

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 176

THURSDAY, 22 SEPTEMBER 2011

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### 1. Meeting of Council

The Council assembled at 10.00am pursuant to Temporary Orders.

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

### 2. Petitions

Hon Matt Benson-Lidholm presented a petition from 140 petitioners requesting the Legislative Council support the allocation of more resources to the Geraldton and Midwest Region by the Government to stop violence in their communities. (Tabled paper 3751).

Hon Giz Watson presented a petition from 3 petitioners requesting the Legislative Council recommend that the State Government change the local area intake boundary for Shenton College to include West Leederville Primary School. (Tabled paper 3752).

Hon Giz Watson presented a petition from 249 petitioners requesting the Legislative Council recommend that the State Government change the local area intake boundary for Shenton College to include West Leederville Primary School. (Tabled paper 3753).

### 3. Ministerial Statement - 2010-11 Annual Report on State Finances

The Minister for Finance made a Ministerial Statement with respect to the State's whole-of-government financial outcomes for the period ended 30 June 2011.

The Minister for Finance, tabled the *2010-11 Annual Report on State Finances* (September 2011). (Tabled paper 3754).

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

### 4. Papers

The following Papers were laid on the Table by -

#### Minister for Energy

##### *Annual Reports -*

Horizon Power (2010-2011) (Date received 21/09/2011).....	3747
Synergy (2010-2011) (Date received 21/09/2011).....	3748
Verve Energy (2010-2011) (Date received 21/09/2011).....	3749
Western Power (2010-2011) (Date received 21/09/2011).....	3750

**5. Joint Standing Committee on the Corruption and Crime Commission - Report No. 19 - Annual Report 2010-2011**

Hon Nick Goiran presented Report No. 19 of the Joint Standing Committee on the Corruption and Crime Commission being the *Annual Report 2010-2011*. (Tabled paper 3755).

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

Question - put and passed.

**6. Mining Amendment Bill 2011**

Hon Giz Watson: To move on the next day of sitting -

That a Bill for "An Act to amend the *Mining Act 1978*." be introduced and read a first time.

**7. Select Committee into the Prolonged Detention without Conviction of Mr Marlon Noble - Establishment**

Hon Alison Xamon: To move on the next day of sitting -

- (1) That a select committee of five members is appointed, any three of whom constitute a quorum.
- (2) The committee is to inquire into and report on —
  - (a) the circumstances surrounding the laying of the original charges against Mr Marlon Noble;
  - (b) the circumstances surrounding the making of the custody order against Mr Marlon Noble; and
  - (c) the Mentally Impaired Accused Review Board's handling of Mr Marlon Noble's case following the making of the custody order.
- (3) The committee and the proceedings of the committee are subject to Chapter XXII of Standing Orders and the committee is to be regarded for all purposes as a committee appointed under that chapter.
- (4) The committee is to report to the House no later than 1 December 2012.

**8. President's Ruling - Non-Government Business**

The President ruled as follows -

On Thursday, 8 September 2011 Hon Kate Doust raised a point of order querying the Standing Orders relating to speaking times for Non-Government Business and seeking clarification that only one Minister has 15 minutes to respond on behalf of the Government and all other speakers have 10 minutes apiece. The Deputy President (Hon Matt Benson-Lidholm) was within his rights in providing an interpretation of the Temporary Orders based on the structure of the motion that no particular Minister would seem to have primary carriage of the Government's position. He further stated, after considering further views of Members —

Members, I believe that the way forward then would be that the resolution of this situation will be undertaken behind the chair.

I have considered the matters raised and, whilst the motion did name three Ministers, with no particular Minister seeming to have primary carriage of the Government's position, I suggest that it is the spirit and discussion surrounding the drafting of the Temporary Order that need to be reflected upon.

In 2010 a revised set of Temporary Orders were tabled in the House. The Temporary Orders reduced the debate time for the Non-Government Business from 135 minutes, with each speaker having 20 minutes, to 80 minutes for the total debate, with different speaking times for various speakers; that is, 20 minutes for the mover, 15 minutes for the responsible Minister or Parliamentary Secretary, and 10 minutes for all subsequent Members. In my view, the intent was for one Minister to respond on behalf of the Government. Further, it was to ensure that as many Members as possible could speak to the Motion within the limited time made available.

