

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 187

WEDNESDAY, 9 NOVEMBER 2011

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### 1. Meeting of Council

The Council assembled at 2.00pm pursuant to Temporary Orders.

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

### 2. Misuse of Drugs Amendment Bill 2011

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 226

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendment made by the Legislative Council in the *Misuse of Drugs Amendment Bill 2011*.

Hon G.A. Woodhams

Speaker

Legislative Assembly Chamber

Perth, 8 November 2011

### 3. Petition

Hon Robin Chapple presented a petition from 211 petitioners requesting the Legislative Council to conduct an open inquiry into the accruing environmental legacy from mining activities in Western Australia. (Tabled paper 4062).

### 4. Statement by President - Auditor General's Assurance Audits

The President made the following Statement -

Members, I have a paper for tabling - namely, the Auditor General's "Audit Results Report Annual 2010-11 Assurance Audits: Report 10 - November 2011". I indicate that in this report all three parliamentary departments, the Legislative Council, the Legislative Assembly and the Parliamentary Services Department, have achieved better practice agency status. On behalf of everybody associated with the Parliament, I extend our congratulations, particularly to Dawn Timmerman and her staff in the Finance department.

## 5. Papers

The following Papers were laid on the Table by -

### President

*Auditor General's Papers -*

Audit Results Report - Annual 2010-11 Assurance Audits (Report No. 10)  
(November 2011) ..... 4060

### Leader of the House

*Reports -*

Interstate and Overseas Travel undertaken by Members of Parliament funded by the  
Imprest System (For the three months ended 30 June 2011) ..... 4061

## 6. East Perth Redevelopment Amendment Regulations 2011 - Disallowance - Withdrawn from Notice Paper

Hon Sally Talbot moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, leave be granted to withdraw Motion for Disallowance No. 1, *East Perth Redevelopment Amendment Regulations 2011*, from the Notice Paper.

Question - put and passed.

## 7. Climate Change Adaptation and Mitigation Strategy

Motion No. 1 having been called, debate resumed on the amendment of the Minister for Mental Health representing the Minister for Environment as follows -

To delete “condemns the Government for entering its third year of office without” and insert —

notes the progress of

to the motion of Hon Sally Talbot as follows -

That this House condemns the Government for entering its third year of office without the Climate Change Adaptation and Mitigation Strategy promised by the Liberals before the 2008 election.

Amendment - put.

The House divided.

### Ayes (19)

Hon Liz Behjat  
Hon Jim Chown  
Hon Peter Collier  
Hon Mia Davies  
Hon Wendy Duncan  
Hon Brian Ellis  
Hon Donna Faragher  
Hon Philip Gardiner  
Hon Nick Goiran  
Hon Nigel Hallett

Hon Alyssa Hayden  
Hon Col Holt  
Hon Robyn McSweeney  
Hon Michael Mischin  
Hon Norman Moore  
Hon Helen Morton  
Hon Simon O'Brien  
Hon Max Trenorden  
Hon Ken Baston (*Teller*)

**Noes (14)**

Hon Matt Benson-Lidholm  
 Hon Helen Bullock  
 Hon Robin Chapple  
 Hon Kate Doust  
 Hon Sue Ellery  
 Hon Adele Farina  
 Hon Jon Ford

Hon Lynn MacLaren  
 Hon Ljiljanna Ravlich  
 Hon Linda Savage  
 Hon Sally Talbot  
 Hon Giz Watson  
 Hon Alison Xamon  
 Hon Ed Dermer (*Teller*)

Amendment thus passed.

Question - That the motion, as amended, be agreed to - put.

The House divided.

**Ayes (19)**

Hon Liz Behjat  
 Hon Jim Chown  
 Hon Peter Collier  
 Hon Mia Davies  
 Hon Wendy Duncan  
 Hon Brian Ellis  
 Hon Donna Faragher  
 Hon Philip Gardiner  
 Hon Nick Goiran  
 Hon Nigel Hallett

Hon Alyssa Hayden  
 Hon Col Holt  
 Hon Robyn McSweeney  
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 Hon Ljiljanna Ravlich  
 Hon Linda Savage  
 Hon Sally Talbot  
 Hon Giz Watson  
 Hon Alison Xamon  
 Hon Ed Dermer (*Teller*)

Motion thus passed.

**8. Marine Park Planning**

Motion No. 2 having been called, Hon Sally Talbot, pursuant to notice, moved -

That this House condemns the Government for taking an old-fashioned, piecemeal and politically-driven approach to Marine Park planning in Western Australia.

