

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 152

TUESDAY, 24 SEPTEMBER 2019

1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

2. Ministerial Statement — 2020 Parliamentary Sitting Dates

The Leader of the House made a Ministerial Statement with respect to the 2020 parliamentary sitting dates.

The Leader of the House tabled the 2020 parliamentary sitting dates. (Tabled Paper 3102).

3. Ministerial Statement — Late Tabling of 2018–19 Annual Reports

The Minister for Environment made a Ministerial Statement with respect to the late tabling of 2018–19 Annual Reports of the Departments of Treasury, Landgate and the Fire and Emergency Services Superannuation Board.

4. Ministerial Statement — Recognition for Chinatown Stage One Design

The Minister for Regional Development made a Ministerial Statement with respect to Broome's Chinatown revitalisation project.

5. Standing Committee on Procedure and Privileges — Report 57 — Legal Proceedings by the President — Further Authorisation by the Legislative Council

The President presented Report 57 of the Standing Committee on Procedure and Privileges, *Legal Proceedings by the President — Further Authorisation by the Legislative Council*. (Tabled Paper 3103).

Statement by President

The President made the following Statement —

Members will recall that on 5 September 2019, the Legislative Council made a number of orders recommended by the Standing Committee on Procedure and Privileges in its fifty-sixth report. One of those orders was to authorise that legal proceedings be commenced on behalf of the Legislative Council, challenging the validity of some or all of three Corruption and Crime Commission notices to produce documents, and one notice to produce information served on the director general of the Department of the Premier and Cabinet between April and August 2019.

On 10 September 2019, the Corruption and Crime Commission served on the Clerk of the Legislative Council two notices to produce documents—“SAVE AND EXCEPT for any [content] which is determined by the Procedure and Privileges Committee of the Legislative Council to be subject to Parliamentary Privilege”—being the confidential email data and documents of three former members and their staff, which had been originally sought between

April and August 2019 from Mr Darren Foster, director general of the Department of Premier and Cabinet; and material on one former member's laptop and external hard drive.

As a legal and practical result of these two new notices to produce documents, the Committee recommends that the Legislative Council pass a further order updating its earlier order so as to reflect the changed circumstances arising from the two new Corruption and Crime Commission notices to produce documents and to facilitate the imminent commencement of the legal proceedings. The updates to the order of 5 September 2019 are to specifically address the following matters: (a) the addition of causes of action to the imminent legal proceedings relating to the two latest Corruption and Crime Commission notices to produce documents; (b) practical arrangements arising from the Clerk, as the recipient of the two new notices to produce, likely being a separate party to the imminent legal proceedings; and (c) consistent with the imminent legal proceedings, a direction to the Clerk that he is to provide the requested material to the Corruption and Crime Commission after the legal proceedings have been concluded and parliamentary privilege has been assessed in relation to the material or at the further direction of the Committee pursuant to legal advice.

For the information of the Legislative Council, the Committee advises that the drafting of the pleadings for the legal proceedings are well advanced and that the proceedings will be commenced shortly.

The Committee reiterates that it is not the intention of the Committee and the Legislative Council to impede the Corruption and Crime Commission's investigation. The Committee has at all times sought to work with the Corruption and Crime Commission to facilitate its investigation. The Committee is taking active steps to develop and implement a workable procedure, with the technical assistance of the Corruption and Crime Commission, for assessing those documents relevant to the Corruption and Crime Commission's investigation that may be subject to parliamentary privilege. Every action that the Committee has taken in this matter has been to protect those privileges of the Parliament that are critical to the proper functioning of Parliament and that enable Members of Parliament to perform their work representing constituents and holding the executive arm of Government to account unobstructed.

Hon Simon O'Brien moved, without notice —

That consideration of Recommendation 1 contained in Report No. 57 of the Standing Committee on Procedure and Privileges, *Legal Proceedings by the President — Further Authorisation by the Legislative Council*, be made an Order of the Day for consideration in the Committee of the Whole House for the next day's sitting.

Question — put and passed.

