



## LEGISLATIVE COUNCIL

**TUESDAY, 15 FEBRUARY 2022**

**2.00pm**

### 1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

The President, Hon Alanna Clohesy, took the Chair.

Prayers and an Acknowledgement of Country were read.

### 2. Message from His Excellency the Governor — Assent to Bills

The President reported the receipt of a Message from His Excellency the Governor assenting to the following Bills —

<b>22 December 2021 — Message No. 32</b>	<b>Act No.</b>
Aboriginal Cultural Heritage Bill 2021	27 of 2021
Aboriginal Cultural Heritage Amendment Bill 2021	28 of 2021
Dog Amendment (Stop Puppy Farming) Bill 2021	29 of 2021
Industrial Relations Legislation Amendment Bill 2021	30 of 2021

### 3. Statement by President — Press Photographer

The President made the following Statement —

I advise that I have approved the presence of photographers in the press gallery to enable the media to obtain up-to-date images of the Legislative Council.

### 4. Statement by President — COVID-19 Sitting Arrangements

The President made the following Statement —

I have a further statement regarding COVID-19 sitting arrangements. Members will be aware that COVID-19 is currently spreading in the Western Australian community. Like all public and private institutions, the Parliament, as a workplace, must put in place public health and safety measures to minimise the risk of COVID-19 transmission and protect its Members, parliamentary staff and visitors. I confirm that following consultation with the party leaders, the following arrangements will be put in place for the Chamber and its surrounds.

First, Members will notice that seating arrangements have been altered to ensure social distancing. Party leaders, Ministers, Parliamentary Secretaries and Whips have allocated seats from which they can speak at any time. Other Members may sit in unallocated seats, designated as "Member" on the chart that the Acting Clerk emailed to Members yesterday. I have designated the President's gallery as the floor of the House, and Members may also use this seating. I have designated the lectern as the place from which other Members may speak. The Leader of the House intends to move a motion without notice to suspend so

much of Standing Order 35 to give effect to these arrangements. If the House agrees to such a motion, it will permit Members to speak from any place with a microphone during Committee of the Whole.

I also advise Members that in the absence of the opposition Whip, I have approved the deputy opposition Whip to occupy that place this week. Chamber staff have moved Members' items to their new places in the Chamber. Members who do not have an allocated place may collect their papers from the administration office.

Second, the Bar of the House will remain open at all times.

Third, in terms of hygiene and social distancing measures, admission to the Chamber is subject to all persons strictly adhering to hygiene requirements. Hand sanitiser is available at each of the entrances to the Chamber, and all persons are required to use this on entry to the Chamber. Please also follow other health guidelines, including only attending if you are well. If Members need to cough or sneeze, they should do so either into their elbow or a tissue, with the tissue then immediately discarded into a bin. Members must also maintain appropriate social distance. It would assist if Members attend the Chamber only if they intend to speak, in cases in which an absolute majority is required or for quorum requirements. Masks must be worn in the Chamber, with the exception of Members who wish to remove them when speaking.

Fourth, the Chair and Deputy Chairs of Committees will sit in the President's chair during Committee of the Whole.

Fifth, divisions will be conducted without the need for Members to cross the Chamber. Those voting with the ayes will stand and those voting with the noes will sit. The Leader of the House intends to move a motion without notice to suspend so much of Standing Order 79 to permit this to occur.

Sixth, during question time, hard copies of answers will not be distributed in the Chamber. Answers will be emailed to Members by a parliamentary liaison officer to minimise staff movement in the chamber and the handling of papers. If Members require a hard copy, please advise a parliamentary liaison officer, who can print this for Members to collect. Parties are strongly encouraged to arrange for their leader or other deputed Member to ask all questions on behalf of party Members. Reporting services have made special arrangements for these circumstances, and Hansard searches will also reflect the name of the Member on whose behalf a question without notice is asked.

