



## LEGISLATIVE COUNCIL

### TUESDAY, 14 DECEMBER 2021

### 2.00pm

#### 1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

The President, Hon Alanna Clohesy, took the Chair.

Prayers and an Acknowledgement of Country were read.

#### 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 —

| <b>13 December 2021 — Message No. 31</b>                             | <b>Act No.</b> |
|--|----------------|
| Criminal Law (Unlawful Consorting and Prohibited Insignia) Bill 2021 | 25 of 2021     |
| Police Amendment (Compensation Scheme) Bill 2021                     | 26 of 2021     |

#### 3. Petition

Hon Dr Brad Pettitt presented a petition from 146 petitioners requesting the Legislative Council to oppose the construction of Southern Link Road stage 3 through a threatened ecological community. (Tabled Paper 985).

#### 4. Ministerial Statement — Seasonal Workers and International Competitiveness Co-investment Fund

The Minister for Agriculture and Food made a Ministerial Statement with respect to seasonal workers and the International Competitiveness Co-investment Fund.

#### 5. Papers

The following Papers were laid on the Table by —

##### Minister for Mental Health

*Local Laws* —

Waste Avoidance and Resource Recovery Act 2007 (Shire of Broome Waste Local Law 2021 (No. 2) G.G. 09/12/2021) ..... 983

##### Parliamentary Secretary to the Attorney General

*Rules* —

District Court of Western Australia Act 1969 (District Court Amendment Rules 2021 G.G. 10/12/2021) ..... 984

## 6. Retail Trading Hours Amendment Bill 2021

Hon Wilson Tucker: To move on the next day of sitting —

That a Bill for "An Act to amend the *Retail Trading Hours Act 1987* to extend trading hours in the district of Perth." be introduced and read a first time.

## 7. Suspension of Standing Orders

The Leader of the House moved, without notice —

That so much of the Standing Orders be suspended so that Consideration of Committee Reports not be taken at the next day's sitting.

Debate ensued.

The motion requiring the concurrence of an absolute majority.

Question — put.

The President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

## 8. Order of Business

Ordered — That Orders of the Day Nos 1, *Biodiversity Conservation (Exemptions) Amendment Order 2021 — Disallowance*, 2, *Serpentine-Jarrahdale Bush Fire Brigades Local Law 2021 — Disallowance*, 3, *City of Fremantle Parking Local Law 2021 — Disallowance*, 4, *City of Stirling Meeting Procedures Local Law 2021 — Disallowance*, 5, *Non-Coronial Post-Mortem Examinations Code of Practice 2021 — Disallowance*, 6, *Shire of Waroona Health Local Law 2021 — Disallowance*, and 7, *City of Canning Local Government Property and Public Places Local Law 2021 — Disallowance* be taken after Order of the Day No. 24, *Industrial Relations Legislation Amendment Bill 2021*. Leader of the House).

## 9. Aboriginal Cultural Heritage Bill 2021 and Aboriginal Cultural Heritage Amendment Bill 2021

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

The President left the Chair.

—————  
(Hon Dr Sally Talbot in the Chair)

### **Aboriginal Cultural Heritage Bill 2021**

Clause 1.

Debate resumed.

Hon Neil Thomson, by leave, tabled a letter from the Kimberley Land Council to Minister for Aboriginal Affairs, dated 14 December 2021. (Tabled Paper 986).

Debate resumed.

Hon Dr Brad Pettitt, by leave, tabled a letter from the UN Committee on the Elimination of Racial Discrimination to Ms Sally Mansfield. (Tabled Paper 987).

Debate resumed.

Hon Wilson Tucker, by leave, tabled a letter from the International Indian Treaty Council to the Premier. (Tabled Paper 988).

Debate resumed.

Hon Dr Brad Pettitt, by leave, tabled a letter from Banjima Native Title Aboriginal Corporation to the Minister for Aboriginal Affairs. (Tabled Paper 989).

Debate resumed.

Clause agreed to.

Clause 2.

Debate ensued.

Clause agreed to.

Clauses 3 to 7 agreed to.

Clause 8.

Debate ensued.

Clause agreed to.

Clause 9 agreed to.

Clause 10.

Debate ensued.

Clause agreed to.

Clause 11.

Debate ensued.

Clause agreed to.

Clause 12.

Debate ensued.

