

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 28

TUESDAY, NOVEMBER 26 2002

1. Meeting of Council

The Council assembled at 3.00pm pursuant to order.

The President, Hon John Cowdell, took the Chair and read prayers.

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

The President reported the receipt of Messages from the Lieutenant Governor and deputy of the Governor assenting to the following Bills -

November 14 2002 - Message No. 19	Act No.
Volunteers (Protection from Liability) Bill 2002	32 of 2002
November 15 2002 - Message No. 20	Act No.
Animal Welfare Bill 2001	33 of 2002
November 20 2002 - Message No. 21	Act No.
Insurance Commission of Western Australia Amendment Bill 2002	34 of 2002
Civil Liability Bill 2002	35 of 2002
Workers' Compensation and Rehabilitation (Acts of Terrorism) Amendment Bill 2002	36 of 2002
Home Building Contracts Amendment Bill 2002	37 of 2002
Fire and Emergency Services Legislation Amendment Bill 2001	38 of 2002

3. Ministerial Statement - Sitting Dates for 2003

The Leader of the House made a Ministerial Statement with respect to sitting dates of the Legislative Council for 2003.

The Leader of the House, by leave, tabled the sitting dates of the Legislative Council for the year 2003. (Tabled paper 516).

4. Ministerial Statement - Draft Regional Policy for Western Australia

The Minister for Local Government and Regional Development made a Ministerial Statement with respect to the Draft Regional Policy Statement for Western Australia.

The Minister for Local Government and Regional Development, by leave, tabled a document titled the Draft Regional Policy Statement for Western Australia. (Tabled paper 517).

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

5. Ministerial Statement - Comments by Tony Cooke regarding the Mines Department

The Parliamentary Secretary to the Minister for State Development made a Ministerial Statement with respect to comments by Mr Tony Cooke regarding the Mines Department.

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

6. Ministerial Statement - Pastoral Leases Restructure

The Parliamentary Secretary to the Minister for Planning and Infrastructure made a Ministerial Statement with respect to the Pastoral Leases Restructure.

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

7. Papers

The following Papers were laid on the Table by -

Leader of the House

Annual Reports -

Agriculture Protection Board of Western Australia, The (2001-2002) (Date received 20/11/2002)	475
Governor's Establishment (2001-2002) (Date received 19/11/2002)	476

Reports -

Salaries and Allowances Tribunal Report on the Remuneration of Judges of the Supreme Court, Masters of the Supreme Court, Judges of the District Court, Stipendiary Magistrates and Members of the Anti-Corruption Commission (November 15 2002)	477
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Minister for Housing and Works

Annual Reports -

Environmental Protection Authority (2001-2002) (Date received 19/11/2002)	478
Environmental Protection, Department of (2001-2002) (Date received 19/11/2002)	479
Government Employees' Housing Authority [GEHA] (2001-2002) (Date received 19/11/2002)	480
Local Government and Regional Development, Department of (2001-2002) (Date received 20/11/2002)	481
Marine Parks and Reserves Authority (2000-2001) (Date received 19/11/2002)	482

Local Laws -

Local Government Act 1995 (City of Fremantle Local Government Property Local Law G.G. 11/11/2002, City of Cockburn (Local Government Act) Local Laws 2000 G.G. 15/11/2002, Shire of Irwin Local Laws Relating to Fencing G.G. 22/11/2002 and City of South Perth - Standing Orders Local Law 2002 G.G. 22/11/2002)	483
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Minister for Racing and Gaming

Annual Reports -

Building and Construction Industry Training Fund [BCITF] (2001-2002) (Date received 22/11/2002)	484
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Consumer and Employment Protection, Department of (2001-2002) (Date received 22/11/2002)	485
Government Employees Superannuation Board [GESB] (2001-2002) (Date received 22/11/2002)	486
Treasurer's Annual Statements, The (2001-2002) (Date received 20/11/2002)	487
Trotting Association, Western Australian [WATA] (2001-2002) (Date received 22/11/2002)	488
Turf Club, The Western Australian [WATC] (2001-2002) (Date received 22/11/2002)	489
<i>By-laws -</i>	
Western Australian Trotting Association Act 1946 (By-laws of the Western Australian Trotting Association - Notice of Amendment G.G. 12/11/2002)	490
<i>Financial Statements -</i>	
Western Australian Trotting Association - TAB Distributions to Country Clubs by the WATA (2001-2002)	491
Western Australian Turf Club - Certification for the use of TAB Funds (2001-2002)	492
<i>Regulations -</i>	
Criminal Investigation (Identifying People) Act 2002 (Criminal Investigation (Identifying People) Amendment Regulations 2002 G.G. 19/11/2002)	493
Gaming Commission Act 1987 (Gaming Commission Amendment Regulations (No. 3) 2002 G.G. 19/11/2002)	494
Liquor Licensing Act 1988 (Liquor Licensing Amendment Regulations (No. 3) 2002 G.G. 19/11/2002)	495
State Trading Concerns Act 1916 (State Trading Concerns (Authorisation) Amendment Regulations (No. 3) 2002 G.G. 12/11/2002)	496
<i>Rules -</i>	
Western Australian Trotting Association Act 1946 (Rules of Harness Racing 1999 - Notice of Amendment G.G. 19/11/2002)	497
Parliamentary Secretary to the Minister for State Development	
<i>Annual Reports -</i>	
Mineral and Petroleum Resources, Department of (2001-2002) (Date received 15/11/2002)	498
Parliamentary Secretary to the Minister for Health	
<i>Annual Reports -</i>	
Alcohol and Drug Authority, Western Australian (2001-2002) (Date received 19/11/2002)	499
Library and Information Service of Western Australia, The [LISWA] (2001-2002) (Date received 22/11/2002)	500
<i>Local Laws -</i>	
Health Act 1911 (City of South Perth Health Local Laws 2002 G.G. 22/11/2002)	501
<i>Rules -</i>	
Adoption Act 1994 (Adoption Amendment Rules (No. 2) 2002 G.G. 12/11/2002)	502
Podiatrists Registration Act 1984 (Podiatrists Registration Amendment Rules 2002 G.G. 19/11/2002)	503

