

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 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 Environment on behalf of the Minister for Regional Development

Addendums —

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

Minister for Environment on behalf of the 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 ensued.

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 for the consideration of Recommendations 1 to 4 of this report in Committee of the Whole having been read.

The Acting President left the Chair.

In Committee

(President in the Chair)

Recommendation 1 is as follows —

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?

Hon Simon O'Brien moved, That Recommendation 1 be adopted and agreed to.

Debate ensued.

The Leader of the House tabled a letter dated 14 August 2019 from John McKechnie QC, Commissioner of the Corruption and Crime Commission, to Hon John Quigley, Attorney General, in relation to a summons to appear before the privileges committee of the Legislative Council. (Tabled Paper 2938).

Debate resumed.

The Leader of the House tabled a letter dated 14 August 2019 from John McKechnie QC, Corruption and Crime Commission, to Hon John Quigley, Attorney General, in relation to a summons to appear before the privileges committee of the Legislative Council. (Tabled Paper 2939).

Debate resumed.

The Leader of the House tabled a letter dated 14 August 2019 from the Director Legal Services, Corruption and Crime Commission, to Mr Craig Bydder, Deputy State Solicitor 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 before the committee. (Tabled Paper 2941).

Debate resumed.

Question — put.

The Committee divided.

Ayes (20)

Hon Martin Aldridge
Hon Jacqui Boyde
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 is as follows —

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?

Hon Simon O'Brien moved, That Recommendation 2 be adopted and agreed to.

Debate ensued.

Question — put.

The Committee divided.

Ayes (20)

Hon Martin Aldridge
Hon Jacqui Boydell
Hon Robin Chapple
Hon Jim Chown
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 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 3 is as follows —

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.

Hon Simon O'Brien moved, That Recommendation 3 be adopted and agreed to.

Debate ensued.

The Leader of the House tabled an email from the Corruption and Crime Commission to the Department of the 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 Jim Chown
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 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 is as follows —

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.

Hon Simon O'Brien moved, That Recommendation 4 be adopted and agreed to.

Debate ensued.

Question — put.

The Committee divided.

Ayes (20)

Hon Martin Aldridge
Hon Jacqui Boydell
Hon Robin Chapple
Hon Jim Chown
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 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.

The Deputy President resumed the Chair.

The President reported that the Committee had considered Recommendations 1 to 4 contained in Standing Committee on Procedure and Privileges — Report 55 — *A Refusal to Comply with a Summons to Produce Documents*, and had adopted and agreed to same without amendment.

Hon Nick Goiran moved, That the report be adopted.

Question — put.

The Council divided.

Ayes (20)

Hon Martin Aldridge
Hon Jacqui Boydell
Hon Robin Chapple
Hon Jim Chown
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 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*)

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. Debate resumed.

11. Questions Without Notice

Questions without notice were taken.

The Minister for Environment representing the Minister for Planning tabled a document entitled, *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 2016-17, 2017-18 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 Simon O'Brien
Hon Martin Pritchard
Hon Samantha Rowe
Hon Tjorn Sibma
Hon Aaron Stonehouse
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