

# LEGISLATIVE COUNCIL

## MINUTES OF PROCEEDINGS

No. 142

THURSDAY, 15 AUGUST 2019

### 1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

### 2. Ministerial Statement — Skillswest Careers Expo

The Minister for Education and Training made a Ministerial Statement with respect to the expected attendance of more than 10 000 secondary students, graduates and career changers at the SkillsWest Careers Expo this weekend at the Perth Convention and Exhibition Centre.

### 3. Ministerial Statement — Westport Taskforce

The Minister for Ports made a Ministerial Statement with respect to the release of Westport Taskforce's short list of five port and supply chain options to manage Perth's growing freight needs for the long term.

### 4. Papers

The following Papers were laid on the Table by —

#### **President**

*Auditor General's Papers* —

Fraud Prevention in Local Government (Report No. 5) (August 2019)..... 2934

#### **Minister for Environment**

*Reports* —

Synergy — Statement of Corporate Intent (2019-20)..... 2935

#### **Minister for Regional Development**

*Addendums* —

Busselton Water — Annual Report (Version 2) (2018) (Date received 14/08/2019)..... 2936

#### **Parliamentary Secretary to the Deputy Premier**

*Annual Reports* —

Carers Advisory Council (2017-18)..... 2937

**5. City of Armadale Bush Fire Brigades Local Law 2019 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Armadale Bush Fire Brigades Local Law 2019* published in the *Gazette* on 24 May 2019 and tabled in the Legislative Council on 4 June 2019 under the *Bush Fires Act 1954*, be and is hereby disallowed. (Tabled paper No. 2720).

**6. Healthcare in Regional and Rural Western Australia**

Hon Nick Goiran: To move on the next day of sitting —

That this House notes with grave concern the ongoing lack of proper access to primary healthcare in many regional and rural areas in our State and calls on the Government to prioritise this as a matter of urgency.

**7. Criminal Code Amendment (Industrial Manslaughter) Bill 2017**

Non-Government Business No. 1 having been called for the adjourned debate on the second reading of this Bill.

Debate resumed.

*Interruption pursuant to order.*

**8. Rail Service to Ellenbrook**

Private Members' Business No. 1 having been called, Hon Martin Pritchard moved, without notice —

That the Legislative Council notes that, after many years of promises from the previous State Government, the McGowan Government has committed to providing a rail service to Ellenbrook.

Debate ensued.

*Motion lapsed.*

**9. Standing Committee on Procedure and Privileges — Report 55 — A Refusal to Comply with a Summons to Produce Documents**

The Order of the Day having been read for the consideration in Committee of the Whole, on the motion of Hon Simon O'Brien for the consideration of Recommendations 1 to 4 contained in Report 55 of the Standing Committee on Procedure and Privileges, *A Refusal to Comply with a Summons to Produce Documents*.

The Acting President left the Chair.

—————  
**In Committee**

(Hon Kate Doust in the Chair)

Recommendation 1.

Hon Simon O'Brien moved with notice —

That Recommendation 1 be adopted and agreed to.

That the Legislative Council refer the following matter to the Standing Committee on Procedure and Privileges for investigation and report:

In relation to the refusal by Ms Emily Roper, the Acting Director General of the Department of the Premier and Cabinet, to comply with a summons to attend and produce documents at 9.00am on Friday, 9 August 2019, issued by the Legislative Council Standing Committee on Procedure and Privileges, and the events leading up to that non-compliance:

- (1) Did Ms Emily Roper, or any other person or body, commit a contempt of the Legislative Council or any breach of its privileges?

- (2) If the Committee so finds that any contempt of the Legislative Council has been committed, or that any of the privileges of the Legislative Council have been breached, then what penalty, if any, should the Legislative Council impose for each contempt or breach?

Debate ensued.

The Leader of the House tabled a letter from John McKechnie QC, Commissioner of the Corruption and Crime Commission to Hon John Quigley, Attorney General, dated 14 August 2019. (Tabled Paper 2938).

Debate resumed.

The Leader of the House tabled a letter from John McKechnie QC, Corruption and Crime Commission to Hon John Quigley, Attorney General, dated 14 August 2019, regarding the Standing Committee on Procedure and Privileges of the Legislative Council. (Tabled Paper 2939).

