WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 156

TUESDAY, 21 JUNE 2011

1. Meeting of Council

The Council assembled at 3.00pm pursuant to Temporary Orders.

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

2. Message from the Deputy of the Lieutenant Governor and Administrator - Assent to Bills

The President reported the receipt of a Message from the Deputy of the Lieutenant Governor and Administrator assenting to the following Bills -

25 May 2011 - Message No. 17	Act No.
Road Traffic Amendment (Alcohol and Drug Related Offences) Bill 2010	14 of 2011
Criminal Investigation (Identifying People) Amendment Bill 2011	15 of 2011
Building Services (Complaint Resolution and Administration) Bill 2010	16 of 2011
Building Services Levy Bill 2010	17 of 2011

3. Message from His Excellency the Lieutenant Governor and Administrator - Assent to

The President reported the receipt of a Message from His Excellency the Lieutenant Governor and Administrator assenting to the following Bill -

2 June 2011 - Message No. 18 Road Traffic Legislation Amendment (Information) Bill 2010 18 of 2011

4. Building Services (Registration) Bill 2010

The following Message from the Legislative Assembly was reported -

Mr President Message No. 187

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Building Services (Registration) Bill 2010*.

Mr Michael Sutherland Deputy Speaker Legislative Assembly Chamber Perth, 15 June 2011

5. Petitions

Hon Sue Ellery presented a petition from 19 petitioners requesting the Legislative Council support the *Skilled Local Jobs Bill 2011* with the objective of ensuring that a greater share of skilled work for major resources projects is performed in Western Australia. (Tabled paper 3377).

Hon Sue Ellery presented a petition from 11 petitioners requesting the Legislative Council to call upon the Government to immediately introduce a Western Australian container deposit scheme similar to the system that operates in South Australia. (Tabled paper 3378).

Hon Sally Talbot presented a petition from 4,819 petitioners requesting the Legislative Council initiate an inquiry into the decision to lift the moratorium on the growing of genetically modified canola in Western Australia. (Tabled paper 3379).

Hon Robin Chapple presented a petition from 139 petitioners requesting the Legislative Council review the impact of a liquefied natural gas processing hub and its associated industries on the Kimberley Coast, support further research into the Kimberley's ecosystems and request the Government to nominate the Kimberley Region for World Heritage listing. (Tabled paper 3380).

Hon Alison Xamon presented a petition from 77 petitioners requesting the Legislative Council to recommend to the Attorney General that he act to ensure that courts are able to use appropriate discretion when sentencing people with a significant mental impairment. (Tabled paper 3381).

6. Ministerial Statement - Indigenous Implementation Board - Third Report

The Minister for Indigenous Affairs made a Ministerial Statement with respect to the Third and final report of the Indigenous Implementation Board.

The Minister for Indigenous Affairs tabled the Indigenous Implementation Board - Third Report entitled *Report to the Hon. Peter Collier MLC Minister for Indigenous Affairs (February 2011).* (Tabled paper 3382).

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

7. Ministerial Statement - Metropolitan Region Scheme Amendment No. 1191/41 - Rationalisation of Fremantle Ports Operations

The Minister for Mental Health representing the Minister for Planning made a Ministerial Statement with respect to Metropolitan Region Scheme Amendment No. 1191/41 - Rationalisation of Fremantle Ports Operations.

The Minister for Mental Health representing the Minister for Planning tabled a report in relation to Metropolitan Region Scheme Amendment No. 1191/41. (Tabled paper 3384).

The Minister for Mental Health representing the Minister for Planning tabled a plan in relation to Metropolitan Region Scheme Amendment No. 1191/41. (Tabled paper 3383).