Hon Dr Brad Pettitt moved —

Page 21, line 15 — To insert after “tangible”:

or intangible

Amendment — put and negatived.

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

Clause 13 agreed to.

Clause 14.

Debate ensued.

Clause agreed to.

Clause 15.

Debate ensued.

Clause agreed to.

Clause 16.

Debate ensued.

Clause agreed to.

Clause 17 agreed to.

Clause 18.

Debate ensued.

Clause agreed to.

Clauses 19 to 23 agreed to.

Clause 24.

Debate ensued.

Clause agreed to.

Clauses 25 and 26 agreed to.

Clause 27.  
 Debate ensued.  
 Clause agreed to.  
 Clause 28 agreed to.  
 Clause 29.  
 Debate ensued.  
 Clause agreed to.  
 Clause 30.  
 Debate ensued.  
 Clause agreed to.  
 Clause 31.  
 Debate ensued.  
 Clause agreed to.  
 Clauses 32 and 33 agreed to.  
 Clause 34.  
 Debate ensued.  
 Clause agreed to.  
 Clause 35.  
 Debate ensued.

**10. Questions Without Notice**

Questions without notice were taken.

**11. Aboriginal Cultural Heritage Bill 2021 and Aboriginal Cultural Heritage Amendment Bill 2021**

Resumption of consideration of these Bills in Committee of the Whole House (*see item 9 above*).  
 The President left the Chair.

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**In Committee**

(Hon Steve Martin in the Chair)

***Aboriginal Cultural Heritage Bill 2021***

Clause 35.  
 Debate resumed.  
 Clause agreed to.  
 Clause 36.  
 Debate ensued.  
 Clause agreed to.  
 Clause 37.  
 Debate ensued.  
 Clause agreed to.  
 Clause 38 agreed to.  
 Clause 39.  
 Debate ensued.  
 Clause agreed to.

Clause 40.  
Debate ensued.  
Clause agreed to.  
Clauses 41 and 42 agreed to.  
Clause 43.  
Debate ensued.  
Clause agreed to.  
Clause 44.  
Debate ensued.  
Clause agreed to.  
Clause 45.  
Debate ensued.  
Clause agreed to.  
Clauses 46 and 47 agreed to.  
Clause 48.  
Debate ensued.  
Clause agreed to.  
Clause 49.  
Debate ensued.  
Clause agreed to.  
Clause 50 agreed to.  
Clause 51.  
Debate ensued.  
Clause agreed to.  
Clause 52 agreed to.  
Clause 53.  
Debate ensued.  
Clause agreed to.  
Clauses 54 to 67 agreed to.  
Clause 68.  
Debate ensued.  
Clause agreed to.  
Clauses 69 to 71 agreed to.  
Clause 72.  
Debate ensued.  
Clause agreed to.  
Clauses 73 to 80 agreed to.  
Clause 81.  
Debate ensued.  
Clause agreed to.  
Clauses 82 to 88 agreed to.

Clause 89.

Debate ensued.

Clause agreed to.

Clause 90.

Debate ensued.

Hon Dr Brad Pettitt moved —

Page 75, lines 13 and 14 — To delete the lines and insert:

- (1) To **harm** Aboriginal cultural heritage includes the following —
  - (a) to destroy or damage the Aboriginal cultural heritage; or
  - (b) to carry out any act in relation to the Aboriginal cultural heritage, other than to express an opinion or belief, that —
    - (i) demonstrates disrespect for the importance of Aboriginal cultural heritage to Aboriginal people; or
    - (ii) diminishes or otherwise affects the value of Aboriginal cultural heritage to Aboriginal people.

Amendment — put and negatived.

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

Clauses 91 and 92 agreed to.

Clause 93.

Debate ensued.

Clause agreed to.

Clauses 94 to 101 agreed to.

Clause 102.

Debate ensued.

Clause agreed to.

Clause 103 agreed to.

Clause 104.

Debate ensued.

Clause agreed to.

Clauses 105 and 106 agreed to.

Clause 107.

Debate ensued.

Clause agreed to.

Clauses 108 and 109 agreed to.

Clause 110.

Debate ensued.

Clause agreed to.

Clauses 111 to 114 agreed to.

Clause 115.

Debate ensued.

Clause agreed to.

Clauses 116 to 127 agreed to.

Clause 128.

Debate ensued.

Clause agreed to.

Clauses 129 and 130 agreed to.

Clause 131.

Debate ensued.