I have consulted with the party leaders, the Deputy President and the Clerk in the intervening period. I will be placing consideration of this item on the agenda for the next meeting of the subcommittee of the Standing Committee on Procedure and Privileges, which is the committee conducting the Sanding Orders review.

I rule that only one Minister or Parliamentary Secretary will be given 15 minutes to speak on behalf of the Government during Non-Government Business.

### **9. Property Law (Mortgagee's Power of Sale) Amendment Bill 2009**

Non-Government Business No. 1 having been called for the adjourned debate on the second reading of this Bill.

Debate resumed.

*Interruption pursuant to Temporary Orders.*

### **10. Order of Business**

Ordered - That Order of the Day No. 1, *Planning and Development Amendment Regulations (No. 4) 2011 - Disallowance*, be taken after Order of the Day No. 7, *Professional Combat Sports Amendment Bill 2009*. (Leader of the House).

### **11. Strata Titles General Amendment Regulations 2011 - Disallowance - Discharge from Notice Paper**

The Order of the Day having been called, Hon Sally Talbot moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 2, *Strata Titles General Amendment Regulations 2011* be discharged from the Notice Paper.

Question - put and passed.

### **12. Metropolitan Redevelopment Authority Bill 2011**

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

The Deputy President left the Chair.

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#### **In Committee**

(Hon Col Holt in the Chair)

Clause 37.

Debate resumed.

Clause agreed to.

Clause 38.

Hon Lynn MacLaren moved -

Page 26, line 2 — To delete the line and insert —

involve —

Debate ensued.

Amendment put and negatived.

Hon Lynn MacLaren moved -

Page 26, after line 7 — To insert —

and

- (c) members of the local community and other persons that the Authority considers would be likely to be affected by the scheme if it were approved.

Debate ensued.

Amendment - put and negatived.

The Minister for Mental Health representing the Minister for Planning moved -

Page 26, line 11 — To delete “development” and insert —

redevelopment

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 39.

Hon Lynn MacLaren moved -

Page 27, line 21 — To delete “Minister” and insert —

WAPC

Debate ensued.

Amendment - put and negatived.

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

Clause 40 agreed to.

Clause 41.

Hon Lynn MacLaren moved -

Page 30, after line 15 — To insert —

- (5) Having considered a draft redevelopment scheme submitted to it, the WAPC must forward the draft to the Minister together with —
  - (a) a written recommendation to —
    - (i) consent to public notification of the draft; or
    - (ii) refuse to consent to public notification of the draft;and
  - (b) written reasons for its recommendation.

Debate ensued.

Amendment - put and negatived.

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

Clause 42 agreed to.

Clause 43 agreed to.

Clauses 44 to 45 agreed to.

Clause 46.

Hon Lynn MacLaren moved -

Page 32, line 5 — To delete “The WAPC may give the Minister” and insert —

Having considered the draft redevelopment scheme submitted to it, the WAPC must forward the draft to the Minister together with

Debate ensued.

Amendment - put and negatived.

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

Clauses 47 to 53 agreed to.

Clause 54.

Hon Lynn MacLaren moved -

Page 37, lines 18 and 19 — To delete the lines.

Hon Lynn MacLaren, by leave, withdrew her amendment.

Clause agreed to.

Clauses 55 to 59 agreed to.

Clause 60.

Debate ensued.

Clause agreed to.

Clause 61 agreed to.

Clause 62.

Debate ensued.

Clause agreed to.

Clause 63.

The Minister for Mental Health representing the Minister for Planning moved -

Page 42, line 9 — To delete “prepared from time to time by the Authority,” and insert —

prescribed by the regulations,

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 64.

