

Minutes of Proceedings

LEGISLATIVE COUNCIL

TUESDAY, 25 MAY 2021

2.00pm

1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

The Clerk, Mr Nigel Pratt, took the Chair.

2. Election of the President

The Clerk announced that in accordance with the provisions of the *Constitution Acts Amendment Act 1899* the Office of the President was vacant, whereupon the Leader of the House, addressing the Clerk, moved, without notice —

That Hon Alanna Clohesy do take the Chair in the Council as President.

Hon Dr Steve Thomas seconded the motion.

No other Member being proposed and Hon Alanna Clohesy having accepted the nomination, Hon Alanna Clohesy was conducted to the Chair by her proposer and seconder.

The President made the following Statement —

I begin by acknowledging the traditional owners of the land that we meet on today, the Whadjuk people of the Noongar nation. I pay my respects to elders past and present and emerging. I extend that respect to all traditional owners across our great state and to all Aboriginal and Torres Strait Islander people here today.

Thank you, Members, for placing your trust in me through election as your President. It is a great honour and a role that I commit to undertaking with fairness, integrity and hard work. I am aware that, since 1890, only 18 Presidents before me have had this honour. I acknowledge all the Presidents who have served before me, especially those who have held the position during my time in this place: Hon Kate Doust and Hon Barry House. I thank them for their service and contribution, unique to each of them.

Our daily work in this Chamber is surrounded and informed by history, traditions and conventions. This magnificent building is a constant reminder of where we have come from. But as a modern Parliament, we can and do examine the importance of continuing traditions and their symbolic meaning. The opening of the forty-first Parliament, just recently, for example, combined old and ancient traditions. For the first time, we were privileged to be welcomed to country by Whadjuk elder Dr Richard Walley in this Chamber. I am sure Members will agree that this new tradition of acknowledgement, respect and reconciliation is one to be welcomed. It has both symbolic and substantive value to us all.

I have thought carefully about the symbolic traditions of this office. To this end, Members may have noticed that I am not wearing the traditional Presiding Officer's robe. I hope that, in doing so, my term will be marked by the value of fairness, rather than by traditional

symbols of office. Similarly, forms of address can reflect certain values. It is my preference that the title of the position of President be used by Members without the gendered honorific of Madam, when possible. This change reflects an important substantive value that I trust we all share, that of equality.

Members, we have much work ahead of us and how we carry out that work is as important as the work itself. I take this opportunity to especially acknowledge all the new Members in this Chamber. I undertake to work with new Members to demystify, as much as possible, the various traditions and conventions that inform our work so that we might all fulfil our roles with clarity and confidence. Another important part of modern parliamentary work is engaging with our community to involve people in the work that we do here. I hope to support and enhance the good work already underway in this area. Similarly, engaging with members of the public here in our most privileged of workplaces, the Parliament, will be another focus of my attention.

Members, in this Legislative Council, respect for all in our community and for each other should underpin all we do here. I am honoured to be your President of the forty-first Parliament. I wish all Members the very best for your work over the next four years.

The President received the congratulations of the Council.

3. Presentation of President

The Leader of the House moved, without notice —

That His Excellency the Governor will be pleased to receive the President during a suspension of the sitting today at Government House, together with such Members as desire to accompany her.

Question — put and passed.

The President left the Chair at 2.08pm

The President resumed the Chair at 4.00pm, and read Prayers and an Acknowledgement of Country.

4. Statement by President — Presentation to His Excellency the Governor

The President made the following Statement —

I advise the House that I have presented myself to His Excellency the Governor, and His Excellency has been pleased to express satisfaction with the choice of the Council in the following terms —

Dear President

It is with much pleasure that I learn that you have been elected by the Members of the Legislative Council to the high and honourable office of President of the House. I congratulate you upon your election and have every confidence you will fill the office in a worthy and dignified manner.

I recognise and I shall respect the Legislative Council's undoubted rights and privileges.

Yours sincerely

His Excellency the Honourable Kim Beazley AC
Governor

5. President's Commission to Administer Oath or Affirmation

The President announced that she had received a Commission from His Excellency the Governor which was read by the Clerk, as follows —

Commission

authorising

The Honourable Alanna Therese Clohesy MLC
President of the Legislative Council
to administer the oath or affirmation of office
to Members of the Legislative Council

To: The Honourable Alanna Therese Clohesy MLC,
President of the Legislative Council

I, the Governor, acting under the *Constitution Act 1889* section 22, authorise you, while you are the President of the Legislative Council, to administer the oath or affirmation of office in a form set out in Schedule E to that Act to Members of the Legislative Council.

Issued under the Public Seal of the State at Perth on 25 May 2021.