Debate resumed.

The Leader of the House tabled a letter from the Director Legal Services to Mr Craig Bydder, Deputy State Solicitor, dated 14 August 2019, regarding Notices NPR 00615-2019-4614 and NPR 00615-2019-4647 to produce documents for the Corruption and Crime Commission. (Tabled Paper 2940).

Debate resumed.

The Chair of Committees tabled a letter from the Standing Committee on Procedure and Privileges to John McKechnie QC, Commissioner of the Corruption and Crime Commission requesting his appearance. (Tabled Paper 2941).

Debate resumed.

Question — put.

The Committee divided.

**Ayes (20)**

Hon Martin Aldridge  
 Hon Jacqui Boydell  
 Hon Robin Chapple  
 Hon Tim Clifford  
 Hon Peter Collier  
 Hon Diane Evers  
 Hon Donna Faragher  
 Hon Nick Goiran  
 Hon Colin Holt  
 Hon Rick Mazza

Hon Michael Mischin  
 Hon Simon O'Brien  
 Hon Robin Scott  
 Hon Tjorn Sibma  
 Hon Charles Smith  
 Hon Aaron Stonehouse  
 Hon Dr Steve Thomas  
 Hon Colin Tincknell  
 Hon Alison Xamon  
 Hon Ken Baston (*Teller*)

**Noes (11)**

Hon Alanna Clohesy  
 Hon Stephen Dawson  
 Hon Sue Ellery  
 Hon Laurie Graham  
 Hon Alannah MacTiernan  
 Hon Kyle McGinn

Hon Martin Pritchard  
 Hon Samantha Rowe  
 Hon Dr Sally Talbot  
 Hon Darren West  
 Hon Pierre Yang (*Teller*)

Motion thus passed.

Recommendation 2.

Hon Simon O'Brien moved with notice —

That Recommendation 2 be adopted and agreed to.

That the Legislative Council refer the following matter to the Standing Committee on Procedure and Privileges for investigation and report:

In relation to the actions of Mr Darren Foster, the Director General of the Department of the Premier and Cabinet, in producing documents to the Corruption and Crime Commission relating to former Members of the

Legislative Council without following a procedure that the Legislative Council or the Legislative Council Standing Committee on Procedure and Privileges had authorised for determining issues of parliamentary privilege:

- (1) Did Mr Darren Foster, or any other person or body, commit a contempt of the Legislative Council or any breach of its privileges?
- (2) If the Committee so finds that any contempt of the Legislative Council has been committed, or that any of the privileges of the Legislative Council have been breached, then what penalty, if any, should the Legislative Council impose for each contempt or breach?

Debate ensued.

Question — put.

The Committee divided.

**Ayes (20)**

Hon Martin Aldridge  
 Hon Jacqui Boydell  
 Hon Robin Chapple  
 Hon Tim Clifford  
 Hon Peter Collier  
 Hon Diane Evers  
 Hon Donna Faragher  
 Hon Nick Goiran  
 Hon Colin Holt  
 Hon Rick Mazza

Hon Michael Mischin  
 Hon Simon O'Brien  
 Hon Robin Scott  
 Hon Tjorn Sibma  
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 Hon Kyle McGinn

Hon Martin Pritchard  
 Hon Samantha Rowe  
 Hon Dr Sally Talbot  
 Hon Darren West  
 Hon Pierre Yang (*Teller*)

Motion thus passed.

Recommendation 3.

Hon Simon O'Brien moved with notice —

That Recommendation 3 be adopted and agreed to.

That the Legislative Council order:

That Mr Darren Foster, Director General, Department of the Premier and Cabinet, or any person acting in that capacity, is hereby ordered:

- (1) to attend before the Legislative Council Standing Committee on Procedure and Privileges to produce the documents listed below at the Legislative Council Committee Office, Ground Floor, 18-32 Parliament Place, West Perth at 9.00am on Friday, 23 August 2019; and
- (2) to continue in attendance until released by order of the Committee;

**DOCUMENTS TO BE PRODUCED:**

In relation to Corruption and Crime Commission (CCC) Notices to Produce Nos. NPR 00615-2019-4614 and NPR 00615-2019-4647, or any further notice issued to the Director General, Department of the Premier and Cabinet:

- (a) all documents that were identified as relevant to the CCC investigation, together with a list of those documents;

- (b) all documents that were identified as being subject to parliamentary privilege, together with a list of those documents; and
- (c) all documents that were produced to the CCC in compliance with each of the CCC Notices to Produce, together with a list of those documents.