Debate ensued.

*Interruption pursuant to Temporary Orders.*

## **9. Consideration of Committee Reports and Ministerial Statements**

Pursuant to Temporary Orders for the consideration of Committee Reports and Ministerial Statements.

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### **In Committee**

(Hon Matt Benson-Lidholm in the Chair)

#### **Gorgon Gas Project Barrow Island - Environmental Approval - Ministerial Statement**

Debate resumed on the motion of the Minister for Mental Health representing the Minister for Environment, That the Ministerial Statement be noted.

## **10. Questions Without Notice**

Questions without notice were taken.

The Leader of the House representing the Premier tabled documents in relation to public sector workers who work and domicile outside the metropolitan region as at 30 June 2011, in response to question on notice No. 4701 asked by Hon Jon Ford. (Tabled paper 4063).

The Minister for Finance representing the Minister for Transport, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 4707 asked by Hon Ljiljanna Ravlich will be provided by 1 December 2011.

The Minister for Commerce tabled documents in relation to increases in tariffs, fees or charges greater than the consumer price index in the agencies under the Commerce portfolio since 23 September 2008, in response to question on notice No. 4758 asked by Hon Ken Travers. (Tabled paper 4064).

The Minister for Commerce tabled documents in relation to new tariffs, fees or charges implemented in the agencies under the Commerce portfolio since 23 September 2008, in response to question on notice No. 4759 asked by Hon Ken Travers. (Tabled paper 4065).

The Minister for Energy representing the Minister for Education, in accordance with Standing Order No. 138(d), advised that answers to questions on notice Nos 4728 and 4729 asked by Hon Ken Travers will be provided on 22 November 2011.

The Minister for Training and Workforce Development tabled documents in relation to increases in tariffs, fees or charges greater than the consumer price index in the agencies under the Training and Workforce Development portfolio since 23 September 2008, in response to question on notice No. 4737 asked by Hon Ken Travers. (Tabled paper 4066).

The Minister for Mental Health, in accordance with Standing Order No. 138(d), advised that answers to questions on notice Nos 4703, 4704 and 4705 asked by Hon Ljiljanna Ravlich will be provided on 22 November 2011.

The Minister for Mental Health, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 4779 asked by Hon Alison Xamon will be provided on 22 November 2011.

The Minister for Disability Services, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 4785 asked by Hon Sue Ellery will be provided on 22 November 2011.

The Minister for Mental Health representing the Minister for Environment, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 4755 asked by Hon Ken Travers will be provided on the next sitting day.

## 11. Consideration of Committee Reports and Ministerial Statements

Pursuant to Temporary Orders for the consideration of Committee Reports and Ministerial Statements (cf item 9 above).

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### In Committee

(Hon Matt Benson-Lidholm in the Chair)

#### **Gorgon Gas Project Barrow Island - Environmental Approval - Ministerial Statement**

Debate resumed on the motion of the Minister for Mental Health representing the Minister for Environment, That the Ministerial Statement be noted.

Question - put and passed.

#### **Standing Committee on Environment and Public Affairs - Report No. 22 - Overview of Petitions - Committee Report**

Hon Brian Ellis moved, That the Report be noted.

Debate ensued.

*Interruption pursuant to Temporary Orders.*

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The Deputy President resumed the Chair.

The Chairman of Committees reported that the Committee of the Whole House had considered the -

- (1) Gorgon Gas Project Barrow Island - Environmental Approval - Ministerial Statement and had noted same.
- (2) Standing Committee on Environment and Public Affairs - Report No. 22 - Overview of Petitions - Committee Report, made progress, and asked leave to sit again.

Report adopted.

## 12. Order of Business

Ordered - That Orders of the Day Nos 1, *City of Gosnells Waste Local Law 2011 - Disallowance*, 3, *City of South Perth Dog Local Law 2011 - Disallowance*, and 4, *Taxi Amendment Regulations (No. 3) 2011 - Disallowance*, be taken after Committee Report No. 18, *Joint Standing Committee on the Corruption and Crime Commission - Report No. 19 - Annual Report 2010-2011*. (Leader of the House).

## 13. Town of Cottesloe Dogs Local Law 2011 - Disallowance - Discharge from Notice Paper

Hon Sally Talbot moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 2, *Town of Cottesloe Dogs Local Law 2011*, be discharged from the Notice Paper.

Question - put and passed.