His Excellency the Honourable Kim Beazley AC
Governor

6. Chair of Committees — Election

The President announced that the Office of Chair of Committees was vacant.

The Leader of the House moved, without notice —

That Hon Martin Aldridge be elected Chair of Committees.

Hon Dr Steve Thomas seconded the motion.

No other Member being proposed and Hon Martin Aldridge having accepted the nomination, Hon Martin Aldridge was duly elected.

The Chair of Committees made the following Statement —

President, can I firstly acknowledge your election earlier today. I genuinely look forward to working with you and other Members of this esteemed Chamber to uphold the customs, rights and privileges of this Legislative Council. I thank my colleagues from across the Chamber for their faith and trust in me as their Deputy President and Chair of Committees. I pledge my service to you fairly and impartially.

To the 17 Members of this place who were sworn in for the first time yesterday, can I offer my congratulations and support during what is likely to be one of the most exciting and, at times, the most daunting experiences of your life. Draw on the experience of your colleagues and the advice of our professional chamber staff. My door is always open to you, should you choose. I wish all Members well for the forty-first Parliament.

The Chair of Committees received the congratulations of the Council.

7. Papers

The following Papers were laid on the Table by —

President

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Reports —

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Parliamentary Secretary to the Minister for Child Protection*Reports —*

Government of Western Australia — A Safer WA for Children and Young People (2020) — Progress report on Implementation of the recommendations from the Royal Commissions into Institutional Responses to Child Sexual Abuse	218
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Fish Resources Management Act 1994 (West Coast Rock Lobster Managed Fishery Management Plan Amendment 2021 G.G. 14/05/2021)	219
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8. Agricultural Produce Commission Amendment Bill 2021

The Minister for Agriculture and Food: To move on the next day of sitting —

That a Bill for "An Act to amend the *Agricultural Produce Commission Act 1988*." be introduced and read a first time.

9. Deputy Chairs of Committees — Appointment

The Leader of the House moved, without notice —

That the following Members be appointed Deputy Chairs of Committees —

- Hon Peter Foster;
- Hon James Hayward;
- Hon Jackie Jarvis;
- Hon Steve Martin; and
- Hon Dr Sally Talbot.

Question — put and passed.

10. Standing Committees — Appointment of Members

The Leader of the House moved, without notice —

- (1) That the following Members be appointed as Members to the Standing Committee on Legislation —

- Hon Kate Doust;
- Hon Steve Martin;
- Hon Shelley Payne;
- Hon Dr Sally Talbot; and
- Hon Dr Brian Walker.

- (2) That the Chair is to be Hon Dr Sally Talbot.

- (3) That the Deputy Chair is to be Hon Steve Martin.

- (4) That the following Members be appointed as Members to the Standing Committee on Public Administration —

- Hon Sandra Carr;
- Hon Colin de Grussa;
- Hon Wilson Tucker;
- Hon Darren West; and
- Hon Pierre Yang.

- (5) That the Chair is to be Hon Pierre Yang.

- (6) That the Deputy Chair is to be Hon Colin de Grussa.

- (7) That the following Members be appointed as Members to the Standing Committee on Procedure and Privileges, in addition to the President and Chair of Committees —

- Hon Daniel Caddy;
- Hon Kyle McGinn; and
- Hon Tjorn Sibma.

- (8) That the following Members be appointed as Members to the Standing Committee on Environment and Public Affairs —

- Hon Peter Foster;
- Hon Sophia Moermond;

- Hon Shelley Payne;
 - Hon Stephen Pratt; and
 - Hon Tjorn Sibma.
- (9) That the Chair is to be Hon Peter Foster.
- (10) That the Deputy Chair is to be Hon Tjorn Sibma.
- (11) That the following Members be appointed as Members to the Standing Committee on Estimates and Financial Operations —
- Hon Peter Collier;
 - Hon Nick Goiran;
 - Hon Jackie Jarvis;
 - Hon Dr Brad Pettitt; and
 - Hon Samantha Rowe.
- (12) That the Chair is to be Hon Peter Collier.
- (13) That the Deputy Chair is to be Hon Samantha Rowe.
- (14) That the following Members be appointed as Members to the Standing Committee on Uniform Legislation and Statutes Review —
- Hon Donna Faragher;
 - Hon Martin Pritchard;
 - Hon Rosetta Sahanna; and
 - Hon Matthew Swinbourn.
- (15) That the Chair is to be Hon Donna Faragher.
- (16) That the Deputy Chair is to be Hon Martin Pritchard.

Question — put and passed.

11. Access to Evidence of Prior Committees

The Leader of the House moved, without notice —

That each Standing and Joint Committee of the 41st Parliament shall have access to the Committee evidence and material of the Committee of the 40th Parliament with a like function.

