



LEGISLATIVE COUNCIL

THURSDAY, 24 JUNE 2021

10.00am

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.
The President, Hon Alanna Clohesy, took the Chair.
Prayers and an Acknowledgement of Country were read.

2. Petition

Hon Donna Faragher presented a petition from 478 petitioners requesting the Legislative Council to support the increase of bus services to and from the community of Bullsbrook and surrounds. (Tabled Paper 347).

3. Ministerial Statement — Parents and Citizens' Associations Day Western Australia

The Minister for Education and Training made a Ministerial Statement with respect to Parents and Citizens' Day Western Australia, which will be celebrated on 23 July 2021, and the centenary of the Western Australian Council of State School Organisations.

4. Papers

The following Papers were laid on the Table by —

President

Documents —

2021 Annual Schedule of allocations of Motions on Notice 343

Reviews —

Corruption and Crime Commission — Review of the Office of the Auditor General's response to misconduct risks with access to confidential information (24 June 2021) 344

Leader of the House

Annual Reports —

National Education and Care Services — Freedom of Information Commissioner, Privacy Commissioner and Ombudsman (2019-20) (date received 23 June 2021) 345

Reports —

Ministerial Office Staffing as at 10 June 2021 346

5. **Corruption and Crime Commission — Access to Documents**

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

That this House —

- (a) expresses its appreciation to the Members and staff responsible for the drafting, tabling and publishing of the 61st report of the Standing Committee on Procedure and Privileges (Committee);
- (b) is concerned that good faith negotiations between the Committee and the Corruption and Crime Commission (CCC) ceased inexplicably;
- (c) notes that the Committee's audit reveals that 1,120 privileged documents were provided without parliamentary approval by the Government to the CCC;
- (d) reasserts that draft parliamentary speeches, motions and questions are subject to parliamentary privilege in the same way as confidential parliamentary committee material such as committee deliberations and draft report recommendations; and
- (e) encourages the CCC to avail itself forthwith of the opportunity to access the more than 450,000 non-privileged records.

6. **Suspension of Standing Orders**

The Leader of the House moved, without notice —

That so much of Standing Orders be suspended so as to enable the Council to sit beyond 5.20pm at this day's sitting and take Members' Statements at a time ordered by the House.

The motion requiring the concurrence of an absolute majority.

Question — put.

The President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

7. **Electoral Reform**

Non-Government Business No. 1 having been called, Hon James Hayward moved, without notice —

That the Legislative Council —

- (a) requests that the report from the Ministerial Expert Committee on Electoral Reform is made public upon its receipt by the State Government;
- (b) notes the points raised during Non-Government Business on 13 May 2021 and that at the time no regional member who is a member of the Labor party contributed to that debate; and
- (c) calls on all regional members of the Council during this debate to express their views on the ongoing electoral reform process and update the House on their level of engagement with their constituencies on this issue.

Debate ensued.

Hon Tjorn Sibma, by leave, tabled Western Australian Electoral Commission maps detailing indicative models for Legislative Council region boundaries. (Tabled Paper 348).

Debate resumed.

Motion lapsed.