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

8. Papers

The following Papers were laid on the Table by -

President

Leader of the House

Regulations -Liquor Control Act 1988 (Liquor Control Amendment Regulations 2011 G.G. 27/05/2011, Liquor Control Amendment Regulations (No. 7) 2011 G.G. 27/05/2011, Liquor Control (Looma Restricted Area) Regulations 2011 G.G. 27/05/2011 and Liquor Control (Pandanus Park Liquor Control Act 1988 (Liquor Control Amendment Regulations (No. 3) 2011 G.G. 03/06/2011).... 3347 Petroleum and Geothermal Energy Resources Act 1967 (Petroleum and Geothermal Energy Petroleum (Submerged Lands) Act 1982 (Petroleum (Submerged Lands) Amendment Rules -Lotteries Commission Act 1990 (Lotteries Commission (Oz Lotto) Amendment Rules 2011 Lotteries Commission Act 1990 (Lotteries Commission (Powerball) Amendment Rules 2011 Minister for Finance Annual Reports -Local Laws -Dividing Fences Act 1961 (Shire of Esperance Fencing Amendment Local Law 2011 Notices -Fair Trading Act 2010 (Consumer Protection Notice No. 21 of 2011 - Safety Standard: Child Regulations -Motor Vehicle Drivers Instructors Act 1963 (Motor Vehicle Drivers Instructors Amendment Residential Tenancies Act 1987 (Residential Tenancies Amendment Regulations 2011 Reports -Government of Western Australia, Quarterly Financial Results Report 2010-2011 Minister for Energy Regulations -Pawnbrokers and Second-hand Dealers Act 1994 (Pawnbrokers and Second-hand Dealers Security and Related Activities (Control) Act 1996 (Security and Related Activities (Control)

Minister for Child Protection

By-laws -	
Perth Market Act 1926 (Perth Market Amendment By-laws 2010 G.G. 31/05/2011)	3364
Local Laws -	
Local Government Act 1995 (City of Gosnells Local Government Property Amendment Local Law 2011 G.G. 27/05/2011 and Shire of Merredin Waste Local Law 2011 G.G. 25/05/2011)	3365
Local Government Act 1995 (Correction - City of Gosnells Local Government Property Amendment Local Law 2011 G.G. 31/05/2011, Town of Bassendean Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2010 G.G. 07/06/2011 and Town of Bassendean Parking and Parking Facilities Local Law 2010 G.G. 07/06/2011)	3366
Regulations -	
Stock Diseases (Regulations) Act 1968 (Enzootic Diseases Amendment Regulations (No. 2) 2011 G.G. 03/06/2011)	3367
Veterinary Surgeons Act 1960 (Veterinary Surgeons Amendment Regulations 2011 G.G. 24/05/2011)	3368
Minister for Mental Health	
Lease -	
CALM Lease No. 2132/97 - Between CALM and Simcoa Operations Pty Ltd, for the purpose of processing of Timber Residue at two locations within State Forest No. 14, Dwellingup	3369
Local Laws -	
Health Act 1911 (Shire of Esperance Health Amendment Local Law 2011 G.G. 03/06/2011)	3370
Regulations -	
Health Act 1911 (Health (Poultry Manure) Amendment Regulations 2011 G.G. 24/05/2011)	3371
Hospitals and Health Services Act 1927 (Hospitals (Services Charges) Amendment Regulations (No. 2) 2011 G.G. 03/06/2011 and Hospitals (Services Charges) Amendment Regulations (No. 4) 2011 G.G. 03/06/2011)	3372
Reports -	
Queen Elizabeth II Medical Centre Trust (December 2010) (Date received 16/06/2011)	3373
Parliamentary Secretary representing the Attorney General	
Regulations -	
Legal Profession Act 2008 (Legal Profession Amendment Regulations (No. 3) 2011 G.G. 03/06/2011)	3374
Parliamentary Secretary representing the Minister for Regional Development	
Proposals -	
Land Administration Act 1997 - Submission No. 3/2011 - Grant of easement to the Water Corporation to protect a water main situated in Class A Reserve No. 20957	3375
Reports -	
Landgate - Statement of Corporate Intent (2011-2012) (Date received 16/06/2011)	3376

9. Joint Standing Committee on the Corruption and Crime Commission - Report No. 15 - Corruption Risks of Controlled Operations and Informants

Hon Nick Goiran presented Report No. 15 of the Joint Standing Committee on the Corruption and Crime Commission in relation to *Corruption Risks of Controlled Operations and Informants*. (Tabled paper 3385).

Hon Nick Goiran moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

10. Standing Committee on Uniform Legislation and Statutes Review - Report No. 62 - Trustee Companies (Commonwealth Regulation) Amendment Bill 2010

Hon Adele Farina presented Report No. 62 of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Trustee Companies (Commonwealth Regulation) Amendment Bill 2010.* (Tabled paper 3386).

Hon Adele Farina moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

11. Retail Trading Hours Amendment Bill 2011

The Minister for Commerce: To move on the next day of sitting -

That a Bill for "An Act to amend the *Retail Trading Hours Act 1987*." be introduced and read a first time.

