

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 153

WEDNESDAY, 25 SEPTEMBER 2019

1. Meeting of Council

The Council assembled at 1.00pm pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

2. Ministerial Statement — Metropolitan Region Scheme Amendments 1323/41 — South Bullsbrook Urban Precinct and 1324/41 — Central Bullsbrook Urban Precinct

The Minister for Environment representing the Minister for Planning made a Ministerial Statement with respect to Metropolitan Region Scheme Amendments 1323/41 — South Bullsbrook Urban Precinct and 1324/41 — Central Bullsbrook Urban Precinct.

The Minister for Environment representing the Minister for Planning tabled the following documentation for Metropolitan Region Scheme Amendments 1323/41 — South Bullsbrook Urban Precinct and 1324/41 — Central Bullsbrook Urban Precinct —

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Metropolitan Region Scheme Amendment No. 1323/41 — South Bullsbrook Urban Precinct.....	3141
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Reports —

Metropolitan Region Scheme Amendment No. 1323/41, 1324/41, 1325/41 — Amendments in the Bullsbrook Urban Precinct (South, Central and North) — Transcripts of Hearings (August 2019).....	3143
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Metropolitan Region Scheme Amendment No. 1323/41 — South Bullsbrook Urban Precinct — Report on Submissions (August 2019).....	3145

3. Ministerial Statement — Community Resource Centre Contract Extension

The Minister for Regional Development made a Ministerial Statement with respect to community resource centres being offered an extension to their current contract from 30 June 2020 to 30 June 2022.

4. Papers

The following Papers were laid on the Table by —

President

Annual Reports —

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Public Transport Authority (2018–19) (Date received 24/09/2019)	3124
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Minister for Regional Development*Annual Reports —*

AQWEST (2018–19) (Date received 24/09/2019).....	3126
Coal Miners Welfare Board (2018–19) (Date received 24/09/2019).....	3127
Construction Industry Long Service Leave Scheme (2018–19) (Date received 24/09/2019)....	3128
Forest Products Commission (2018–19) (Date received 24/09/2019)	3129
Minerals Research Institute of Western Australia (2018–19) (Date received 24/09/2019)	3130
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Parliamentary Secretary to the Deputy Premier*Annual Reports —*

Health and Disability Services Complaints Office (2018–19) (Date received 24/09/2019)	3136
Healthway (2018–19) (Date received 24/09/2019)	3137
Local Health Authorities Analytical Committee (2018–19) (Date received 24/09/2019)	3138
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Queen Elizabeth II Medical Centre Trust (2018–19) (Date received 24/09/2019)	3140

5. Protection Measures at School for Victims of Sex Offences

Motion No. 1 having been called, Hon Nick Goiran, pursuant to notice, moved —

That this House implores the Government to —

- (a) abandon its current policy which sees some victims of child sex offences attending school each day knowing they may be confronted by their abuser; and
- (b) inform the House of what it is and will be doing to protect these children and young people.

Debate ensued.

The Leader of the House moved to amend the motion as follows —

To delete all words after “House” where it first appears and insert instead —

- (a) notes with concern incidents of children and young people charged with harmful sexual behaviour;
- (b) calls for all policies related to managing the education of victims of children and young people charged with harmful sexual behaviour to put the safety of the children and young people first and ensure no further harm is caused to the victims by ongoing contact with the alleged perpetrators; and
- (c) calls for the Government to inform the House of what it is and will be doing to protect these children and young people.

Debate ensued.

Hon Nick Goiran moved to amend the amendment as follows —

To delete paragraph (b) and insert —

- (b) calls for all policies related to managing the education of children and young people charged with harmful sexual behaviour and their victims to ensure the safety of the children and young people first and ensure no further harm is caused to the victims by ongoing contact with the alleged perpetrators; and

Amendment to the amendment — put and passed.

Amendment, as amended, agreed to.

Debate resumed.

Motion, as amended, agreed to.

6. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Adele Farina in the Chair)

Select Committee into Elder Abuse — Final Report — ‘I never thought it would happen to me’: When trust is broken

Debate resumed on the motion of Hon Nick Goiran, That the Report be noted.

Pursuant to Temporary Order 4, consideration of the report was postponed.

Standing Committee on Estimates and Financial Operations — Report 77 — 2017-18 Budget Cycle — Part 2: Annual Report Hearings

Debate resumed on the motion of Hon Alanna Clohesy, That the Report be noted.