Parliamentary Secretary to the Minister for Planning and Infrastructure

Annual Reports -

Broome Port Authority (2001-2002) (Date received 25/11/2002)	504
Main Roads Western Australia (2001-2002) (Date received 25/11/2002)	505
National Road Transport Commission (2001-2002) (Date received 19/11/2002)	506
Port Hedland Port Authority (2001-2002) (Date received 25/11/2002)	507
Recreation Camps and Reserve Board (2001-2002) (Date received 20/11/2002)	508
Sports Centre Trust, Western Australian (2001-2002) (Date received 20/11/2002)	509

Ministerial Approvals -

East Perth Redevelopment Act 1991 - Amendment No. 15 to the East Perth Redevelopment Scheme	510
Subiaco Redevelopment Act 1994 - Subdivision of SU13 - Portion 2 of Sector 22, (Former BOC Leased Land), Corner of Price and Tighe Streets, Subiaco	511
Western Australian Land Authority Act 1992 - Burrup and Maitland Native Title	512
Western Australian Land Authority Act 1992 - Wind Farm - Oakajee Industrial Estate, Geraldton and Sale of Lot 219 Innovation Circuit, Wangara	513

Reports -

Esperance Port Authority Statement of Corporate Intent (2002-2003)	514
Port Hedland Port Authority Statement of Corporate Intent (2002-2003)	515

8. Extension of Sitting

The Leader of the House moved, without notice -

That the House continue to sit beyond 11.00pm.

Question - put and passed.

9. Order of Business

The Leader of the House moved, without notice -

That the House proceed to Orders of the Day forthwith.

Question - put and passed.

10. Suspension of Standing Orders

The Leader of the House moved, without notice -

That standing orders be suspended so far as will enable Order of the Day No. 72, *Railway (Jandakot to Perth) Bill 2002*, to be taken before Order of the Day No. 1, *Address-In-Reply*.

The motion requiring the concurrence of an absolute majority.

Question - put.

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

11. Railway (Jandakot to Perth) Bill 2002

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

Debate resumed.

12. Questions Without Notice

Questions without notice were taken.

The Minister for Local Government and Regional Development tabled documents in relation to the expenditure occurred for the Regional Headworks Scheme in 2001-2002 and the budgeted expenditure for 2002-2003, and the major projects that have been funded in 2001-2002 and 2002-2003 in response to a question without notice asked by Hon Murray Criddle. (Tabled paper 518).

13. Railway (Jandakot to Perth) Bill 2002

Debate resumed on the second reading of this Bill (cf item 11 above).

Question - put.

The House divided.

Ayes (13)

Hon Kim Chance
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford
Hon Graham Giffard
Hon Dee Margetts

Hon Louise Pratt
Hon Ljiljanna Ravlich
Hon Jim Scott
Hon Christine Sharp
Hon Tom Stephens
Hon Ed Dermer (*Teller*)

Noes (12)

Hon Alan Cadby
Hon George Cash
Hon Murray Criddle
Hon Paddy Embry
Hon John Fischer
Hon Ray Halligan

Hon Frank Hough
Hon N F Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon W N Stretch
Hon Bruce Donaldson (*Teller*)

Question thus passed.

Bill read a second time.

The Deputy President left the Chair.