The Minister for Mental Health representing the Minister for Planning moved -

Page 42, line 17 — To delete “Authority must” and insert —

Authority —

(a) must

Page 42, line 27 — To delete “operations are” and insert —

operations appear to the Authority to be

Page 42, after line 28 — To insert —

and

(b) may give written notice of the particulars of the application, its determination under section 63 and of the effect of section 65(1) to any other person it thinks fit.

Debate ensued.

Amendments - put and passed.

Clause, as amended, agreed to.

Clauses 65 to 68 agreed to.

Clause 69.

Debate ensued.

Hon Lynn MacLaren moved -

Page 45, after line 25 — To insert —

- (2) For the purposes of the PAD Act Part 14, an approved redevelopment scheme is taken to be a planning scheme within the meaning of that Act.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 70 to 76 agreed to.

Clause 77.

Hon Lynn MacLaren moved -

Page 51, lines 16 to 18 — To delete the lines and insert —

- (b) one is to be a person nominated by the Western Australian Local Government Association referred to in the *Local Government Act 1995* section 9.58 (**WALGA**); and

Debate ensued.

Hon Lynn MacLaren, by leave, withdrew her amendment.

Hon Lynn MacLaren moved -

Page 51, lines 16 to 18 — To delete the lines and insert —

- (b) one is to be one of three persons nominated by the Western Australian Local Government Association referred to in the *Local Government Act 1995* section 9.58 (**WALGA**); and

Debate ensued.

Amendment - put and negatived.

Hon Lynn MacLaren moved -

Page 51, after line 25 — To insert —

- (2A) The board of management must include members who have knowledge of or expertise in the following —
- (a) community affairs or cultural heritage;
  - (b) ecologically sensitive design or environmental sustainability;
  - (c) business or financial management;
  - (d) urban planning.

Debate ensued.

Amendment - put and negatived.

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

Clause 78 agreed to.

Clause 79.

Hon Sally Talbot moved -

Page 52, lines 12 to 14 — To delete the lines and insert —

- (2) A person is not eligible for reappointment if they have served three terms or the equivalent of three terms as a member of the Authority's board of management.

Debate ensued.

Amendment - put and negatived.

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

Clause 80.

Hon Lynn MacLaren moved -

Page 52, lines 17 to 24 — To delete the lines and insert —

- (1) An LRC is to —
- (a) consist of not less than 5 members appointed by the Minister; and
  - (b) include the following —
    - (i) one member of the Authority's board of management nominated by the Authority;
    - (ii) one person nominated by each relevant local government under section 81;
    - (iii) as many persons as the Minister thinks appropriate who in the opinion of the Minister have a relevant qualification.

Debate ensued.

Amendment - put and negatived.

Hon Sally Talbot moved -

Page 52, lines 21 and 22 — To delete the lines and insert —

- (b) one is to be a person who is a currently serving local government elected member from the relevant local government of a district in which the redevelopment area in respect of which the LRC is established is wholly or partly situated; and

Debate ensued.

Amendment - put and negatived.



Hon Lynn MacLaren moved -

Page 52, after line 29 — To insert —

- (2A) Each LRC must include members who have knowledge of or expertise in the following —
- (a) community affairs or cultural heritage;
  - (b) ecologically sensitive design or environmental sustainability;
  - (c) business or financial management.

Debate ensued.

Amendment - put and negatived.

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

Clause 81.

Hon Lynn MacLaren moved -

Page 53, line 27 — To delete “each” and insert —

the

Page 53, line 31 — To delete “each” and insert —

the

Page 54, line 4 — To delete “each” and insert —

the

Debate ensued.

Amendments - put and negatived.

Hon Lynn MacLaren moved -

Page 54, lines 10 to 13 — To delete the lines.

Debate ensued.

Amendment - put and negatived.

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

Clauses 82 and 83 agreed to.

Clause 84.

Debate ensued.

Hon Sally Talbot moved -

Page 55, lines 10 to 12 — To delete the lines and insert —

- (2) A person is not eligible for reappointment if they have served four terms or the equivalent of four terms as a member of an LRC.

Amendment - put and negatived.

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

Clause 85 agreed to.

Clause 86.