## 14. Building Services (Complaint Resolution and Administration) Regulations 2011 - Disallowance - Discharge from Notice Paper

Hon Sally Talbot moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 5, *Building Services (Complaint Resolution and Administration) Regulations 2011*, be discharged from the Notice Paper.

Question - put and passed.

**15. Building Services (Registration) Regulations 2011 - Disallowance - Discharge from Notice Paper**

Hon Sally Talbot moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 6, *Building Services (Registration) Regulations 2011*, be discharged from the Notice Paper.

Question - put and passed.

**16. Commercial Tenancy (Retail Shops) Agreements Amendment Bill 2011**

The Order of the Day having been read for the consideration of the Committee's report upon this Bill.

The Minister for Commerce moved, without notice -

That the *Commercial Tenancy (Retail Shops) Agreements Amendment Bill 2011* be recommitted for the purposes of reconsidering Clauses 5 and 9.

Debate ensued.

Question - put and passed.

**17. Commercial Tenancy (Retail Shops) Agreements Amendment 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)

Recommittal of Clause 5.

The Minister for Commerce moved -

Page 4, line 6 — To delete the following words —

*retail shop lease* means any agreement under which a person grants or agrees to grant to another person for value a right of occupation of premises for the purpose of the use of the premises as a retail shop —

- (a) whether or not the right is a right of exclusive occupation;
- (b) whether the agreement is express or implied; or
- (c) whether the agreement is oral or in writing, or partly oral and partly in writing.

and insert —

*retail shop lease* means a lease that provides for the occupation of a retail shop, unless —

- (a) the retail shop —
  - (i) has a lettable area that exceeds 1 000 square metres; and
  - (ii) is not of a kind prescribed by the regulations for the purposes of this definition;
- or

- (b) the lease is held by —
  - (i) a listed corporation (within the meaning of the *Corporations Act 2001* (Commonwealth) section 9) that would not be eligible to be incorporated as a proprietary company; or
  - (ii) a subsidiary (within the meaning of the *Corporations Act 2001* (Commonwealth) section 9) of such a corporation;
 or
- (c) the lease is held by —
  - (i) a body corporate whose securities are listed on a stock exchange, outside Australia and the external territories, that is a member of the World Federation of Exchanges; or
  - (ii) a subsidiary (within the meaning of the *Corporations Act 2001* (Commonwealth) section 9) of such a body corporate;
 or
- (d) the lease is of a kind that is prescribed by the regulations as exempt from the operation of this Act;

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Recommittal of Clause 9.

The Minister for Commerce moved -

Page 9, line 7 — To delete “section 11(3B) may disclose that information, with the exception of information relating to financial turnover, to any other person.” and insert —

section 11(3B) must not disclose that information to any other person unless the disclosure is made —

- (a) for the purpose of, or in connection with, determining the rent payable as a result of the review; or
  - (b) in a way that does not disclose information identifying a particular lease or tenant, or relating to a tenant’s business, for the purpose of specifying the matters to which the person had regard in resolving the question concerned; or
  - (c) with the consent of both the tenant and the landlord of the relevant retail shop; or
  - (d) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
  - (e) as required or permitted under this Act or any other law; or
  - (f) with any other lawful excuse.
- (2) Subsection (1) does not prevent a person from disclosing information that is publicly available at the time the disclosure concerned was made.

- (3) If a person discloses information in contravention of subsection (1) and the tenant or landlord suffers loss or damage because of the disclosure, the tenant or landlord is entitled to be paid by the person who made the disclosure compensation for the loss or damage —
  - (a) of such reasonable amount as is agreed between the person and the tenant or landlord; or
  - (b) failing agreement, as may be determined by the Tribunal on the application of the tenant or landlord.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

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The Deputy President resumed the Chair.

Bill reported with further amendments.

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

### **18. Evidence and Public Interest Disclosure Legislation Amendment Bill 2011**

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

Debate resumed.

*Extension of Time* - Hon Giz Watson sought leave of the House to extend her speaking time.

Leave granted.

Debate resumed.

The Parliamentary Secretary representing the Attorney General tabled two letters from the State Solicitor's Office under the hand of George Tannin SC, in relation to the *Evidence and Public Interest Disclosure Legislation Amendment Bill 2011*, in response to matters raised by the Clerk of the Legislative Council. (Tabled paper 4067).

Debate resumed.

*Interruption pursuant to Temporary Orders.*

### **19. Members' Statements**

Statements were taken.

### **20. Adjournment**

The House adjourned at 10.21pm until Thursday, 10 November 2011 at 10.00am.

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

Attendance: Present all Members except Hon Phil Edman.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

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