Debate ensued.

The Leader of the House tabled an email from the Corruption and Crime Commission to the Department of Premier and Cabinet regarding a private hearing with the Standing Committee on Procedure and Privileges. (Tabled Paper 2942).

Debate resumed.

Question — put.

The Committee divided.

**Ayes (20)**

Hon Martin Aldridge  
 Hon Jacqui Boydell  
 Hon Robin Chapple  
 Hon Tim Clifford  
 Hon Peter Collier  
 Hon Diane Evers  
 Hon Donna Faragher  
 Hon Nick Goiran  
 Hon Colin Holt  
 Hon Rick Mazza

Hon Michael Mischin  
 Hon Simon O'Brien  
 Hon Robin Scott  
 Hon Tjorn Sibma  
 Hon Charles Smith  
 Hon Aaron Stonehouse  
 Hon Dr Steve Thomas  
 Hon Colin Tincknell  
 Hon Alison Xamon  
 Hon Ken Baston (*Teller*)

**Noes (11)**

Hon Alanna Clohesy  
 Hon Stephen Dawson  
 Hon Sue Ellery  
 Hon Laurie Graham  
 Hon Alannah MacTiernan  
 Hon Kyle McGinn

Hon Martin Pritchard  
 Hon Samantha Rowe  
 Hon Dr Sally Talbot  
 Hon Darren West  
 Hon Pierre Yang (*Teller*)

Motion thus passed.

Recommendation 4:

Hon Simon O'Brien moved with notice —

That Recommendation 4 be adopted and agreed to.

That Mr Darren Foster, Director General, Department of the Premier and Cabinet (Department), or any person acting in that capacity, is hereby ordered:

- (1) to not produce to the Corruption and Crime Commission or any other investigative agency in answer to any further compulsory process or otherwise any document or data in the Department's possession, custody or power that was created or received by a current or former member of the Legislative Council or their staff; and
- (2) to produce any documents or data that is the subject of any further compulsory process immediately to the Legislative Council Standing Committee on Procedure and Privileges at the Legislative Council Committee Office, Ground Floor, 18-32 Parliament Place, West Perth, pursuant to the provisions of the Parliamentary Privileges Act 1891 for that Committee to determine whether:
  - (a) its description falls within the lawful scope of any warrant, notice to produce, or other similar power granted to an investigative agency under a written law; and

- (b) the documents or data is not proceedings in Parliament within the meaning of Article 9 of the *Bill of Rights 1688* or does not otherwise fall within the scope of parliamentary privilege.

Debate ensued.

Question — put.

The Committee divided.

**Ayes (20)**

Hon Martin Aldridge  
 Hon Jacqui Boydell  
 Hon Robin Chapple  
 Hon Tim Clifford  
 Hon Peter Collier  
 Hon Diane Evers  
 Hon Donna Faragher  
 Hon Nick Goiran  
 Hon Colin Holt  
 Hon Rick Mazza

Hon Michael Mischin  
 Hon Simon O'Brien  
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 Hon Sue Ellery  
 Hon Laurie Graham  
 Hon Alannah MacTiernan  
 Hon Kyle McGinn

Hon Martin Pritchard  
 Hon Samantha Rowe  
 Hon Dr Sally Talbot  
 Hon Darren West  
 Hon Pierre Yang (*Teller*)

Motion thus passed.

The Deputy President resumed the Chair.

Hon Nick Goiran moved, That the report be adopted.

Question — put.

The Committee divided.

