

**LOCAL GOVERNMENT LEGISLATION AMENDMENT BILL 2014**

*Council's Amendments — Consideration in Detail*

The following amendments made by the Council now considered —

No 1

Clause 26, page 19, lines 4 and 5 — To delete the clause.

No 2

Clause 27, page 19, line 6 to page 20, line 29 — To delete the clause.

No 3

Clause 28, page 21, lines 2 and 3 — To delete the clause.

No 4

Clause 29, page 21, line 4 to page 22, line 20 — To delete the clause.

No 5

Clause 53, page 28, lines 17 and 18 — To delete the clause.

No 6

Clause 54, page 28, lines 19 to 24 — To delete the clause.

No 7

New Division 14A, page 29, after line 20 — To insert —

**Division 14A — *Graffiti Vandalism Act 2016* amended**

**58A Act amended**

This Division amends the *Graffiti Vandalism Act 2016*.

**58B Section 4 amended**

In section 4 in the definition of *public property* delete paragraph (c) and insert:

(c) a local government, regional local government or regional subsidiary;

No 8

New Division 16A, page 30, after line 22 — To insert —

**Division 16A — *Health Services Act 2016* amended**

**62A Act amended**

This Division amends the *Health Services Act 2016*.

**62B Section 6 amended**

In section 6 in the definition of *public authority* delete paragraph (c) and insert:

(c) a local government, regional local government or regional subsidiary;

No 9

New Division 26A, page 34, after line 24 — To insert —

**Division 26A — *Public Health Act 2016* amended**

**82A Act amended**

This Division amends the *Public Health Act 2016*.

**82B Section 4 amended**

In section 4(1) in the definition of *public authority* after paragraph (d) insert:

(da) a regional subsidiary; or

No 10

Long Title, page 1, the 2<sup>nd</sup> bullet point — To delete “**Acts; and**” and insert —

**Acts.**

No 11

Long Title, page 1 — To delete the 3<sup>rd</sup> bullet point.

**Mr A.J. SIMPSON:** I move —

That amendment 1 made by the Council be agreed to.

**Mr D.A. TEMPLEMAN:** Members would be aware that these amendments have been presented to this place from the other place. The first amendment relates to clause 26; is that correct?

**Mr A.J. Simpson:** Yes.

**Mr D.A. TEMPLEMAN:** It relates to an issue associated with the Executive Director of Public Health. I understand from the additional information provided that this will simply align the legislation with the Public Health (Consequential Provisions) Act 2016. This amendment relates to duties over class A reserves. In what context was the bill overlooked in this chamber so that this and the subsequent amendments had to come about? I understand the amendment to the Graffiti Vandalism Act, which will come on later. I am interested in how this was not picked up by the minister earlier?

**Mr A.J. SIMPSON:** I thank the member for his question. It is correct, as he knows, that this is the Local Government Legislation Amendment Bill 2014; so two years have passed since we started this process. The Public Health Act 2016 has come into place since we started this process. Clause 26 will allow the Executive Director of Public Health, the person who is authorised to perform the powers and duties of a local government over a class A reserve for the purpose of protecting promoting and improving public health. This amendment has already been dealt with in the Public Health (Consequential Provisions) Act 2016.

**Mr D.A. TEMPLEMAN:** I do not wish to be pedantic, but the minister knows through my approaches to him that we highlighted the importance of passing this bill. Subsequently, it was passed in this place in June, I think. When did it pass in this place?

**Mr A.J. Simpson:** December 2015.

**Mr D.A. TEMPLEMAN:** No; when was it passed in this place and sent to the other place? It was this year, was it not?

**Mr A.J. Simpson:** It was in 2015.

**Mr D.A. TEMPLEMAN:** I want to clarify the timing. This bill was originally passed in this chamber in 2015.

**Mr A.J. Simpson:** I think it was.

**Mr D.A. TEMPLEMAN:** When was the Public Health (Consequential Provisions) Act passed in this place?

**Mr A.J. Simpson:** In 2016.

**Mr D.A. TEMPLEMAN:** That is why it is subsequent. We are just dealing with clause 26, are we not?

**Mr A.J. Simpson:** Amendments 1 and 2 deal with clauses 26 and 27; it is the same answer to both questions.

**Mr D.A. TEMPLEMAN:** In that case, I think, Madam Deputy Speaker, you have moved only clause 26

**The DEPUTY SPEAKER:** Amendment 1 deals with clause 26. Do you want me to move that so you can move on to the next one; is that what you are saying?

**Mr D.A. TEMPLEMAN:** I am happy for clauses 26 and 27 to be dealt with together.

**Question put and passed; the Council's amendment agreed to.**

**Mr A.J. SIMPSON:** I move —

That amendment 2 made by the Council be agreed to.