Seventh, Hansard will be reporting remotely and will not be present on the floor of the House. For this reason, it is imperative that Members use the microphone at the lectern if they do not have a designated seat. I ask Members to please email Hansard any speech notes at the conclusion of their speech as chamber staff will not be collecting notes.

Other public health and safety measures around Parliament have been communicated to Members and staff. One measure that directly affects the Legislative Council Chamber is that I have closed the public gallery for the time being. Thank you for ensuring that we do as much as we can to ensure good public health and safety practices.

## **5. Statement by President — Corruption and Crime Commission and Western Australia Police Force Protocols**

The President made the following Statement —

Members will recall that the Speaker and I entered into separate memoranda of understanding with the Corruption and Crime Commission and the Western Australia Police Force respectively, and that these were tabled in the Legislative Council on 30 November 2021. The memoranda of understanding are designed as an overarching statement of broad

principles that, under a series of detailed model or template protocols, could be developed, establishing procedures to be followed to enable these law enforcement agencies to properly undertake investigations relating to Members while respecting parliamentary privilege. Protocols have since been finalised with each agency and were signed on 21 December 2021. The protocols cover matters relating to the execution of search warrants on Members' premises and the determination of claims of immunity from production of materials considered subject to be parliamentary privilege. These protocols are designed to be flexible and practical and will ensure that parliamentary privilege is protected while preserving the integrity and timeliness of Corruption and Crime Commission and police investigations. General information sessions on these two protocols will be held for Members later in the year.

The President tabled a Protocol — The execution of search warrants on premises occupied by Members of the Legislative Council and Legislative Assembly and Determination of claims of immunity from production by reason of parliamentary privilege — between Corruption and Crime Commission of Western Australia, Legislative Council of Western Australia and Legislative Assembly of Western Australia. (Tabled Paper 1055).

The President tabled a Protocol — The execution of search warrants on premises occupied by Members of the Legislative Council and Legislative Assembly and Determination of claims of immunity from production by reason of parliamentary privilege — between Western Australian Police Force, Legislative Council of Western Australia and Legislative Assembly of Western Australia. (Tabled Paper 1056).

#### **6. Statement by President — Deputy Chair of Committees Vacancy**

The President made the following Statement —

I advise that on 13 December 2021 I received a letter of resignation from Hon James Hayward from his role as Deputy Chair of Committees.

#### **7. Statement by President — Hon James Hayward — Resignation from the National Party of Australia (WA)**

The President made the following Statement —

Members, I have received the following correspondence —

Dear President

Please be advised that I have resigned from the National Party of Australia (WA) on 3 December 2021 and will now sit as an independent Member of the Legislative Council.

Yours sincerely

Hon James Hayward MLC

Member for South West Region

#### **8. Statement by President — COVID-19 — Mandatory Vaccination**

The President made the following Statement —

On Wednesday, 1 December 2021, the Legislative Council made an order requiring Members to provide proof of their first and second COVID-19 vaccine doses or proof of a valid exemption to the Clerk by 31 January 2022.

I am advised by the Clerk that as of today not all Members have complied with the Council's order. The effect of the Council's order is that in the event of a lockdown or similar restrictions, any non-compliant Member will be subject to an automatic suspension from the Chamber, Parliament House and the committee office. I note that there is currently no

lockdown in effect and so non-compliant Members are not currently suspended, and it is not too late for such Members to avoid that fate by providing proof of the required information to the Clerk. I also make the observation that the phrase “similar restrictions” is not defined in the order. Such a situation can create a challenge for any Member to determine whether they can attend Parliament on any particular day.

### **9. Ministerial Statement — Reconstitution of the Ministry**

The Leader of the House made a Ministerial Statement with respect to the minor adjustment of the Ministry that occurred on 21 December 2021.

The Leader of the House tabled *Reconstitution of the Ministry — Changes to the administrative arrangements for the representation of Ministers between the Houses*. (Tabled Paper 1058).