Hon Lynn MacLaren moved -

Page 57, lines 1 to 6 — To delete the lines.

Debate ensued.

Hon Lynn MacLaren, by leave, withdrew her amendment.

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

Clauses 87 to 102 agreed to.

Clause 103.

Hon Lynn MacLaren moved -

Page 65, line 28 — To delete the line and insert —

- (2) The quorum for a meeting of an LRC is a majority of its members for the time being.

Debate ensued.

Amendment - put and negatived.

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

Clauses 104 to 130 agreed to.

Clause 131.

Debate ensued.

Clause agreed to.

Clause 132 agreed to.

Clause 133.

Hon Sally Talbot moved -

Page 80, line 27 to page 81, line 9 — To delete the lines and insert —

- (1) As soon as practicable after the fifth anniversary of the commencement of this Act, the Minister must refer the Act to a Standing Committee of the Legislative Council for a review of the operation and effectiveness of this Act.

- (2) In the course of the review the Committee must consider and have regard to —
  - (a) the need for the continuation of this Act; and
  - (b) any other matters that appear to the Committee to be relevant to the operation and effectiveness of this Act.
- (3) The Committee must prepare a report based on its review and cause that report to be tabled in the Legislative Council.

Debate ensued.

Amendment - put and negatived.

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

Clauses 134 to 147 agreed to.

Clause 148.

Hon Sally Talbot moved -

Page 96, line 28 — To insert after “section” —

except in the case of all items of moveable heritage at the former Midland Railway Workshops, which are to be transferred into the ownership of the WA Museum

Debate ensued.

Amendment - put and negatived.

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

Clauses 149 and 150 agreed to.

Clause 151.

Hon Sally Talbot moved -

Page 98, lines 20 to 26 — To delete the lines and insert —

services for a redevelopment authority, unless earlier terminated by either party to the contract, that person becomes a staff member of the Authority and is to be taken to have been employed under the contract of service under section 110(2), and without loss of conditions and entitlements held at the coming into operation of this subsection.

Debate ensued.

Amendment - put and negatived.

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

Clauses 152 to 156 agreed to.

Postponed Clause 9.

Debate resumed on the amendment of Hon Lynn MacLaren as follows -

Page 7, lines 13 to 15 — To delete “, despite those functions being exercised or performed outside of a redevelopment area”.

Amendment - put and negatived.

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

Postponed Clause 15.

Hon Lynn MacLaren moved -

Page 11, lines 12 to 14 — To delete “, despite those functions being exercised or performed outside of the redevelopment area for which the LRC is established”.

Debate ensued.

Amendment - put and negated.

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

New Clause 37A.

Hon Lynn MacLaren moved -

Page 25, after line 1 — To insert —

### **Division 1A — General**

#### **37A. Term used: Minister**

In this Part —

*Minister* means the Planning Minister.

Debate ensued.

New Clause - put and negated.

Long Title.

Hon Lynn MacLaren moved -

Page 1, the first bullet point — To delete “, **and the control of development in,**”.

Page 1, the second bullet point — To delete “**development control,**”.

Debate ensued.

Amendments - put and negated.

Title agreed to.

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The 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.

### **13. Consideration of Committee Reports**

The Order of the Day having been read for the consideration of Committee Reports.

#### **In Committee**

(Hon Jon Ford in the Chair)

#### **Joint Standing Committee on the Commissioner for Children and Young People - Report No. 5 - Functions and Powers of the Joint Standing Committee on the Commissioner for Children and Young People - Committee Report**

Debate resumed on the motion of Hon Nick Goiran, That the Report be noted.

Question - put and passed.

**Joint Standing Committee on Delegated Legislation - Report No. 43 - Shire of Koorda Cemeteries Amendment Local Law 2010 - Committee Report**

The Order of the Day having been called.

Consideration of the Committee Report - lapsed.

**Standing Committee on Legislation - Report No. 17 - Annual Report 2009 and 2010 - Committee Report**

The Parliamentary Secretary representing the Attorney General moved, That the Report be noted.

Question - put and passed.