**Mr D.A. TEMPLEMAN:** I recall the debate relating to impacts on Rottnest Island —

**Mr A.J. SIMPSON:** Clauses 23 and 29 relate to Rottnest while clauses 26 and 27 relate to public health.

**Mr D.A. TEMPLEMAN:** Have we dealt with clauses 26 and 27?

**The DEPUTY SPEAKER:** No, we have just dealt with clause 26 in amendment 1. Clause 27 is dealt with in amendment 2.

**Mr D.A. TEMPLEMAN:** We are still debating clause 27.

**The DEPUTY SPEAKER:** Yes.

**Question put and passed; the Council’s amendment agreed to.**

**Mr A.J. SIMPSON:** I move —

That amendment 3 made by the Council be agreed to.

**Mr D.A. TEMPLEMAN:** This is an amendment to clause 28, which relates to Rottnest Island. The Executive Director of Public Health has various duties that supersede local governments’ responsibilities. I recall one example in the debate on the City of Perth Bill—I know we are not debating that legislation, but in relation to this clause, we had to make amendments relating to the role, powers and duties of the Executive Director of Public Health. I understand that these amendments again align the executive director’s powers through this amendment bill as they relate to Rottnest. That means that the Executive Director of Public Health has the duties and powers under the Public Health Act to do a range of things that are in the public interest of public health on Rottnest. I am going to look at clauses 28 and 29 in the original bill so I can get clarity. As the bill reads now, unamended, if I am reading the bill correctly—I have to make sure I have the right bill—clause 28 mentions Kings Park. I need some guidance from the minister. I am looking at clause 28 on page 21 of the bill. There is no mention of Rottnest. I am seeking some clarification.

**The DEPUTY SPEAKER:** Member for Mandurah, you might have the wrong bill. In the copy we have, clause 28 states —

This Division amends the *Rottnest Island Authority Act 1987*.

We are dealing with the Local Government Legislation Amendment Bill 2014.

**Mr D.A. TEMPLEMAN:** Yes, I have that bill. I am looking at page 21, which has been given to me by the attendants, unless I have the wrong one. I now have the correct copy. I just want to make sure that this is right. Clause 28 relates to the Rottnest Island Authority. Clause 29 outlines the amendment, so that would be under proposed subsection (2) in clause 29.

**Mr A.J. Simpson:** Yes.

**Mr D.A. TEMPLEMAN:** That is what we are doing. We are simply aligning it with that.

**Mr A.J. Simpson:** We are deleting it.

**Mr D.A. TEMPLEMAN:** I am going to throw that version of the bill away. I ask the minister to confirm that.

**Mr A.J. SIMPSON:** Just so it is very clear, amendment 3 states —

Clause 28, page 21, lines 2 and 3 — To delete the clause.

This is similar to the provisions in clauses 28 and 29. It allows the Executive Director of Public Health to perform the powers and duties of local government over Rottnest for the purpose of protecting, promoting and improving public health. This amendment has already been dealt with in the Public Health Act 2016. It is very similar to the one relating to class A reserves, but it actually deletes those lines from the bill.

**Question put and passed; the Council’s amendment agreed to.**

**Mr A.J. SIMPSON:** I move —

That amendment 4 made by the Council be agreed to.

**Mr D.A. TEMPLEMAN:** This amendment amends the definition of “public property” in the Criminal Code. Can the minister explain what this means?

**Mr A.J. Simpson:** Clause 29 is still to do with Rottnest.

**Mr D.A. TEMPLEMAN:** Sorry, I thought we had dealt with clause 29.

**Question put and passed; the Council’s amendment agreed to.**

**Mr A.J. SIMPSON:** I move —

That amendment 5 made by the Council be agreed to.

**Mr D.A. TEMPLEMAN:** This relates to the amendment of the definition of “public property” in the Criminal Code. That will allow the inclusion of regional subsidiaries. I know the definition of that and we know what we are doing there. Can the minister provide an explanation of how this has been made necessary, because I understand it relates to compensation for removing graffiti? I think we need a bit of an explanation about the significance of this and the reason for the inclusion of it.

**Mr A.J. SIMPSON:** We know what local governments are trying to do with regional subsidiaries. Two local governments can get together and form a charter to deliver services. If they were trying to remove graffiti from a building or something they both have responsibility for, it is covered under the Graffiti Vandalism Act 2016.

The Graffiti Vandalism Act has come into place since this bill was introduced in 2014. It is just making some adjustments to clauses in the Criminal Code. The Graffiti Vandalism Legislation Bill removed these provisions from the Criminal Code and inserted them into the Graffiti Vandalism Act.

**Mr D.A. TEMPLEMAN:** That is fine. A regional subsidiary that has been established may decide that one of its purposes relates to the removal of graffiti. Is that what the minister is saying? If two or three councils come together to form a regional subsidiary and one of the purposes of the subsidiary is to have a collective approach to graffiti attack, the Bencubbin, Beacon and Borden graffiti attack team is a regional subsidiary set-up. It seeks to remove graffiti from public places, and may also have some arrangement with private places; I do not know. This is a protection, ultimately, of that subsidiary under the Criminal Code. The explanatory notes mention compensation. They state that a court may order compensation for removing graffiti, but compensation of whom?

**Mr A.J. SIMPSON:** The member is spot-on. This provision basically allows for the subsidiary that removes the graffiti to go to court and seek reimbursement of the cost of removing the graffiti.