12. Greater Bunbury Region Scheme Amendment No. 0010/41 - Marlston North and Greater Bunbury Region Scheme Amendment No. 0011/41 - Koombana North - Withdrawn from Notice Paper

Hon Lynn MacLaren, by leave, moved, without notice -

That Motion for Disallowance No. 1, Greater Bunbury Region Scheme Amendment No. 0010/41 - Marlston North and Greater Bunbury Region Scheme Amendment No. 0011/41 - Koombana North, be withdrawn from the Notice paper.

Question - put and passed.

13. Shire of Busselton - Use of a Public Jetty Amendment Local Law 2011 - Withdrawn from Notice Paper

Hon Sally Talbot, by leave, moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Motion for Disallowance No. 2, *Shire of Busselton - Use of a Public Jetty Amendment Local Law 2011*, be withdrawn from the Notice Paper.

Question - put and passed.

14. Appointment of Deputy Chairman of Committees

The Leader of the House moved, without notice -

That Hon Colin Holt be appointed as a Deputy Chairman of Committees.

Question - put and passed.

15. Order of Business

Ordered - That Orders of the Day Nos 1, Metropolitan Region Scheme Amendment No. 1186/41 - Wandi Transit Oriented Development Precinct - Disallowance, 3, City of Mandurah Waste Management Local Law 2010 - Disallowance, 4, Metropolitan Region Scheme Amendment No. 1180/41 - Cockburn Coast District Structure Plan - Disallowance, and 5, Schedule 1 of the Prohibited Behaviour Orders Regulations 2011 - Disallowance, be taken after Order of the Day No. 14, Young Offenders Legislation Amendment (Research Information) Bill 2010. (Leader of the House).

16. Offshore Minerals Regulations 2010 - Disallowance - Discharge from Notice Paper

Hon Robin Chapple moved, without notice -

That Order of the Day No. 2, Offshore Minerals Regulations 2010 - Disallowance, be discharged from the Notice Paper.

Question - put and passed.

17. Estimates of Revenue and Expenditure - Consolidated Fund Estimates 2011-2012

The Order of the Day having been read for the adjourned debate on the motion of the Minister for Finance representing the Treasurer, as follows -

That pursuant to Standing Order No. 49(1)(c) the Legislative Council take note of Tabled Paper No. 3310A-F (2011-2012 Budget Statements), laid upon the Table of the House on 19 May 2011.

Debate resumed

18. **Questions Without Notice**

Questions without notice were taken.

The Minister for Child Protection representing the Minister for Heritage tabled a report entitled *Permanent Registration P2321 Rockingham Hotel* by the Heritage Council, in relation to the registration of the Rockingham Hotel, in response to a question without notice asked by Hon Kate Doust. (Tabled paper 3387).

Point of Order

Hon Sue Ellery raised the following Point of Order -

Mr President, you have just ruled—although I note that the Minister did not have an answer anyway—that part (5) of the question asked by Hon Kate Doust was out of order. I wonder whether you might give us the reasons for that ruling. You do not have the question in front of you, Mr President, so I will repeat it for you. The question was—

(5) Is the Minister —

That is, the Minister for Heritage —

a personal friend of the owner of the hotel?

President's Ruling

The President ruled as follows -

I ruled it out of order because it does not relate specifically to the portfolio. If the question had been phrased in such a way that it asked whether the Minister had had any direct dealings with that other person, that would be a different matter.

The Minister for Mines and Petroleum tabled an answer in relation to a Warden's Court proceeding involving KCGM, Madigan, Guest, Westcombe and/or Optimum and Steven Kean, in response to question on notice No. 3839 asked by Hon Robin Chapple. (Tabled paper 3388).

The Minister for Mines and Petroleum tabled documents in relation to information regarding activities targeting shale and tight gas resources, in response to question on notice No. 3903 asked by Hon Alison Xamon. (Tabled paper 3389).

The Minister for Energy tabled a document in relation to the average residential electricity bill amounts issued by Synergy for Spencer Park, Balcatta, Dalyellup, High Wycombe, Kingsley, Clarkson, Noranda, Yokine, Currambine, Parkwood, Innaloo, Huntingdale, Ellenbrook, Darch and Peppermint Grove, from September 2010 to February 2011, in response to question on notice No. 3834 asked by Hon Kate Doust. (Tabled paper 3390).

The Minister for Energy tabled a document in relation to the average residential electricity bill amounts issued by Horizon Power for Pegs Creek, Nickol, Bulgarra, Cooke Point and South Headland, from September 2010 to February 2011, in response to question on notice No. 3836 asked by Hon Kate Doust. (Tabled paper 3391).