8. Order of Business

Ordered — That Orders of the Day Nos 1, *City of Bunbury Public Places and Local Government Property Local Law 2020 — Disallowance*, 2, *Boxing Contest Rules 2020 — Disallowance*, 3, *Kickboxing Contest Rules 2020 — Disallowance*, 4, *MMA Contest Rules 2019 — Disallowance*, 5, *Muay Thai Contest Rules 2020 — Disallowance*, 6, *Road Traffic (Towing of Vehicles) Regulations 2020 — Disallowance*, 7, *City of Greater Geraldton Public Places and Local Government Property Local Law 2020 — Disallowance*, 8, *Shire of Coolgardie Waste Local Law 2020 — Disallowance*, 9, *Town of Port Hedland Waste Local Law 2020 — Disallowance*, 10, *City of Belmont Consolidated Local Law 2020 — Disallowance*, 11, *Consumer Goods (Products Containing Button/Coin Batteries) Safety Standard 2020 — Disallowance*, 12, *Consumer Goods (Button/Coin Batteries) Information Standard 2020 — Disallowance*, 13, *Consumer Goods (Button/Coin Batteries) Safety Standard 2020 — Disallowance*, 14, *Consumer Goods (Products Containing Button/Coin Batteries) Information Standard 2020 — Disallowance*, 15, *City of Bayswater Waste Local Law 2020 — Disallowance*, 16, *Bush Fires Amendment Regulations 2021 — Disallowance*, 17, *National Disability Insurance Scheme (Worker Screening) Regulations 2021 — Disallowance*, 18, *Curtin University Statute No. 5—Election of Council Members — Disallowance*, 19, *Mindarie Regional Council Waste Facility Site Amendment Local Law 2020 — Disallowance*, 20, *City of Cockburn Parking and Parking Facilities Amendment No. 1 Local Law 2021 — Disallowance*, 21, *Shire of Broomehill-Tambellup Activities in Thoroughfares and Public Places and Trading Local Law 2020 — Disallowance*, 22, *Shire of Broomehill-Tambellup Cemeteries Local Law 2020 — Disallowance*, 23, *Shire of Broomehill-Tambellup Fencing Local Law 2020 — Disallowance*, 24, *Shire of Broomehill-Tambellup Health Local Law 2020 — Disallowance*, 25, *Shire of Broomehill-Tambellup Waste Local Law 2020 — Disallowance*, 26, *City of Gosnells Standing Orders Amendment Local Law (Number 2) 2020 — Disallowance*, 27, *Town of Cottesloe Local Government (Meetings Procedure) Local Law 2021 — Disallowance*, 28, *City of Rockingham Fencing Local Law 2020 — Disallowance*, 29, *City of Canning Dog Local Law 2021 — Disallowance*, 30, *Shire of Broome Waste Local Law 2021 — Disallowance*, 31, *Town of Victoria Park Fencing Local Law 2021 — Disallowance*, 32, *Shire of Gingin—Meeting Procedures Amendment Local Law 2021 — Disallowance*, 33, *Racing Bets Levy Amendment Regulations 2021 — Disallowance*, 34, *City of Bayswater Activities in Thoroughfares and Public Places and Trading Local Law 2020 — Disallowance*, 35, *City of Kalamunda Dogs Local Law 2021 — Disallowance*, 36, *City of Kalamunda Extractive Industries Local Law 2021 — Disallowance*, 37, *Shire of Peppermint Grove Activities in Thoroughfares and Public Places and Trading Local Law 2021 — Disallowance*, 38, *Shire of Peppermint Grove Fencing Local Law 2021 — Disallowance*, and 39, *Shire of Peppermint Grove Waste Local Law 2021 — Disallowance*, be taken after Order of the Day No. 41, *Legislation Bill 2021*. (Leader of the House).

9. Corruption, Crime and Misconduct Amendment Bill 2021

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

The Deputy President made the following Statement —

Before we commence the debate on this Bill, I remind Members that yesterday the House amended Standing Order 21 in respect to time limits on speeches on the second and third questions on Bills. Unlimited speaking times on these questions have been abolished. The new speaking times for second and third reading are as follows:

Mover	60 minutes
Lead Member (Government or Opposition)	60 minutes
Party Leader or Member deputed	60 minutes
Other Members	45 minutes

Mover-in-Reply

60 minutes

I note that under Standing Order 22 a Member limited to 45 or 60 minutes speaking time may, by leave, be granted an extension of 15 minutes.

Debate ensued.

Point of Order

Hon Donna Faragher raised the following Point of Order —

To be inserted from *Hansard*.

Acting President's Ruling

The Acting President ruled as follows —

To be inserted from *Hansard*.

Hon Darren West withdrew his remark.

Debate resumed.

10. Questions Without Notice

Questions without notice were taken.

