

**40TH PARLIAMENT**



**The challenges of managing the Parliamentary precinct without legislation  
Presentation to the 50<sup>th</sup> Presiding Officers and Clerks' Conference**

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## SUMMARY

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- 1 In an ever increasing threat environment, the Parliament of Western Australia lacks the legal instruments, and the protections and powers they bring, to exercise control over its precincts. The absence of legislation and the very limited number of persons who can exercise powers under by-laws made by the Parliamentary Reserve Board means that the WA Parliament cannot effectively mitigate against the risk of a malicious attack.
- 2 The WA Parliament requires its own precinct legislation in order to improve safety for its users and to deal with potential threats. The primary purpose of any precinct legislation would be to firstly define the "Parliamentary precinct" over which powers may be exercised. Secondly, to specify those powers, and thirdly, identify who may exercise them and in what circumstances. The objective is to provide authorised persons with the necessary tools and protections to deal with threats as and when they arise.
- 3 At the most basic level this requires legislation to permit authorised persons to enquire, search, and direct any person who may breach or be about to breach the legislation and exclude them from the precinct. All this needs to be done while not disturbing the privileges, powers and immunities of the Parliament and its members and maintaining public access to the heritage listed building at the centre of our democracy.

### Current status

- 4 There is no enabling legislation to determine the Parliamentary precinct in Western Australia.
- 5 The key instruments for Control and Management of the parliamentary reserve are the:
  - 1 *Parks and Reserves Act 1895*  
Parliament House is located on Class A crown reserves<sup>1</sup> which is subject to the *Parks and Reserves Act 1895* (WA) in relation to management of the reserve.
  - 2 Parliamentary Reserve Board (est. 1972)  
Parliamentary Reserve Board members are also Parliamentary Services Committee (formerly Joint House Committee) members.
  - 3 Parliamentary Reserve By-Laws (est. 1972)
  - 4 Powers vested in Police by virtue of *Criminal Investigations Act 2006* (WA) for areas outside the parliamentary building.
- 6 In 2009, the Legislative Council Select Committee into *The Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament* (Report 1; May 2009), recommended that the Parliamentary precinct of the WA Parliament be clearly defined by statute (Recommendation 6).
- 7 In 2014, the Legislative Standing Committee on Procedure and Privileges in the Review of the Report of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament (Report 29; May 2014), endorsed Recommendation 6 of Report 1.
- 8 In 2015, the Legislative Assembly Procedure and Privileges Committee in *Protecting the Parliament: Exclusive Cognisance and Sanctions for Breach of Privilege and Contempt of Parliament* (Report 9, November 2015), recommended that Parliamentary precinct legislation be introduced into the WA Parliament (Recommendation 5).

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<sup>1</sup> Comprised as Reserve A11162 and Reserve A45021

- 9 Following the recommendation of the Legislative Council Select Committee in Report 1, the Parliament arranged for the preparation of a "draft Bill" that was drafted in a private capacity by a former Chief Parliamentary Counsel.
- 10 In 2017, the draft Bill was referred to the Attorney General for consideration. At that time, the State Solicitor's Office considered the draft Bill and was of the view that the legislation appropriately seeks to protect parliamentary privilege as well as the jurisdiction of Police, and that it clearly defined the Parliamentary precinct and the extent of powers in relation to the management and protection of the precincts. However, the draft Bill did not effectively address all policy issues concerning the Parliamentary precinct. Consequently, the Presiding Officers, the Clerks and the Executive Manager, Parliamentary Services have worked co-operatively with the Attorney General's Office to develop a submission and drafting instructions for consideration by Cabinet.
- 11 The Speaker and I are hopeful that Cabinet will see why a legislative response is required. If Cabinet gives its approval to draft the Bill, the drafting and consultation process will need to be completed before the matter is again brought before Cabinet seeking approval to print and introduce the Bill.

# 1 Overview

- 1.1 The Parliament of Western Australia is situated on Class A Crown Reserve land (parliamentary reserve). The control, care and management of the parliamentary reserve has been conferred to the Parliamentary Reserve Board Corporate Body (the Board), established in accordance with the *Parks and Reserves Act 1895*.
- 1.2 A Parliamentary precinct for planning and development purposes has been defined by the WA Planning Commission under the Parliamentary Precinct Policy 1983 (“Inner” and “Outer”) and deals exclusively with preservation of vistas from Parliament House and building requirements surrounding the reserve. Additionally, the draft Government and Parliamentary Precinct Master Plan (2010) contemplated a “Parliamentary precinct” that differed to the Precinct Policy (1983) focusing on existing adjacent A class reserves but this was not promulgated.
- 1.3 To date, the boundaries of the precinct identified as being the Parliamentary precinct have been broadly accepted as the land and open areas around Parliament House and bordered by the freeway and major roads that enclose the Class A Crown reserve. However, there has never been any formal legislative definition of what constitutes the Parliamentary precinct. This has been confused by planning policies that have described a Parliamentary precinct incorporating land adjacent to the reserve where the main Government Executive Buildings are located. A further complication has been a failure by successive Governments to progress various proposals over many years to expand accommodation for Parliament House resulting in some operations of the Parliament being located in leased premises outside the reserve.
- 1.4 As noted, parliamentary committees of both Houses have recommended that the parliamentary precinct of the WA Parliament be clearly defined by statute.
- 1.5 Security of the parliamentary reserve currently involves the complex interaction of various powers and authorities, including:
  - powers related to the exclusive control of the presiding officers of parliamentary proceedings,
  - care and management arrangements of the parliamentary reserve on which Parliament House is located by the Parliamentary Reserve Board secretary, and
  - police powers primarily conferred by the *Criminal Investigations Act 2006 (WA)* and offences created in the Criminal Code and other legislation.
- 1.6 Most other Australian Parliaments have implemented parliamentary precinct legislation. The schemes vary between jurisdictions, with most providing for security arrangements, and some dealing with the day-to-day operations of parliament (for more information see Appendix 1, p. 14).