Question — put and passed.

12. Temporary Order — COVID-19 Arrangements

The Leader of the House moved, without notice —

If, following agreement with the party leaders or Members deputed, the Leader of the House or the Member deputed by the Leader advises the House that it is necessary to introduce a Government Bill or undertake any other immediate business arising from or in connection to COVID-19, the following Temporary Order shall apply in respect of those matters:

- (1) Any business then before the House, other than formal business, a matter of privilege, or a motion subject to SO 67 shall be adjourned to a later hour.
- (2) Any such Bill may be introduced without notice and shall proceed through its stages at dates and times determined by the House.

- (3) Any such Bill the subject of a Message from the Legislative Assembly may be taken into consideration on the day on which it is received.
- (4) On any sitting day, and after first consulting with the party leaders or Members deputed, the President may order that one or more of the following items of business in the order of business for that day be dispensed with:
 - (a) Non-Government Business;
 - (b) Private Members' Business; and
 - (c) Consideration of Committee Reports.
- (5) If ordered, the Council shall sit beyond the following times on the days specified until Members' Statements are called by the President and, in such case, SO 5(5) applies:

Tuesday	9.45pm;
Wednesday	6.20pm; and
Thursday	5.20pm.
- (6) After first consulting with the party leaders or their representatives, the Leader of the House or a Member deputed may set maximum time limits for each stage of a Bill or a motion and on the expiry of that maximum time limit all questions relating to the stage of a Bill or motion, including any amendment, shall be put and determined *seriatim*.
- (7) A requirement for notice to be given in respect to any motion to be moved by the Leader of the House or a Minister is dispensed with.
- (8) That, in the event that a scheduled sitting day of the House does not take place, the usual process for Questions on Notice that would have occurred on that day, shall still occur.
- (9) Standing Orders are suspended accordingly to the extent necessary to effect these arrangements.
- (10) This Temporary Order to apply until 2 December 2021 or the lifting of the state of emergency declared in Western Australia arising from the COVID-19 pandemic, whichever occurs first.

Debate ensued.

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.

13. Questions Without Notice

Questions without notice were taken.

The Minister for Mental Health representing the Minister for Environment, by leave, incorporated into *Hansard* information in relation to the *Conservation and Land Management Amendment Bill 2021*, in response to a question without notice asked by Hon Tjorn Sibma.

The Parliamentary Secretary to the Minister for Community Services tabled documents in relation to community service providers that will have their contracts extended as a result of the Government's announcement made on 14 December 2020 that community services contracts expiring in 2020-21 are to be extended by one year, in response to a question without notice asked by Hon Donna Faragher. (Tabled Paper 220).

14. Address-In-Reply

The Order of the Day having been read for the adjourned debate on the Address-in-Reply.
Debate resumed.

Hon Dr Sally Talbot sought leave to continue her remarks at the next sitting.

Leave granted.

Debate resumed.

On the motion of Hon Colin de Grussa the debate was adjourned to the next sitting.

15. Order of Business

That Orders of the Day Nos 2, *COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2021*, and 3, *Treasurer's Advance Authorisation Bill 2021*, be taken after Order of the Day No. 10, *Joint Standing Committee on the Commissioner for Children and Young People — Establishment*. (Leader of the House).

16. Joint Standing Committee on Delegated Legislation — Establishment

The Order of the Day having been read, the Leader of the House, pursuant to notice, moved —

That the Legislative Assembly be invited to agree to the rules and orders of the Legislative Council contained in the Schedule for the constitution, powers and procedure of a Joint Standing Committee on Delegated Legislation.

SCHEDULE

10. Joint Delegated Legislation Committee

- 10.1 *A Joint Delegated Legislation Committee* is established.
- 10.2 The Committee consists of 8 Members, 4 of whom are appointed from each House. The Chair must be a Member of the Committee who supports the Government.
- 10.3 A quorum is 4 Members of whom at least one is a Member of the Council and one a Member of the Assembly.
- 10.4 (a) A report of the Committee is to be presented to each House by a Member of each House appointed for the purpose by the Committee.
- (b) Where a notice of motion to disallow an instrument has been given in either House pursuant to recommendation of the Committee, the Committee shall present a report to both Houses in relation to that instrument prior to the House's consideration of that notice of motion. If the Committee is unable to report a majority position in regards to the instrument, the Committee shall report the contrary arguments.
- 10.5 Upon its publication, whether under section 41(1)(a) of the *Interpretation Act 1984* or another written law, an instrument stands referred to the Committee for consideration.
- 10.6 In its consideration of an instrument, the Committee is to inquire whether the instrument –
 - (a) is within power;
 - (b) has no unintended effect on any person's existing rights or interests;
 - (c) provides an effective mechanism for the review of administrative decisions; and