The Minister for Mental Health representing the Minister for Environment tabled a list of applications sought under part V of the *Environmental Protection Act 1986* for licenses and amendments to licenses to export iron ore from ports in Western Australia since March 2017, in response to a question without notice asked by Hon Dr Steve Thomas. (Tabled Paper 349).

The Minister for Regional Development representing the Minister for Corrective Services, by leave, incorporated into *Hansard* information in relation to education services at Banksia Hill Detention Centre, in response to a question without notice asked by Hon Peter Collier.

The Leader of the House representing the Minister for Housing, by leave, incorporated into *Hansard* information in relation to social housing, by region, from September 2020 to May 2021, in response to a question without notice asked by Hon Colin de Grussa.

The Parliamentary Secretary to the Minister for Electoral Affairs tabled a list of published submission to the Ministerial Electoral Committee on Electoral Affairs Reform, in response to a question without notice asked by Hon Martin Aldridge. (Tabled Paper 350).

11. Corruption, Crime and Misconduct Amendment Bill 2021

Debate resumed on the second reading of this Bill (*see item 9 above*).

Hon Dr Steve Thomas moved, without notice —

- (1) That the *Corruption, Crime and Misconduct Amendment Bill 2021* be discharged and referred to the Standing Committee on Legislation for consideration and report by no later than 12 August 2021.
- (2) The Committee has the power to inquire into and report on the policy of the Bill.

Debate ensued.

The Deputy President left the Chair at 6.01pm

The President resumed the Chair at 7.00pm

Statement by President

The President made the following Statement —

To be inserted from *Hansard*.

Debate resumed.

Motion — put.

The Council divided.

Ayes (11)

Hon Martin Aldridge
 Hon Peter Collier
 Hon Donna Faragher
 Hon Nick Goiran
 Hon James Hayward
 Hon Sophia Moermond

Hon Tjorn Sibma
 Hon Neil Thomson
 Hon Wilson Tucker
 Hon Dr Brian Walker
 Hon Colin de Grussa (*Teller*)

Noes (17)

Hon Klara Andric
 Hon Dan Caddy
 Hon Sandra Carr
 Hon Stephen Dawson
 Hon Sue Ellery
 Hon Peter Foster
 Hon Lorna Harper
 Hon Jackie Jarvis
 Hon Alannah MacTiernan

Hon Kyle McGinn
 Hon Shelley Payne
 Hon Stephen Pratt
 Hon Martin Pritchard
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Motion thus negated.

Debate resumed on the second reading of the Bill.

Question — put.

The Council divided.

Ayes (17)

Hon Klara Andric
 Hon Dan Caddy
 Hon Sandra Carr
 Hon Stephen Dawson
 Hon Sue Ellery
 Hon Peter Foster
 Hon Lorna Harper
 Hon Jackie Jarvis
 Hon Alannah MacTiernan

Hon Kyle McGinn
 Hon Shelley Payne
 Hon Stephen Pratt
 Hon Martin Pritchard
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 Hon Dr Brian Walker
 Hon Colin de Grussa (*Teller*)

Question thus passed.

Bill read a second time.

The President left the Chair.

In Committee

(Hon Peter Foster in the Chair)

Clause 1.

Debate ensued.

The Parliamentary Secretary to the Attorney General tabled an advertisement calling for expressions of interest for the appointment of the Commissioner of the Corruption and Crime Commission of Western Australia. (Tabled Paper 351).

Debate resumed.

Point of Order

Hon Alannah MacTiernan raised the following Point of Order —

To be inserted from *Hansard*.*Deputy President's Ruling*

The Deputy President ruled as follows —

To be inserted from *Hansard*.

Debate resumed.

*The Deputy Chair of Committees left the Chair at 11.16pm**The Deputy Chair of Committees resumed the Chair at 11.31pm*

Debate resumed.

The Council having continued to sit until 12 midnight

Friday, 25 June 2021

Debate continued.

Hon Nick Goiran moved —

Page 2, line 2 — To insert after "Amendment":

(Reappointment of John Roderick McKechnie)

Amendment — put and negatived.