Interruption pursuant to order.

The Acting President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the —

- (1) Select Committee into Elder Abuse — Final Report — ‘I never thought it would happen to me’: *When trust is broken*, made progress, and seeks to sit again.

- (2) Standing Committee on Estimates and Financial Operations — Report 77 — 2017-18 Budget Cycle — Part 2: Annual Report Hearings, made progress, and seeks to sit again.

Report adopted.

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

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

The Acting President left the Chair.

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In Committee

(President in the Chair)

Recommendation 1 is as follows —

That the Legislative Council notes:

- (A) That on 10 September 2019, the Clerk of the Legislative Council was served by the Corruption and Crime Commission with two notices to produce records or things, including documents and data retained by him.
- (B) That the retention of those documents and data by the Clerk is the result of orders made by the Standing Committee on Procedure and Privileges pursuant to the authority provided by the Legislative Council on 12 June 2019.
- (C) That, on 5 September 2019, the Legislative Council authorised the President to commence legal proceedings with respect to some or all of three notices to produce records or things, and one notice to produce information, issued by the CCC to the Director General of the Department of the Premier and Cabinet.
- (D) That those legal proceedings will relate to the validity of some or all of the CCC notices to produce.
- (E) That similar questions arise in respect to the validity of the CCC notices to produce served on the Clerk.
- (F) That, to the extent that the CCC notices to produce are invalid, the CCC will not have a lawful right to the documents, data or information sought by those notices.

And that the Legislative Council orders as follows:

Resolution regarding the ‘arrangement’

- (1) That the proceedings described in Resolution 4(1) passed on 5 September 2019 may include the following, and proceedings may be commenced and pursued on behalf of the Legislative Council of Western Australia accordingly:
 - (a) a challenge to the validity of the Commission’s actions in making and implementing an arrangement with the Director General, Department of Premier and Cabinet, concerning the searching of electronic records and the review of records by staff of the State Solicitor’s Office to purportedly determine whether any of the records were the subject of Parliamentary Privilege; and
 - (b) any causes of action which in the opinion of solicitors and counsel are related or raise similar questions.

Resolutions regarding the new notices and funding

- (2) That proceedings may be commenced and pursued, in the Supreme Court of Western Australia, on behalf of the Legislative Council of Western Australia, challenging the validity of notices to produce records or things issued by the Corruption and Crime Commission to the Clerk of the Legislative Council on 10 September 2019, and of any future notices issued by the Commission that in the opinion of solicitors and counsel give rise to similar issues, and of the conduct of the Commission in issuing those notices.

- (3) That the President of the Legislative Council of Western Australia be authorised to conduct such proceedings in that capacity on behalf of the Legislative Council of Western Australia and to do all such things reasonably necessary for, and incidental to, the commencement and pursuit of those proceedings, including to:
- (a) engage solicitors and counsel to represent the Legislative Council of Western Australia and to act upon their advice with respect to the proceedings in consultation with the Standing Committee on Procedure and Privileges;
 - (b) if considered appropriate, engage separate solicitors and other service providers to search and review the records produced to the Commission in response to the above notices;
 - (c) maintain the confidentiality and legal professional privilege attaching to communication relating to the proposed proceedings;
 - (d) take direction from the Standing Committee on Procedure and Privileges with respect to the conduct of the proceedings and matters related to them;
 - (e) report to the Legislative Council of Western Australia, periodically, and when requested, with respect to the proposed proceedings; and
 - (f) to consult with the Deputy Clerk of the Legislative Council as the Accountable Authority of the Department of the Legislative Council to permit the authorisation of the expenditure of funds necessary and reasonable with respect to any proceedings.
- (4) That the reference to 'Clerk' in Resolution 4 passed by the Legislative Council on 5 September 2019 is to be read as a reference to the 'Deputy Clerk', now being the Accountable Authority of the Department of the Legislative Council for the purposes of authorisation of expenditure of funds necessary and reasonable with respect to any proceedings.
- (5) Causes of action commenced in accordance with Resolution 4 passed on 5 September 2019 and the resolutions set out above, may be the subject of one proceeding, multiple separate proceedings, or otherwise, as advised by solicitors and counsel or as determined by the Court.