### **10. Ministerial Statement — Bushfires across Western Australia**

The Minister for Emergency Services made a Ministerial Statement with respect to the catastrophic fire conditions across the State and unprecedented number of bushfire incidents.

### **11. Ministerial Statement — 2021-22 Grain Harvest**

The Minister for Agriculture and Food made a Ministerial Statement with respect to this season’s record harvest, delivering more than 24 million tonnes of grain.

### **12. Ministerial Statement — Bushfire Impacts on Agriculture**

The Minister for Agriculture and Food made a Ministerial Statement with respect to recent bushfires that have caused significant damage to farm properties including large stock losses.

### **13. Papers**

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## **14. Standing Committee on Uniform Legislation and Statutes Review — Report 137 — Mutual Recognition (Western Australia) Amendment Bill 2021**

Hon Donna Faragher presented Report 137 of the Standing Committee on Uniform Legislation and Statutes Review, *Mutual Recognition (Western Australia) Amendment Bill 2021*. (Tabled Paper 1057).

## **15. Elder Abuse**

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

That this House —

- (a) reminds the McGowan Labor Government that its January 2017 election manifesto on responding to elder abuse promised that it would “expedite” amendments to the law surrounding enduring powers of attorney and guardianship;
- (b) notes that on 13 September 2017 the Legislative Council established, on the motion of the Opposition, the Select Committee into Elder Abuse;
- (c) reminds the Government that the Select Committee’s 24<sup>th</sup> recommendation in its 2018 Final Report called on it to “act as a matter of urgency”;
- (d) notes that more than 5 years have passed since the election promise was made;

- (e) expresses its deep concern about the impact on victims of elder abuse given its prevalence in our State and reports of an increase during the pandemic; and
- (f) calls on the Government to apologise for breaking trust with the victims, the electors and the Parliament, and to make amends without any further delay.

## **16. Suspension of Standing Orders**

The Leader of the House moved, without notice —

That, until the House is adjourned on 7 April 2022, so much of the Standing Orders be suspended so that:

- (a) when called to speak, a Member may speak from a place in the Chamber other than the Member's own; and
- (b) during a division Members shall gather in the Chamber, which includes the President's Gallery, and indicate an "Aye" vote by standing and a "No" vote by sitting.

Debate ensued.

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.

## **17. Legislative Council — Member COVID-19 — Vaccinations and Boosters**

The Leader of the House moved, without notice —

That —

- (1) Further to the order of the Legislative Council dated 1 December 2021, for the purposes of protecting the health and safety of members and parliamentary staff, who are a critical workforce, this House requires Members of the Legislative Council attending the Chamber, Parliament House or the Legislative Council Committee Office to be fully vaccinated and boosted.
- (2) Members must:
  - (a) have provided proof of their first and second COVID-19 vaccine doses, or proof of a valid exemption, to the Clerk by 31 January 2022; and
  - (b) provide proof of a booster COVID-19 vaccine dose, or proof of a valid exemption, by 6 May 2022.
- (3) If any Members:
  - (a) do not meet the requirements set out in subparagraph (2)(a) the Clerk will report the details to the House at the earliest opportunity.
  - (b) do not meet the requirements set out in subparagraph (2)(b) the Clerk will report the details to the House at the earliest opportunity.
- (4) Unless otherwise ordered, any Member who has not complied with the requirements set out in either subparagraph (2)(a) or 2(b), or both, is determined to have failed to comply with an order of the House and is immediately suspended from attending the Chamber, Parliament House and the Legislative Council Committee Office until the second sitting day following the winter recess.