Debate resumed.

The Parliamentary Secretary to the Attorney General tabled an email from Mr Michael Murray to Mr John McKechnie regarding correspondence to the Joint Standing Committee on the Corruption and Crime Commission concerning the retirement of the Parliamentary Inspector. (Tabled Paper 352).

Debate resumed.

Question — put and passed.

Clause 2.

Hon Nick Goiran moved —

Page 2, line 6 — To delete "and 2" and insert:

to 3

Debate ensued.

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Clause 3 agreed to.

Clause 4.

Debate ensued.

Hon James Hayward moved —

Page 2, lines 16 to 19 — To delete the lines and insert:

reappointed as Commissioner commencing on the day on which the *Corruption, Crime and Misconduct Amendment Act 2021* section 4 comes into operation:

- (a) for a period of 5 years; or
- (b) the term of the McGowan Government,

whichever is lesser.

Debate ensued.

Amendment — put and negatived.

Debate resumed.

Hon Nick Goiran moved —

Page 2, lines 17 to 19 — To delete the lines and insert:

commencing on the day after a resolution endorsing the reappointment has been agreed to by both Houses of Parliament following delivery of a judgment in Supreme Court matter CIV 2717 of 2019, *President of the Legislative Council of Western Australia v Corruption and Crime Commission of Western Australia & Ors*.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (11)

Hon Martin Aldridge
 Hon Peter Collier
 Hon Donna Faragher
 Hon Nick Goiran
 Hon James Hayward
 Hon Sophia Moermond

Hon Tjorn Sibma
 Hon Neil Thomson
 Hon Wilson Tucker
 Hon Dr Brian Walker
 Hon Colin de Grussa (*Teller*)

Noes (16)

Hon Klara Andric
 Hon Dan Caddy
 Hon Sandra Carr
 Hon Sue Ellery
 Hon Peter Foster
 Hon Lorna Harper
 Hon Jackie Jarvis
 Hon Alannah MacTiernan

Hon Kyle McGinn
 Hon Shelley Payne
 Hon Stephen Pratt
 Hon Martin Pritchard
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Question, That the clause stand as printed — put and passed.

New Clause 5.

Hon Nick Goiran moved —

Page 2, after line 20 — To insert:

Section 204 amended

After section 204(4) insert:

- (5) For the duration of the reappointment of John Roderick McKechnie as Commissioner, the Parliamentary Inspector is to prepare reports on the performance of the Commissioner and table those reports by no later than 30 September each year.
- (6) Without limiting what may be contained in a report prepared under subsection (5), it must include —
 - (a) the number of complaints received about the Commissioner;
 - (b) the number of claims of parliamentary privilege received by the Commissioner.

Debate ensued.

New Clause — put.

The Committee divided.

Ayes (11)

Hon Martin Aldridge
 Hon Peter Collier
 Hon Donna Faragher
 Hon Nick Goiran
 Hon James Hayward
 Hon Sophia Moermond

Hon Tjorn Sibma
 Hon Neil Thomson
 Hon Wilson Tucker
 Hon Dr Brian Walker
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Hon Kyle McGinn
 Hon Shelley Payne
 Hon Stephen Pratt
 Hon Martin Pritchard
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

New Clause thus negatived.

New Preamble.

Page 1, the line following "An Act to amend the *Corruption, Crime and Misconduct Act 2003*." — To insert:

Preamble

Whereas:

