The Minister for Child Protection moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

17. Mines Safety and Inspection Amendment Bill 2007

The Acting President reported the receipt of Message No. 256 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Child Protection representing the Minister for Employment Protection moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection representing the Minister for Employment Protection moved, That the Bill be now read a second time.

Debate stands adjourned.

18. Occupational Safety and Health Legislation Amendment Bill 2007

The Acting President reported the receipt of Message No. 257 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Child Protection representing the Minister for Employment Protection moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection representing the Minister for Employment Protection moved, That the Bill be now read a second time.

Debate stands adjourned.

19. State Supply Commission Amendment Bill 2007

The Acting President reported the receipt of Message No. 258 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a second time.

Debate stands adjourned.

20. Adjournment

The Minister for Child Protection moved, That the House do now adjourn.

Debate ensued.

Question - put and passed.

The House adjourned at 10.25pm until Wednesday, 17 October 2007 at 4.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Barry House and Hon Sally Talbot.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON NICK GRIFFITHS
President of the Legislative Council