6. Papers

The following Papers were laid on the Table by —

Leader of the House

Annual Reports —

Jobs, Tourism, Science and Innovation, Department of (2018–19) (Date received 23/09/2019).....	3081
Heritage Council (2018–19) (Date received 24/09/2019)	3082
Metropolitan Cemeteries Board (2018–19) (Date received 24/09/2019).....	3083
Perth Theatre Trust (2018–19) (Date received 24/09/2019)	3084
State Library Western Australia (2018–19) (Date received 24/09/2019).....	3085
Swan Bells Foundation (2018–19) (Date received 24/09/2019)	3086

Local Laws —

Local Government Act 1995 (City of Kalgoorlie-Boulder Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2019 G.G. 17/09/2019, City of Kalgoorlie-Boulder Local Government Property Amendment Local Law 2019 G.G. 17/09/2019, Shire of Gnowangerup Bush Fire Brigades Local Law 2019 G.G. 17/09/2019 and Shire of Serpentine-Jarrahdale Public Places and Local Government Property Local Law 2019 G.G. 18/09/2019)	3087
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Notices —

Financial Management Act 2006 (section 82) — Notice from the Minister for Communities in regards to Question No. 27 asked by the Hon Nick Goiran prior to the 2019-20 Standing Committee on Estimates and Financial Operations hearing for the Department of Communities.....	3088
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Minister for Environment*Annual Reports —*

Acacia Prison Services Agreement (2018–19) (Date received 19/09/2019).....	3089
CBD Court Project Contract (2018–19) (Date received 19/09/2019)	3090
Court Security and Custodial Services Contract (2018–19) (Date received 19/09/2019).....	3091
Melaleuca Remand and Reintegration Facility Services Agreement (2018–19) (Date received 19/09/2019).....	3092
Supervised Release Review Board (2018–19) (Date received 19/09/2019)	3093

Regulations —

Electricity Industry Act 2004 (Electricity Industry (Wholesale Electricity Market) Amendment Regulations 2019 G.G. 20/09/2019)	3094
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Minister for Environment on behalf of the Parliamentary Secretary to the Deputy Premier*Annual Reports —*

Post Graduate Medical Council (2018–19) (Date received 23/09/2019)	3101
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Minister for Regional Development*Annual Reports —*

Agricultural Produce Commission (2018–19) (Date received 24/09/2019).....	3095
Kimberley Development Commission (2018–19) (Date received 24/09/2019).....	3096
Pilbara Ports Authority (2018–19) (Date received 24/09/2019)	3097
Veterinary Surgeons Board (2018–19) (Date received 24/09/2019).....	3098

Orders —

Fish Resources Management Act 1994 (Prohibition on Fishing (Rowley Shoals Marine Park) Order 2019 G.G. 20/09/2019).....	3099
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Regulations —

Fisheries Adjustment Schemes Act 1987 (Fisheries Adjustment Schemes Amendment Regulations 2019 G.G. 20/09/2019)	3100
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7. Standing Committee on Environment and Public Affairs — Report 51 — Terms of Reference — Inquiry into the functions, processes and procedures of the Standing Committee on Environment and Public Affairs

Hon Matthew Swinbourn presented Report 51 of the Standing Committee on Environment and Public Affairs, *Terms of Reference — Inquiry into the functions, processes and procedures of the Standing Committee on Environment and Public Affairs*. (Tabled Paper 3104).

8. Firearms Amendment (Airsoft) Bill 2019

Hon Aaron Stonehouse: To move on the next day of sitting —

That a Bill for “An Act to amend the *Firearms Act 1973*.” be introduced and read a first time.

9. Business of the House

Hon Simon O'Brien moved, without notice —

That the Order of the Day regarding Report No. 57 of the Standing Committee on Procedure and Privileges, *Legal Proceedings by the President — Further Authorisation by the Legislative Council*, be made Order of the Day No. 1 for the next sitting of the House, and to remain as Order of the Day No. 1 until resolved.

Question — put and passed.

10. Order of Business

Ordered — That Order of the Day No. 1, *Health Regulations Amendment (Fees and Charges) Regulations 2019 — Disallowance*, be taken after Order of the Day No. 7, *Appropriation (Capital 2016–17) Supplementary Bill 2017*. (Leader of the House).

11. Consumer Protection Legislation Amendment Bill 2018

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

The President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Clause 67.

Debate resumed.

Hon Rick Mazza moved —

Page 40, line 14 — To delete “has” and insert:

has, in writing,

Debate ensued.

Amendment — put and passed.