Resolution regarding the Clerk

- (6) That the Clerk is directed not to comply with the CCC notices to produce served on the Clerk on 10 September 2019 pending:
- (a) both the outcome of any proceedings and an assessment of parliamentary privilege by the Standing Committee on Procedure and Privileges with respect to those notices; or
 - (b) further direction from the Standing Committee on Procedure and Privileges taking account of legal advice.

Hon Simon O'Brien moved, without notice —

That Recommendation 1 be adopted and agreed to.

Debate ensued.

The Leader of the House tabled a letter dated 25 September 2019 from the Attorney General to the President of the Legislative Council regarding paragraph 6 of Recommendation 1 of the Standing Committee on Procedure and Privileges — Report 57, *Legal Proceedings by the President — Further Authorisation by the Legislative Council*. (Tabled Paper 3146).

Debate resumed.

8. Questions Without Notice

Questions without notice were taken.

The Minister for Education and Training tabled documents in relation to staff positions in regional schools, in response to a question without notice asked by Hon Martin Aldridge. (Tabled Paper 3147).

The Minister for Environment representing the Minister for Police, by leave, incorporated into *Hansard* information in relation to the number of police stations where current industrial agreements provide rent free police accommodation and a list of regional police station locations with no maximum tenure, in response to a question without notice asked by Hon Martin Aldridge.

The Leader of the House representing the Minister for Sports and Recreation tabled a summary of grants that have been made to the Western Australian Football Commission for the last ten years, in response to question on notice 2413 asked by Hon Alison Xamon. (Tabled Paper 3148).

The Minister for Education and Training tabled details of members and their terms of appointment to the Building and Construction Industry Training Board, and types of apprenticeships, traineeships and other training opportunities supported by the Construction Training Fund, in response to question on notice 2420 asked by Hon Martin Aldridge. (Tabled Paper 3149).

The Minister for Environment representing the Minister for Lands tabled an agreement between the State of Western Australia and the Western Australia Football Commission Incorporated in relation to the loan payment, property transfer, accommodation assistance and surrender of lease deed (SSO version 6 June 2019), in response to question on notice 2416 asked by Hon Alison Xamon. (Tabled Paper 3150).

The Minister for Environment representing the Minister for Transport, in accordance with Standing Order 108(2), advised that an answer to question on notice 2404 asked by Hon Alison Xamon will be provided on 26 September 2019.

The Minister for Regional Development representing the Minister for Water tabled documents in relation to costs for the Water Corporation resuming services outsourced under the Perth Regional Alliance, in response to a question without notice asked by Hon Peter Collier. (Tabled Paper 3151).

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

The Order of the Day having been read for consideration in Committee of the Whole House (*see item 7 above*).

The President left the Chair.

In Committee

(President in the Chair)

Debate resumed on the motion of Hon Simon O'Brien, That Recommendation 1 be adopted and agreed to.

Question — put.

The Committee divided.

Ayes (18)

Hon Martin Aldridge
 Hon Jacqui Boydell
 Hon Jim Chown
 Hon Tim Clifford
 Hon Peter Collier
 Hon Colin de Grussa
 Hon Diane Evers
 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 (12)

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 Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Motion thus passed.

The Acting President resumed the Chair.

The President reported that the Committee had considered Recommendation 1 contained in Standing Committee on Procedure and Privileges — Report 57 — *Legal Proceedings by the President — Further Authorisation by the Legislative Council*, and had adopted and agreed to same without amendment.

Hon Simon O'Brien moved, That the report be adopted.

Question — put and passed.

Report adopted.

10. Order of Business

Ordered — That Order of the Day No. 2, *Health Regulations Amendment (Fees and Charges) Regulations 2019 — Disallowance*, be taken after Order of the Day No. 8, *Appropriation (Capital 2016–17) Supplementary Bill 2017*. (Leader of the House).

11. Terrorism (Preventative Detention) Amendment Bill 2019

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

Debate resumed.

Question — put and passed.

Bill read a second time.

The Acting President left the Chair.

In Committee

(Hon Martin Aldridge in the Chair)

Clause 1.

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.

12. Adjournment

There being no Members' Statements the Council adjourned at 6.21pm until Thursday, 26 September 2019 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Robin Chapple.

NIGEL PRATT
 Clerk of the Legislative Council

HON KATE DOUST MLC
 President of the Legislative Council