- A. The WA Inc Royal Commission *Final Report* contained detailed proposals concerning the establishment of the Office of the Commissioner for the Investigation of Corruption and Improper Conduct so that the appointment process would not create a political appointment.
- B. In enacting the *Anti-Corruption Commission Act 1988*, Parliament established a process that would not create a political appointment.
- C. In enacting the *Corruption and Crime Commission Act 2003*, Parliament rejected an appointment process proposed by the Government that created a political appointment and established a process that would create an apolitical appointment with bipartisan support.
- D. John Roderick McKechnie was appointed Commissioner on 28 April 2015 for a five year term that ended on 27 April 2020.
- E. Premier Mark McGowan recommended the reappointment of John Roderick McKechnie in March 2020.
- F. The reappointment did not have the support of the majority of the Standing Committee and bipartisan support.
- G. Premier Mark McGowan resubmitted the reappointment recommendation in April 2020.
- H. The resubmitted reappointment did not have the support of the majority of the Standing Committee and bipartisan support.
- I. A new Standing Committee was established in May 2021.
- J. Premier Mark McGowan recommended the reappointment of John Roderick McKechnie in May 2021.
- K. The reappointment did not have the support of the majority of the new Standing Committee and bipartisan support.
- L. In enacting this legislation, Parliament recognises that it is making a political appointment.

Debate ensued.

New Preamble — put.

The Committee divided.

Ayes (11)

Hon Martin Aldridge
 Hon Peter Collier
 Hon Donna Faragher
 Hon Nick Goiran
 Hon James Hayward
 Hon Sophia Moermond

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 Hon Neil Thomson
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 Hon Stephen Pratt
 Hon Martin Pritchard
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

New Preamble thus negatived.

Title agreed to.

The President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Parliamentary Secretary to the Attorney General moved, That the Bill be read a third time.

The President announced that the Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Debate ensued.

Question — put.

The Council divided.

Ayes (16)

Hon Klara Andric
 Hon Dan Caddy
 Hon Sandra Carr
 Hon Sue Ellery
 Hon Peter Foster
 Hon Lorna Harper
 Hon Jackie Jarvis
 Hon Alannah MacTiernan

Hon Kyle McGinn
 Hon Shelley Payne
 Hon Stephen Pratt
 Hon Martin Pritchard
 Hon Matthew Swinbourn
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 Hon Peter Collier
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 Hon Nick Goiran
 Hon James Hayward
 Hon Sophia Moermond

Hon Tjorn Sibma
 Hon Neil Thomson
 Hon Wilson Tucker
 Hon Dr Brian Walker
 Hon Colin de Grussa (*Teller*)

Question thus passed.

Bill read a third time and passed.

12. Order of Business

Ordered — That Members' Statements be taken forthwith. (Leader of the House).

13. Members' Statements

Statements were taken.

14. Conservation and Land Management Amendment Bill 2021

The President reported the receipt of Message No. 18 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House on behalf of the Minister for Mental Health representing the Minister for Environment moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House on behalf of the Minister for Mental Health representing the Minister for Environment moved, That the Bill be read a second time.

The Leader of the House on behalf of the Minister for Mental Health representing the Minister for Environment tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 353).

Debate stands adjourned.

15. Metropolitan Region Scheme (Beeliar Wetlands) Bill 2021

The President reported the receipt of Message No. 19 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for Planning moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House representing the Minister for Planning moved, That the Bill be read a second time.

The Leader of the House representing the Minister for Planning tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 354).

Debate stands adjourned.

16. Railway (BBI Rail Aus Pty Ltd) Agreement Amendment Bill 2021

The President reported the receipt of Message No. 20 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for Transport moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House representing the Minister for Transport moved, That the Bill be read a second time.

The Leader of the House representing the Minister for Transport tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 355).

Debate stands adjourned.

17. Public Health Amendment (Safe Access Zones) Bill 2021

The President reported the receipt of Message No. 21 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary to the Minister for Disability Services on behalf of the Minister for Mental Health representing the Minister for Health moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Parliamentary Secretary to the Minister for Disability Services on behalf of the Minister for Mental Health representing the Minister for Health moved, That the Bill be read a second time.

The Parliamentary Secretary to the Minister for Disability Services on behalf of the Minister for Mental Health representing the Minister for Health tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 356).

Debate stands adjourned.

18. Adjournment

The Council adjourned at 2.59am until Tuesday, 3 August 2021 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Steve Martin.

NIGEL PRATT

Clerk of the Legislative Council

HON ALANNA CLOHESY MLC

President of the Legislative Council