**Joint Standing Committee on the Corruption and Crime Commission - Report No. 13 - Analysis of Recommended Reforms to the Corruption and Crime Commission Act 2003 - Committee Report**

Hon Nick Goiran moved, That the Report be noted.

Debate ensued.

**14. Questions Without Notice**

Questions without notice were taken.

The Minister for Mental Health tabled documents in relation to the number of reportable deaths presently being investigated by the Coroner as potential suicides in Western Australia, from 1 January 2011 to 21 September 2011, in response to question on notice No. 4399 asked by Hon Ljiljana Ravlich. (Tabled paper 3756).

**15. Consideration of Committee Reports**

The Order of the Day having been read for the consideration of Committee Reports (cf item 13 above).

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**In Committee**

(Hon Matt Benson-Lidholm in the Chair)

**Joint Standing Committee on the Corruption and Crime Commission - Report No. 13 - Analysis of Recommended Reforms to the Corruption and Crime Commission Act 2003 - Committee Report**

Debate resumed on the motion of Hon Nick Goiran, That the Report be noted.

Question - put and passed.

On the motion of the Leader of the House the debate was adjourned to a later stage of this day's sitting.

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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 Commissioner for Children and Young People - Report No. 5 - Functions and Powers of the Joint Standing Committee on the Commissioner for Children and Young People - Committee Report and had noted same.
- (2) Standing Committee on Legislation - Report No. 17 - Annual Report 2009 and 2010 - Committee Report and had noted same.
- (3) Joint Standing Committee on the Corruption and Crime Commission - Report No. 13 - Analysis of Recommended Reforms to the Corruption and Crime Commission Act 2003 - Committee Report and had noted same.

Report adopted.

**16. Misuse of Drugs Amendment Bill 2011**

The President reported the receipt of Message No. 205 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.

**17. Commercial Arbitration Bill 2011**

The President reported the receipt of Message No. 206 from the Legislative Assembly forwarding the Bill for concurrence.

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

Question - put and passed.

Bill read a first time.

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

*Interruption pursuant to Temporary Orders.*

*Point of Order*

The Leader of the House raised the following Point of Order -

As a point of clarification, I understand that the rule does state that at that point in time we take Members' Statements, but it also provides that once Members' Statements has been completed we can read in Bills. Would it be possible for the speech to be finished and then do Members' Statements? Then we would not need to come back to complete this second reading speech. I was thinking about this myself and wondered whether this could become sort of the practice of the House that we do not read in Bills after Members' Statements have been taken. But it is entirely up to you, obviously.

*President's Ruling*

The President ruled as follows -

I am actually bound by the Standing Orders but if the House resolves differently, so be it. If the Leader of the House wishes, he can take some action to continue the speech. The Parliamentary Secretary can seek leave and the House can grant that leave.

The Parliamentary Secretary representing the Attorney General, by leave, continued with the second reading speech.

Debate stands adjourned and Bill referred to the Standing Committee on Uniform Legislation and Statutes Review.

**18. Members' Statements**

Statements were taken.

**19. Trustee Companies (Commonwealth Regulation) Amendment Bill 2010**

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 207

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Trustee Companies (Commonwealth Regulation) Amendment Bill 2010*.

Ms A.R. Mitchell

Acting Speaker

Legislative Assembly Chamber

Perth, 22 September 2011

**20. Child Care Services Amendment Bill 2011**

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 208

The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Child Care Services Amendment Bill 2011* without amendment.

Ms L.L. Baker

Acting Speaker

Legislative Assembly Chamber

Perth, 22 September 2011

**21. Retail Trading Hours Amendment Bill 2011**

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 209

The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Retail Trading Hours Amendment Bill 2011* without amendment.

Mr M.W. Sutherland

Deputy Speaker

Legislative Assembly Chamber

Perth, 22 September 2011

**22. Adjournment**

The House adjourned at 5.51pm until Tuesday, 27 September 2011 at 3.00pm.

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

Attendance: Present all Members except Hon Phil Edman and Hon Brian Ellis.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

**HON BARRY HOUSE**  
President of the Legislative Council