**Question put and passed; the Council's amendment agreed to.**

**Mr A.J. SIMPSON:** I move —

That amendment 6 made by the Council be agreed to.

**Question put and passed; the Council's amendment agreed to.**

**Mr A.J. SIMPSON:** I move —

That amendment 7 made by the Council be agreed to.

**Question put and passed; the Council's amendment agreed to.**

**Mr A.J. SIMPSON:** I move —

That amendment 8 made by the Council be agreed to.

**Mr D.A. TEMPLEMAN:** This amendment replaces part of the definition of “public authority” in section 6 of the Health Services Act 2016 with —

a local government, regional local government or regional subsidiary;

I am assuming that that covers all bases.

**Mr A.J. Simpson:** Yes, it does.

**Mr D.A. TEMPLEMAN:** That determines that regional subsidiaries are included under the definition of “public authority”.

**Mr A.J. SIMPSON:** Proposed clause 62B amends the definition of “public authority” in section 6 of the Health Services Act 2016 to include regional subsidiaries in paragraph (c).

**Mr D.A. TEMPLEMAN:** Just on that, very quickly, in this context, when a regional subsidiary is established and is about to be registered, would the wording “regional subsidiary” be included in the name? It would seem to me that it would need to be if we are defining a regional subsidiary as an entity. It would probably need to be included in the wording, through regulation or whatever. If it is three shires or three councils, “regional subsidiary” might need to be included in whatever name it is called. My understanding of regional subsidiaries is that they can come up with some creative names for their subsidiaries, but there probably would need to be, somewhere in that name, some reference to “regional subsidiary”, so that if it is, say, the Cat Killers of Cataby regional subsidiary, it would need to be defined in its name as a regional subsidiary, otherwise it might be seen as a leftist or a rightist front.

**Mr A.J. SIMPSON:** I am not sure whether I will report the member for Mandurah to the RSPCA, but the important part is that is right; part of the charter defines a regional subsidiary, as the member mentioned, as a group of local governments that come together, keeping in mind that the charter has a purpose and use. It needs to be signed off by me as minister, according to the direction it needs to go in, and it can be seen from the legislation that it creates a vehicle for the local governments to share and deliver those resources. As the member has suggested, the charter needs to define the entity at the start as a regional subsidiary, so that we understand that it is a regional subsidiary, what it is trying to achieve and who makes up that regional subsidiary.

**Mr D.A. TEMPLEMAN:** Will the minister approve names of any regional subsidiaries? I am not being flippant here, but many local governments are very inventive and innovative in naming. Some local governments may decide, as a tourism opportunity, under the entity of a regional subsidiary, to use some quite inventive names. Some might find the names offensive, or a little lewd or risqué. I am just interested in whether the minister will have any control —

**Ms M.M. Quirk:** Or blasphemous!

**Mr D.A. TEMPLEMAN:** Yes, they could be blasphemous. I am interested in whether the minister, in signing off on the establishment of regional subsidiaries, if he is offended by a proposed name, would be able to censor it.

**The DEPUTY SPEAKER:** I am not really sure that is relevant to this amendment.

**Mr A.J. SIMPSON:** Just so that we understand here, in a regional subsidiary group that is made up of two local governments, both local government bodies would have to vote on what they wish to call the regional subsidiary. If both local governments were to put it together, of course it would come back to the minister to sign off, and if I did not think the name was appropriate, I could possibly tell them to rethink it. I could ask them to do that, but they are democratic bodies.

**Question put and passed; the Council's amendment agreed to.**

**Mr A.J. SIMPSON:** I move —

That amendment 9 made by the Council be agreed to.

**Question put and passed; the Council's amendment agreed to.**

**Mr A.J. SIMPSON:** I move —

That amendment 10 made by the Council be agreed to.

**Mr D.A. TEMPLEMAN:** Can I have a very quick explanation of this amendment, just to clarify what it does?

**Mr A.J. SIMPSON:** This minor amendment to the long title removes "Acts; and" because the third bullet point has now been deleted. The third bullet point contained a reference to the Land Administration Act 1997 and to the Rottnest Island Authority Act 1987, which are being removed from the title.

**Question put and passed; the Council's amendment agreed to.**

**Mr A.J. SIMPSON:** I move —

That amendment 11 made by the Council be agreed to.

**Mr D.A. TEMPLEMAN:** The third bullet point refers to the Land Administration Act 1997 and the Rottnest Island Authority Act 1987, which have both been removed.

**Mr A.J. SIMPSON:** Yes, member, this amendment removes references to those acts.

**Mr D.A. TEMPLEMAN:** There are no other amendments, but just commenting on the last amendment and the bill itself, as amended, the regional subsidiaries bill is an important bill and I am very keen, now that it has passed both houses and been amended, that it will now allow local governments to establish regional subsidiaries under a solid framework to carry out some of the good things that regional subsidiaries can do for communities throughout Western Australia.

**Question put and passed; the Council's amendment agreed to.**

**The Council acquainted accordingly.**