- (5) If a Member who is suspended under paragraph (4) provides proof of their first and second COVID-19 vaccine doses and their booster COVID-19 vaccine dose, or proof of a valid exemption, as required by subparagraph (2)(a) and (2)(b), to the Clerk, their suspension is immediately lifted and the Clerk will report the lifting of the suspension to the House at the earliest opportunity.
- (6) For the purposes of this resolution:
- (a) "COVID-19 vaccine" means a vaccine to protect a person against SARS-CoV-2 that has been registered or provisionally registered by the Therapeutic Goods Administration;
  - (b) "proof of their first and second COVID-19 vaccine doses" and "proof of their booster COVID-19 vaccine dose" means forms of evidence approved by the Chief Health Officer; and
  - (c) "proof of a valid exemption" means forms of evidence approved by the Chief Health Officer.
- (7) The Clerk:
- (a) must ensure all information provided under this resolution remains confidential and is stored securely; and
  - (b) must destroy all information provided under this resolution at the end of the session or an earlier time determined by the House.
- (8) The House may agree to further resolutions to vary or amend this resolution.

Debate ensued.

Hon Dr Steve Thomas moved, without notice —

To amend the motion as follows —

In paragraph (4) after the word "immediately" insert —

referred to the Standing Committee on Procedure and Privileges for report within two sitting days as to whether the Member should be

Debate ensued.

Amendment — put.

The Council divided.

#### **Ayes (9)**

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

Hon Tjorn Sibma  
 Hon Dr Steve Thomas  
 Hon Neil Thomson  
 Hon Nick Goiran (*Teller*)

**Noes (21)**

Hon Dan Caddy	Hon Dr Brad Pettitt
Hon Sandra Carr	Hon Stephen Pratt
Hon Stephen Dawson	Hon Martin Pritchard
Hon Kate Doust	Hon Samantha Rowe
Hon Sue Ellery	Hon Rosie Sahanna
Hon Peter Foster	Hon Matthew Swinbourn
Hon Lorna Harper	Hon Dr Sally Talbot
Hon Jackie Jarvis	Hon Dr Brian Walker
Hon Alannah MacTiernan	Hon Darren West
Hon Kyle McGinn	Hon Pierre Yang ( <i>Teller</i> )
Hon Shelley Payne	

Amendment thus negatived.

Debate resumed.

**18. Questions Without Notice**

Questions without notice were taken.

**19. Legislative Council — Member COVID-19 — Vaccinations and Boosters**

Debate resumed on the motion of the Leader of the House (*see item 17 above*).

Motion — put.

The Council divided.

**Ayes (26)**

Hon Martin Aldridge	Hon Kyle McGinn
Hon Dan Caddy	Hon Shelley Payne
Hon Sandra Carr	Hon Dr Brad Pettitt
Hon Peter Collier	Hon Stephen Pratt
Hon Stephen Dawson	Hon Martin Pritchard
Hon Kate Doust	Hon Samantha Rowe
Hon Sue Ellery	Hon Rosie Sahanna
Hon Donna Faragher	Hon Tjorn Sibma
Hon Peter Foster	Hon Matthew Swinbourn
Hon Lorna Harper	Hon Dr Sally Talbot
Hon Jackie Jarvis	Hon Dr Steve Thomas
Hon Alannah MacTiernan	Hon Darren West
Hon Steve Martin	Hon Pierre Yang ( <i>Teller</i> )

**Noes (2)**

Hon Sophia Moermond	Hon Dr Brian Walker ( <i>Teller</i> )
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Motion thus passed.

*The President left the Chair at 5.22pm*

*The President resumed the Chair at 5.40pm*

**20. Statement by President — Member COVID-19 Vaccinations and Boosters**

The President made the following statement —

Members, I have received the following piece of correspondence —

President

Compliance with an Order of the Council made on 15 February 2022

Pursuant to an Order of the Council made on 15 February 2022 regarding the vaccination requirements for Members of the Legislative Council, I advise that the following Member has failed to comply with paragraph 2(a) of the Order. This Member is therefore currently suspended from attending the Chamber, Parliament House and the Legislative Council Committee Office —

Hon Sophia Moermond  
Acting Clerk of the Legislative Council

**21. Leave of Absence — Hon Colin de Grussa**

Hon Dr Steve Thomas moved, without notice —

That leave of absence be granted to Hon Colin de Grussa for six sitting days due to urgent personal business.