The Minister for Child Protection representing the Minister for Forestry tabled documents in relation to Forest Products Commission customers with outstanding debts as of 10 June 2011, in response to a question without notice asked by Hon Giz Watson. (Tabled paper 3392).

The Minister for Mental Health, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 3812 asked by Hon Ljiljanna Ravlich will be provided on Thursday, 30 June 2011.

19. Estimates of Revenue and Expenditure - Consolidated Fund Estimates 2011-2012

Debate resumed on the motion of the Minister for Finance representing the Treasurer, as follows -

That pursuant to Standing Order No. 49(1)(c) the Legislative Council take note of Tabled Paper No. 3310A-F (2011-2012 Budget Statements), laid upon the Table of the House on 19 May 2011.

On the motion of Hon Ken Baston the debate was adjourned to the next sitting.

20. Commonwealth Heads of Government Meeting (Special Powers) Bill 2011

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

In Committee

(Hon Brian Ellis in the Chair)

Clause 78.

Debate resumed.

Question - put.

The Committee divided.

II... I :- D-1:-4

Ayes (16)

Hon Liz Benjat	Hon Nick Goiran
Hon Jim Chown	Hon Alyssa Hayden
Hon Peter Collier	Hon Col Holt
Hon Mia Davies	Hon Robyn McSweeney
Hon Wendy Duncan	Hon Michael Mischin
Hon Brian Ellis	Hon Helen Morton
Hon Donna Faragher	Hon Simon O'Brien
Hon Philip Gardiner	Hon Ken Baston (Teller)

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Noes (11)

Hon Matt Benson-Lidholm Hon Helen Bullock Hon Kate Doust Hon Adele Farina Hon Jon Ford Hon Lynn MacLaren Hon Ljiljanna Ravlich Hon Ken Travers Hon Giz Watson Hon Alison Xamon Hon Linda Savage (Teller)

Question thus passed.

Clause agreed to.

Clause 79.

Debate ensued.

Clause agreed to.

Clause 80.

Debate ensued.

Question - put.

The Committee divided.

Ayes (16)

Hon Liz Behjat Hon Nick Goiran Hon Jim Chown Hon Alyssa Hayden Hon Peter Collier Hon Col Holt Hon Mia Davies Hon Robyn McSweeney Hon Michael Mischin Hon Wendy Duncan Hon Brian Ellis Hon Helen Morton Hon Donna Faragher Hon Simon O'Brien Hon Philip Gardiner Hon Ken Baston (Teller)

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Hon Helen Bullock
Hon Kate Doust
Hon Adele Farina
Hon Jon Ford
Hon Lynn MacLaren
Hon Lilijanna Ravlich
Hon Ken Travers
Hon Giz Watson
Hon Alison Xamon
Hon Linda Savage (Teller)

Question thus passed.

Clause agreed to.

Clause 81

Debate ensued.

Clause agreed to.

Clause 82.

Debate ensued.

The Parliamentary Secretary representing the Premier, moved -

Page 51, after line 18 — To insert —

attend an event has the meaning given in section 3;

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 83.

Debate ensued

Clause agreed to.

Clause 84.

Debate ensued.

Clause agreed to.

Clause 85 agreed to.

Clause 86 agreed to.

Clause 87.

Debate ensued.

Clause agreed to.

Clauses 88 to 93.

Question - put.

The Committee divided.

Ayes (16)

Hon Nick Goiran Hon Liz Behjat Hon Jim Chown Hon Nigel Hallett Hon Peter Collier Hon Alyssa Hayden Hon Mia Davies Hon Col Holt Hon Wendy Duncan Hon Robyn McSweeney Hon Michael Mischin Hon Brian Ellis Hon Donna Faragher Hon Helen Morton Hon Philip Gardiner Hon Ken Baston (Teller)

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Hon Helen Bullock
Hon Kate Doust
Hon Adele Farina
Hon Jon Ford
Hon Lynn MacLaren
Hor

Hon Ljiljanna Ravlich Hon Ken Travers Hon Giz Watson Hon Alison Xamon Hon Linda Savage (Teller)

Question thus passed.

Clauses agreed to.

Postponed Clause 2.

Debate ensued.

Clause agreed to.

New Part 2.