Debate resumed.

The Minister for Regional Development representing the Minister for Commerce moved that further consideration of clause 67 be postponed until after clause 94.

Question — put and passed.

Clause 68.

Debate ensued.

12. Questions Without Notice

Questions without notice were taken.

The Minister for Environment representing the Minister for Lands, by leave, incorporated into *Hansard* information in relation to the recent privatisation of Landgate, in response to a question without notice asked by Hon Peter Collier.

The Leader of the House representing the Minister for Child Protection tabled the supplementary report entitled Department of Communities, Evaluation of Grandcarer Support Programs (August 2019), in response to a question without notice asked by Hon Nick Goiran. (Tabled Paper 3105).

The Minister for Environment representing the Minister for Transport tabled media statements by the Minister for Planning in relation to facilities for Whiteman Park (2016), in response to a question without notice asked by Hon Simon O'Brien. (Tabled Paper 3106).

The Minister for Environment representing the Minister for Transport tabled the minutes of the Subiaco East Transport Working Group, in response to question on notice 2402 asked by Hon Alison Xamon. (Tabled Paper 3107).

The Minister for Environment tabled a document in relation to the locations of per- and poly-fluoro alkyl substances, impacted sites regulated under the *Contamination Sites Act 2003*, in response to question on notice 2421 asked by Hon Dr Steve Thomas. (Tabled Paper 3108).

The Minister for Environment on behalf of the Parliamentary Secretary to the Minister for Health tabled a list of the names and suburbs of GP Urgent Care Clinics, in response to question on notice 2417 asked by Hon Martin Aldridge. (Tabled Paper 3109).

13. Consumer Protection Legislation Amendment Bill 2018

Resumption of consideration of this Bill in Committee of the Whole House (*see item 11 above*).

The President left the Chair.

In Committee

(Hon Dr Steve Thomas in the Chair)

Clause 68.

Debate resumed.

Clause agreed to.

Clauses 69 to 71 agreed to.

Clause 72.

Debate ensued.

The Minister for Regional Development representing the Minister for Commerce moved, That the Deputy Chair report progress and seek to sit again.

Question — put and passed.

The Acting President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again.

Ordered — That the Committee of the Whole House sit again.

14. Order of Business

Ordered — That Order of the Day No. 20, *High Risk Offenders Bill 2019*, be taken forthwith. (Leader of the House).

15. High Risk Offenders Bill 2019

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

The Acting President left the Chair.

In Committee

(Hon Robin Chapple in the Chair)

Clause 1.

Debate ensued.

Hon Michael Mischin moved —

Page 2, line 3 — To delete “*High Risk Offenders Act 2019*” and insert —

High Risk (Sexual and Violent) Offenders Act 2019

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (13)

Hon Martin Aldridge
 Hon Jacqui Boydell
 Hon Peter Collier
 Hon Colin de Grussa
 Hon Donna Faragher
 Hon Nick Goiran
 Hon Rick Mazza

Hon Michael Mischin
 Hon Simon O'Brien
 Hon Robin Scott
 Hon Tjorn Sibma
 Hon Aaron Stonehouse
 Hon Ken Baston (*Teller*)

Noes (13)

Hon Robin Chapple
 Hon Tim Clifford
 Hon Stephen Dawson
 Hon Sue Ellery
 Hon Diane Evers
 Hon Laurie Graham
 Hon Kyle McGinn

Hon Martin Pritchard
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Alison Xamon
 Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Debate resumed.

Hon Michael Mischin moved —

Page 2, line 3 — To delete “*High Risk Offenders Act 2019*” and insert —

High Risk Dangerous Offenders Act 2019

Debate ensued.

Hon Michael Mischin, by leave, withdrew his amendment.

The Leader of the House representing the Attorney General moved that Clauses 1 to 13 be postponed until after consideration of Part 2.

Question — put and passed.

Clause 14.

Debate ensued.

Interruption pursuant to order.

The President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again.

Ordered — That the Committee of the Whole House sit again.

16. Members' Statements

Statements were taken.

17. Adjournment

The Council adjourned at 10.08pm until Wednesday, 25 September 2019 at 1.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Alanna Clohesy.

NIGEL PRATT

Clerk of the Legislative Council

HON KATE DOUST MLC

President of the Legislative Council