- (d) contains only matter that is appropriate for subsidiary legislation.
 - 10.7 It is also a function of the Committee to inquire into and report on –
 - (a) any proposed or existing template, *pro forma* or model local law;
 - (b) any systemic issue identified in 2 or more instruments of subsidiary legislation; and
 - (c) the statutory and administrative procedures for the making of subsidiary legislation generally, but not so as to inquire into any specific proposed instrument of subsidiary legislation that has yet to be published.
 - 10.8 The Standing Orders of the Legislative Council relating to Standing Committees will be followed as far as they can be applied.
 - 10.9 In this order –
 - “instrument” means –
 - (a) subsidiary legislation in the form in which, and with the content it has, when it is published;
 - (b) an instrument, not being subsidiary legislation, that is made subject to disallowance by either House under a written law;
- “subsidiary legislation” has the meaning given to it by section 5 of the *Interpretation Act 1984*.

Question — put and passed.

17. Joint Standing Committee on Audit — Establishment

The Order of the Day having been read, the Leader of the House, pursuant to notice, moved —
 That the Legislative Assembly be invited to agree to the rules and orders of the Legislative Council contained in the Schedule for the constitution, powers and procedure of a Joint Standing Committee on Audit.

SCHEDULE

7. Joint Audit Committee

- 7.1 A *Joint Audit Committee* is established.
- 7.2 The Committee consists of the Members of the Legislative Council Standing Committee on Estimates and Financial Operations and the Members of the Legislative Assembly Public Accounts Committee.
- 7.3 The Chair of the Standing Committee on Estimates and Financial Operations will be the Chair of the Joint Audit Committee.
- 7.4 The Standing Orders of the Legislative Council relating to Standing Committees will be followed as far as they can be applied.

Question — put and passed.

18. Joint Standing Committee on the Corruption and Crime Commission — Establishment

The Order of the Day having been read for the consideration of Message No. 4 from the Legislative Assembly as follows —

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution —

That for the present Parliament, in accordance with Legislative Assembly Standing Orders 288 to 292, a Joint Standing Committee on the Corruption and Crime Commission be appointed by the Legislative Assembly and the Legislative Council.

and requests the Legislative Council to agree to a similar resolution.

The Leader of the House moved, without notice —

That in response to Legislative Assembly Message No. 4, the Legislative Council agrees to the Legislative Assembly's resolution and appoints the following Members to the Joint Standing Committee on the Corruption and Crime Commission —

Hon Klara Andric; and

Hon Dr Steve Thomas.

Question — put and passed.

Legislative Assembly acquainted accordingly.

19. Joint Standing Committee on the Commissioner for Children and Young People — Establishment

The Order of the Day having been read for the consideration of Message No. 5 from the Legislative Assembly as follows —

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution —

That for the present Parliament —

- (a) pursuant to section 51 of the *Commissioner for Children and Young People Act 2006*, a Joint Standing Committee on the Commissioner for Children and Young People be appointed by the Legislative Assembly and the Legislative Council;
- (b) the Joint Standing Committee shall comprise 2 members appointed by the Legislative Assembly and 2 members appointed by the Legislative Council;
- (c) it is the function of the Joint Standing Committee to —
 - (i) monitor, review and report to Parliament on the exercise of the functions of the Commissioner for Children and Young People;
 - (ii) to examine Annual and other Reports of the Commissioner; and
 - (iii) to consult regularly with the Commissioner;
- (d) a report of the Joint Standing Committee will be presented to the Legislative Assembly and the Legislative Council by members of the Joint Standing Committee nominated by it for that purpose; and
- (e) the Standing Orders of the Legislative Assembly relating to Standing and Select Committees will be followed as far as they can be applied;

and requests the Legislative Council to agree to a similar resolution.

The Leader of the House moved, without notice —

That in response to Legislative Assembly Message No. 5, the Legislative Council agrees to the Legislative Assembly's resolution and appoints the following Members to the Joint Standing Committee on the Commissioner for Children and Young People —

Hon Klara Andric; and

Hon Neil Thomson.

Question — put and passed.

Legislative Assembly acquainted accordingly.

20. Order of Business

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

21. Adjournment

There being no Members' Statements the Council adjourned at 9.04pm until Wednesday, 26 May 2021 at 1.00pm.

Members present during the day's proceedings

Attendance: Present all Members.

NIGEL PRATT

Clerk of the Legislative Council

HON ALANNA CLOHESY MLC

President of the Legislative Council