The Parliamentary Secretary representing the Premier moved -

Page 11, after line 14 — To insert —

Division 3A — CHOGM events

13A. Order declaring CHOGM event

- (1) The Minister may, by order, declare any meeting, event, function or activity to be a CHOGM event if the Minister is satisfied that declaring the meeting, event, function or activity to be a CHOGM event will substantially assist in
 - (a) promoting the security or safety of
 - (i) people attending CHOGM (Perth); or
 - (ii) CHOGM officials or other officials associated with the organisation of CHOGM (Perth); or
 - (iii) the public;

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- (b) preventing or controlling a public disorder.
- An order made under subsection (1) has effect when it is published in the *Gazette* unless section 13C applies, in which case it has effect when the Minister signs the order.
- (3) An order under this section may be made before or during the CHOGM period.

13B. Urgent order declaring CHOGM event

- (1) The Minister may make an order under section 13A without publishing the order in the *Gazette* if the Minister is satisfied
 - (a) that it is necessary to declare a meeting, event, function or activity to be a CHOGM event as a matter of urgency; and
 - (b) that the delay that would be caused by having to publish the order in the Gazette would significantly compromise the security or safety of the meeting, event, function or activity, people attending it or the public.
- (2) If an order is made by the Minister in the circumstances set out in subsection (1)
 - (a) the order has effect when the Minister signs the order; and
 - (b) as soon as practicable after the order is made, the Minister must ensure that the order is published in the Gazette, unless section 13C applies.
- (3) A failure to comply with subsection (2)(b) does not affect the validity of the order.

13C. Gazetting of order can be dispensed with

Despite sections 13A(2) and 13B(2)(b), the Minister does not have to publish an order made under section 13A in the *Gazette* if the Minister is satisfied that the publication of the order would be likely to significantly compromise the security or safety of the meeting, event, function or activity to which the order relates, people attending it or the public.

Amendment - put and passed.

Postponed Clause 14.

The Parliamentary Secretary representing the Premier moved -

Page 11, line 17 — To delete "8 or 12" and insert —

8, 12 or 13A

Page 11, line 21 — To delete "8 or 12" and insert —

8, 12 or 13A

Amendments - put and passed.

Clause, as amended, agreed to.

Postponed Clause 15.

The Parliamentary Secretary representing the Premier moved -

Page 11, line 23 — To delete "8 or 12" and insert —

8, 12 or 13A

Amendment - put and passed.

Clause, as amended, agreed to.

Postponed Clause 71.

The Parliamentary Secretary representing the Premier moved -

Page 46, after line 10 — To insert —

(ba) that an order was made under section 13A declaring a stated meeting, event, function or activity to be a CHOGM event, and the date and time when the order was signed;

Page 46, after line 18 — To insert —

(4) Subsection (1)(ba) does not apply if the order made under section 13A is published in the *Gazette*.

Amendments - put and passed.

Clause, as amended, agreed to.

Debate ensued.

Long Title.

The Parliamentary Secretary representing the Premier moved -

Page 1 — To delete "2011," and insert —

2011 and associated meetings, events, functions and activities,

Debate ensued.

Amendment - put and passed.

Long Title, as amended, agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments.

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

21. Building Bill 2010

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

Want of Quorum

There not being a quorum present, the Deputy President gave instructions for the ringing of the Bells.

A quorum being formed, the debate continued.

Interruption pursuant to Temporary Orders.

22. Members' Statements

Statements were taken.

23. Appropriation (Consolidated Account) Recurrent 2011-12 Bill 2011

The President reported the receipt of Message No. 185 from the Legislative Assembly forwarding the Bill for concurrence.

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

Question - put and passed.

Bill read a first time.

The Minister for Finance representing the Treasurer moved, That the Bill be now read a second time. Debate stands adjourned.

24. Appropriation (Consolidated Account) Capital 2011-12 Bill 2011

The President reported the receipt of Message No. 186 from the Legislative Assembly forwarding the Bill for concurrence.

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

Question - put and passed.

Bill read a first time.

The Minister for Finance representing the Treasurer moved, That the Bill be now read a second time. Debate stands adjourned.

25. Casino (Burswood Island) Agreement Amendment Bill 2011

The President reported the receipt of Message No. 188 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Finance on behalf of the Leader of the House representing 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 Finance on behalf of the Leader of the House representing the Minister for Racing and Gaming moved, That the Bill be now read a second time.

Debate stands adjourned.

26. Commercial Tenancy (Retail Shops) Agreements Amendment Bill 2011

The President reported the receipt of Message No. 189 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Commerce moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Commerce moved, That the Bill be now read a second time.

Debate stands adjourned.

27. Adjournment

The House adjourned at 10.33pm until Wednesday, 22 June 2011 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE

President of the Legislative Council