In Committee

(Hon George Cash in the Chair)

Statement by Chairman of Committees

The Chairman of Committees made the following Statement -

The Bill has three Clauses and a Schedule. Given the limited number of Clauses, I will make a statement to the House, and it is in fact the statement that was made on 16 October 1996 by the then Chairman of Committees, Hon Barry House, in respect of relevancy of remarks. In part, Hon Barry House, as Chairman of Committees, said -

I formalise my earlier remarks made during the Committee debate on the *Vocational Education and Training Bill* regarding the nature and scope of debate on Clause 1 of a Bill. The stages of a Bill are intended to achieve two primary objects: First, to enable full discussion of both the substance and form of the legislation. Second, to ensure that decisions already made at one stage are not reopened for discussion at a subsequent stage and do not thus prolong a Bill's passage unnecessarily.

The second reading debate concentrates on the substance of a Bill and the policy of the Bill and whether it is acceptable to the House. Having made that decision the rules of debate prevent further argument on the policy contained in the legislation during subsequent stages. The Committee of the Whole stage is specifically to examine the Bill's provisions to demonstrate whether, as a package, they will have the intended or desired result. That examination may and frequently does lead to amendments. To demonstrate the point I am making, any amendment must be relevant to the scope of the Bill and must not be destructive of its intent; that is, it must not directly contradict the policy principles already agreed to in the second reading debate.

This is the point I want to make -

The short title debate does no more than give Members the opportunity to range over the Clauses of the Bill, foreshadow amendments and indicate, consistent with the policy of the Bill, how its formal content may be improved. It is not a vehicle for continuing debate on policy; rather, if Members do not wish the Bill to proceed, the action they should follow is to vote to defeat Clause 1 of the Bill as it stands.

As I said on 30 August 2001, I am indebted to the former Chairman of Committees, Hon Barry House for the decision he made in 1996, because it is clear and precise and it gives Members a clear understanding of the limits in this particular debate.

Clause 1.

Debate ensued.

Question - put.

The Committee divided.

Ayes (13)

Hon Kim Chance
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford
Hon Graham Giffard
Hon Dee Margetts

Hon Louise Pratt
Hon Ljiljanna Ravlich
Hon Jim Scott
Hon Christine Sharp
Hon Tom Stephens
Hon Ed Dermer (*Teller*)

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Hon Alan Cadby
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Hon Ray Halligan

Hon Frank Hough
Hon N F Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon W N Stretch
Hon Bruce Donaldson (*Teller*)

Question thus passed.

Clause 2.

Debate ensued.

Clause agreed to.

Clause 3.

Debate ensued.

The House having continued to sit until 12 midnight

Wednesday, November 27 2002

Debate continued.

Clause agreed to.

New Clause 4.

Hon Simon O'Brien moved -

Page 2, after line 7 - To insert the following new Clause -

“

4. Deviation to be limited

For the purposes of subsection 96(1) of the *Public Works Act 1902*, 50 metres is set as the distance for which it shall be lawful to deviate from the line of the railway set out in Schedule 1 and the accompanying map.

”.

The Parliamentary Secretary to the Minister for Planning and Infrastructure moved -

To delete the number “50” and substitute -

“ 200 ”.

To delete the word “accompanying”.

To insert after the word “map” the following words -

“ referred to in Schedule 1 ”.

Amendments - put and passed.

New Clause, as amended, agreed to.

New Clause 5.

Hon Simon O'Brien moved -

Page 2, after line 7 - To insert the following new Clauses -

“

5. Right to compensation not limited by Special Act of Parliament

Despite the specific authorisation of this Act, a person who is the owner of or interested in any land which is injured or damaged by any works carried out by reason of the authority of this Act shall not be deprived of any right to recover damages with respect to that injury or damage to that land that the owner might otherwise have had but for this Act.

”.

Debate ensued.

New Clause agreed to.

Schedule 1 agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported with amendments.

Leave was granted to proceed forthwith through all remaining stages of the Bill at this day's sitting.

The Parliamentary Secretary to the Minister for Planning and Infrastructure moved, That the report be adopted.

Question - put and passed.

The Parliamentary Secretary to the Minister for Planning and Infrastructure moved, That the Bill be now read a third time.

Question - put.

The House divided.

Ayes (13)

Hon Kim Chance
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford
Hon Graham Giffard
Hon Dee Margetts

Hon Louise Pratt
Hon Ljiljanna Ravlich
Hon Jim Scott
Hon Christine Sharp
Hon Tom Stephens
Hon Ed Dermer (*Teller*)

Noes (12)

Hon Alan Cadby
Hon George Cash
Hon Murray Criddle
Hon Paddy Embry
Hon John Fischer
Hon Ray Halligan

Hon Frank Hough
Hon Robyn McSweeney
Hon N F Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon Bruce Donaldson (*Teller*)

Question thus passed.

The President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Bill read a third time and passed.

14. Adjournment

The Leader of the House moved, That the House do now adjourn.

Question - put and passed.

The House adjourned at 2.07am until Wednesday, November 27 2002 at 3.30pm.

Members present during the day's proceedings

Attendance: Present all Members.

L B MARQUET
Clerk of the Legislative Council

HON JOHN COWDELL
President of the Legislative Council