Question — put and passed.

**22. Order of Business**

Ordered — That Orders of the Day Nos 1, *Biodiversity Conservation (Exemptions) Amendment Order 2021 — Disallowance*, 2, *Serpentine-Jarrahdale Bush Fire Brigades Local Law 2021 — Disallowance*, 3, *City of Fremantle Parking Local Law 2021 — Disallowance*, 4, *City of Stirling Meeting Procedures Local Law 2021 — Disallowance*, 5, *City of Canning Local Government Property and Public Places Local Law 2021 — Disallowance*, and 6, *Town of Bassendean Cats Local Law 2021 — Disallowance*, be taken after Order of the Day No. 13, *Administration Amendment Bill 2021*. (Leader of the House).

**23. Standing Committee on Uniform Legislation and Statutes Review — Report No. 136 — Legal Profession Uniform Law Application Bill 2021 and Legal Profession Uniform Law Application (Levy) Bill 2021**

The Order of the Day having been called, Hon Donna Faragher continued her introductory remarks in moving the motion as follows —

That Recommendation 1 of the Standing Committee on Uniform Legislation and Statutes Review contained in its Report 136, *Legal Profession Uniform Law Bill 2021 and Legal Profession Uniform Law Application (Levy) Bill 2021*, be adopted and agreed to.

*See Tabled Paper 751 (Tabled 12 October 2021).*

Recommendation 1 states —

The Legislative Council delete Standing Order 67(1) of the Standing Orders of the Legislative Council and replace it as follows:

For the purpose of this Standing Order, a “regulation” includes any instrument made subject to disallowance by a written law.

Question — put and passed.

**24. Finance Legislation Amendment (Emergency Relief) Bill 2021**

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.

Leave was granted to proceed forthwith to the third reading.

The Minister for Emergency Services moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

## 25. Courts Legislation Amendment (Magistrates) Bill 2021

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

Hon Nick Goiran moved, without notice —

That the *Courts Legislation Amendment (Magistrates) Bill 2021* be discharged and referred to the Standing Committee on Legislation for consideration and report not later than 23 June 2022.

Debate ensued.

Question — put.

The Council divided.

### Ayes (8)

Hon Martin Aldridge  
Hon Donna Faragher  
Hon Steve Martin  
Hon Tjorn Sibma

Hon Dr Steve Thomas  
Hon Neil Thomson  
Hon Dr Brian Walker  
Hon Nick Goiran (*Teller*)

### Noes (19)

Hon Dan Caddy  
Hon Sandra Carr  
Hon Kate Doust  
Hon Sue Ellery  
Hon Peter Foster  
Hon Lorna Harper  
Hon Jackie Jarvis  
Hon Alannah MacTiernan  
Hon Ayor Makur Chuot  
Hon Kyle McGinn

Hon Shelley Payne  
Hon Stephen Pratt  
Hon Martin Pritchard  
Hon Samantha Rowe  
Hon Rosie Sahanna  
Hon Matthew Swinbourn  
Hon Dr Sally Talbot  
Hon Darren West  
Hon Pierre Yang (*Teller*)

Question thus negated.

Debate resumed.

*Interruption pursuant to order.*

## 26. Members' Statements

Statements were taken.

## 27. Adjournment

The Council adjourned at 10.07pm until Wednesday, 16 February 2022 at 1.00pm.

### Members present during the day's proceedings

Attendance: Present all Members except Hon Klara Andric, Hon Colin de Grussa (*leave*) and Hon Wilson Tucker.

**SAM HASTINGS**

Acting Clerk of the Legislative Council

**HON ALANNA CLOHESY MLC**

President of the Legislative Council