Hon Dr Brad Pettitt, by leave, moved —

Page 104, after line 4 — To insert:

- (1A) A person to be notified may, within the prescribed period, object in writing to the Minister if the ACH Council grants the permit under section 119(1)(c)(i).

Page 104, line 5 — To insert after "ACH permit":

or a person to be notified

Page 104, line 7 — To insert before "refuses":

extends an ACH permit or

Page 104, line 7 — To delete "section 126(1)(c)(ii)" and insert:

section 126(1)(c)

Amendments — put and negatived.

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

Clauses 132 to 146 agreed to.

Clause 147.

Debate ensued.

Clause agreed to.

Clauses 148 to 210 agreed to.

Clause 211.

Debate ensued.

Clause agreed to.

Clause 212 agreed to.

Clause 213.

Debate ensued.

Clause agreed to.

Clauses 214 to 223 agreed to.

Clause 224.

Debate ensued.

Clause agreed to.

Clause 225.

Debate ensued.

Clause agreed to.

Clauses 226 to 233 agreed to.

Clause 234.

Debate ensued.

Clause agreed to.

Clauses 235 to 276 agreed to.

Clause 277.

Debate ensued.

Hon Dr Brad Pettitt, by leave, tabled email correspondence to the Minister for Aboriginal Affairs regarding reviewable decisions. (Tabled Paper 990).

Debate resumed.

Hon Dr Brad Pettitt moved —

Page 204, line 19, in the Table — To insert after Item 1:

|     |   |   |
|-----|---|---|
| 1A. | A decision of the Minister under section 165(1) to authorise or refuse to authorise an ACH management plan                                    | <p>The applicant for the ACH management plan to be approved under section 147(1) if the plan is found to relate to Aboriginal heritage of State significance</p> <p>The applicant for the ACH management plan to be authorised under section 157(1)</p> <p>A person who is, or would be, an Aboriginal party in relation to the ACH management plan</p> |
| 1B. | A decision by the Minister under section 165(1) (as read with section 170) to authorise or refuse to authorise an amended ACH management plan | A party to the ACH management plan  |

Debate ensued.

Amendment — put and negatived.



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

Clauses 278 to 353 agreed to.

Title agreed to.

***Aboriginal Cultural Heritage Amendment Bill 2021***

Clause 1 agreed to.

Clauses 2 to 4 agreed to.

Title agreed to.

—————  
The President resumed the Chair.

Bills reported without amendment.

Report adopted.

The Minister for Aboriginal Affairs moved, That the *Aboriginal Cultural Heritage Bill 2021*, 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.

Question — put.

The Council divided.

**Ayes (22)**

Hon Klara Andric  
Hon Sandra Carr  
Hon Peter Collier  
Hon Stephen Dawson  
Hon Colin de Grussa  
Hon Kate Doust  
Hon Sue Ellery  
Hon Peter Foster  
Hon Lorna Harper  
Hon Jackie Jarvis  
Hon Ayor Makur Chuot

Hon Steve Martin  
Hon Kyle McGinn  
Hon Shelley Payne  
Hon Stephen Pratt  
Hon Martin Pritchard  
Hon Tjorn Sibma  
Hon Matthew Swinbourn  
Hon Dr Sally Talbot  
Hon Dr Steve Thomas  
Hon Neil Thomson  
Hon Pierre Yang (*Teller*)

**Noes (4)**

Hon Sophia Moermond  
Hon Dr Brad Pettitt

Hon Wilson Tucker  
Hon Dr Brian Walker (*Teller*)

Question thus passed.

Bill read a third time and passed.

The Minister for Aboriginal Affairs moved, That the *Aboriginal Cultural Heritage Amendment Bill 2021* 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.

Question — put and passed.

Bill read a third time and passed.

**12. Order of Business**

Ordered — That Members' Statements be taken forthwith. (Leader of the House).

**13. Members' Statements**

Statements were taken.

**14. Adjournment**

The Council adjourned at 10.04pm until Wednesday, 15 December 2021 at 1.00pm.

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

Attendance: Present all Members except Hon Martin Aldridge, Hon Nick Goiran, Hon James Hayward, Hon Samantha Rowe (*leave*), Hon Rosetta Sahanna and Hon Darren West.

**PAUL GRANT**

Acting Clerk of the Legislative Council

**HON ALANNA CLOHESY MLC**

President of the Legislative Council