**Ayes (20)**

Hon Martin Aldridge  
 Hon Jacqui Boydell  
 Hon Robin Chapple  
 Hon Tim Clifford  
 Hon Peter Collier  
 Hon Diane Evers  
 Hon Donna Faragher  
 Hon Nick Goiran  
 Hon Colin Holt  
 Hon Rick Mazza

Hon Michael Mischin  
 Hon Simon O'Brien  
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 Hon Dr Steve Thomas  
 Hon Colin Tincknell  
 Hon Alison Xamon  
 Hon Ken Baston (*Teller*)

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Hon Alanna Clohesy  
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 Hon Sue Ellery  
 Hon Laurie Graham  
 Hon Alannah MacTiernan  
 Hon Kyle McGinn

Hon Martin Pritchard  
 Hon Samantha Rowe  
 Hon Dr Sally Talbot  
 Hon Darren West  
 Hon Pierre Yang (*Teller*)

Question thus passed.

Report adopted.

### 10. TAB (Disposal) Bill 2019 and Betting Control Amendment (Taxing) Bill 2019

The Orders of the Day having been read for the adjourned debate on the second reading of these Bills cognately.

Debate resumed.

### 11. Questions Without Notice

Questions without notice were taken.

The Minister for Environment representing the Minister for Planning tabled a document titled, *Modernising Western Australia's Planning System, Green Paper concepts for a strategically led system, Summary of Submissions*, in response to a question without notice asked by Hon Alison Xamon. (Tabled Paper 2943).

The Minister for Environment representing the Minister for Corrective Services, by leave, incorporated into *Hansard* an answer in relation to community corrections officers and their average case load for the years 206-17, 1017-18 and 2018-19, in response to a question without notice asked by Hon Peter Collier. The Parliamentary Secretary to the Minister for Health, by leave, incorporated into *Hansard* an answer in relation to an alleged assault of a member of the nursing staff by another employee contracted by the Department of Health working at the Derby Hospital, in response to a question without notice asked by Hon Rick Mazza.

### 12. Statement by President — Suzanne Veletta — Recognition of Service

The President made the following Statement —

Before we return to Orders of the Day, I acknowledge a long-term staff member who will be finishing up with us today and sadly leaving us to go and work in the other place. I acknowledge Ms Suzanne Veletta, who has worked for us since 2007 both in her capacity in the committee offices and in the Chamber as Clerk Assistant (Procedure). I acknowledge the contribution she has made to both those places and the ongoing support she has provided for all of us in those capacities. She has done an outstanding job. On behalf of all Members here, I wish her well for her future endeavours as a research officer in the Legislative Assembly committee rooms. It will not be as much fun as here! We congratulate her and wish her well.

### 13. TAB (Disposal) Bill 2019 and Betting Control Amendment (Taxing) Bill 2019

Cognate debate resumed on the second reading of these Bills (*see item 10 above*).

Question — That the *TAB (Disposal) Bill 2019* be read a second time — put.

The Council divided.

#### Ayes (22)

Hon Martin Aldridge  
Hon Ken Baston  
Hon Jacqui Boydell  
Hon Alanna Clohesy  
Hon Peter Collier  
Hon Stephen Dawson  
Hon Sue Ellery  
Hon Donna Faragher  
Hon Laurie Graham  
Hon Colin Holt  
Hon Alannah MacTiernan

Hon Rick Mazza  
Hon Kyle McGinn  
Hon Michael Mischin  
Hon Simon O'Brien  
Hon Martin Pritchard  
Hon Samantha Rowe  
Hon Tjorn Sibma  
Hon Dr Sally Talbot  
Hon Dr Steve Thomas  
Hon Darren West  
Hon Pierre Yang (*Teller*)

#### Noes (7)

Hon Robin Chapple  
Hon Tim Clifford  
Hon Diane Evers  
Hon Robin Scott

Hon Charles Smith  
Hon Colin Tincknell  
Hon Alison Xamon (*Teller*)

Question thus passed.

Bill read a second time.

Question — That the *Betting Control Amendment (Taxing) Bill 2019* be read a second time — put and passed.

*Interruption pursuant to order.*

**14. Members' Statements**

Statements were taken.

**15. Adjournment**

The Council adjourned at 5.56pm until Tuesday, 20 August 2019 at 2.00pm.

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

Attendance: Present all Members except Hon Colin de Grussa and Hon Matthew Swinbourn.

**NIGEL PRATT**  
Clerk of the Legislative Council

**HON KATE DOUST MLC**  
President of the Legislative Council