## 2 Background

### Permanent Reserves Act 1899

2.1 On 6 April 1900, a land parcel (Recorded No. 1162) was gazetted under the *Permanent Reserves Act 1899* as Class A for the purpose of "Parliamentary Buildings". The original reserve was bordered by St Georges Place, Malcolm Street, Harvest Terrace and Hay Street.

### Parks and Reserves Act 1895

2.2 The *Parks and Reserves Act 1895* establishes a mechanism for the control and management of parks and reserves, including the parliamentary reserve—the land on which Parliament sits.

2.3 This mechanism, the establishment of a Board, is under the direction of the Governor as outlined in the s. 3 of the *Parks and Reserves Act 1895* (as passed):

3. (i.) FOR the purpose of controlling and managing parks and reserves, the Governor shall appoint persons to form Boards of Boards Parks and Reserves, and may appoint the president of every such Board, and may from time to time cancel and revoke such appointments and fill up vacancies in the Boards, and may appoint each of such Boards to control and manage such of the parks and reserves as he may from time to time think fit.

2.4 The *Parks and Reserves Act* contains detailed provisions about powers and duties of such boards and the employees of the boards. The Act (as passed) in s. 8 allows for the making of by-laws:

8. (1.) A BOARD may, with the approval of the Governor, from time to time make, repeal, or alter by-laws for giving effect to this Act in respect of the parks and reserves committed to them,...

2.5 The powers of the Board are specific to the actual land (reserve) and do not transfer to any other location where the Parliament may convene from time to time.

2.6 At the time of creating this legislation it was unlikely that its creators contemplated that Parliament might convene in another location. Therefore, even if the land was to be permanently repurposed or Parliament was to sit elsewhere, the powers vested in the Board would continue for the existing location only.

2.7 The Governor's power to establish a board was not exercised for 72 years.

2.8 It is worth noting that the Act continues to have application in relation to a very small number of boards including the Burswood Park Board, the Parliamentary Reserve Board, the Government and Parliament Precinct Board, and the Government Domain Reserves Board.

Classification of Reserves.		
(63rd Vict., No. 24.)		
Department of Lands and Surveys, Perth, 15th March, 1900.		
<p>It is hereby notified, for general information, that under the powers conferred upon him by "The Permanent Reserves Act, 1899" (63rd Vict., No. 24), His Excellency the Governor has been pleased to classify the undermentioned Reserves as Class "A."</p>		
<p>R. CECIL CLIFTON, Under Secretary for Lands.</p>		
<p>CLASS A.</p>		
Recorded No.	Locality.	Purpose.
1149	Perth ... ..	Government Domain.
1150	Do. ... ..	Government Gardens.
1162	Do. ... ..	Parliamentary Buildings.
1720	Do. ... ..	Perth Park.
3293	Do. ... ..	Mint.
3495	Do. ... ..	Observatory.
3521	Do. ... ..	Victoria Library and Museum.
7123	Do. ... ..	Central Government Buildings.

### *Management prior to establishment of Board*

- 2.9 Before the establishment of the Board, the President of the Legislative Council, as chairperson of the Joint House Committee (an official Parliamentary Committee comprising of members of both Houses) was the principal authority to correspond on matters limited to the management of the House(s) and the Grounds. In 1986, the President with the Speaker of the Legislative Assembly rotated the chairmanship of the Joint House Committee.
- 2.10 In 1924 and 1933, with the written permission of the two Presiding Officers in their official capacity as Chairs of the Joint House Committee, the City of Perth were able to excise small portions of land from the parliamentary reserve to widen two streets bordering the precinct, Hay Street (1924) and Malcolm Street (1933). To complete the works and acting on the authority of the Presiding Officers, the Minister for Lands was required to table an amendment to the parliamentary reserve in both Houses.
- 2.11 Presiding Officers' powers to authorise this action was supported by legal opinion from the State Solicitor's Office in 1951. This advised that in the absence of any enabling legislation and the Parliamentary Reserve Board, the President of the Legislative Council and the Speaker of the Legislative Assembly were jointly responsible for the management of the parliamentary reserve (*A Class Reserve 1162*).
- 2.12 The 1951 Crown Solicitor's Office legal opinion was relied upon by the Parliament and the Premier simultaneously following a dispute between the Parliament and the Minister for Lands over the authority required for the construction of a new building on part of the reserve.
- 2.13 The Parliament contended that the Public Works Authority, which had commenced construction of a new building on the parliamentary reserve directly behind the Pensioner Barracks (for more information see Appendix 1, p. 14), located at the top of St George's Terrace and in front of Parliament House acted without authority. The State Solicitor's opinion was that the Government's actions were illegal because the Presiding Officers had not given authority and that the reserve was only for parliamentary buildings and the partially constructed public works building was not a parliamentary building. The Minister for Lands had (and still has) no authority to amend an A Class Reserve constituted under the Parks and Reserves Act.
- 2.14 In 1951, legislation—*Parliament House Site Permanent Reserve A 1162*—was subsequently passed by the House(s) (Government had very large majority) which allowed any existing or commenced construction on the reserve to remain/continue but for not longer than five years from enactment (for more information see Appendix 3, p. 17). The buildings were deemed temporary additions at the rear of the Barracks and would need to be demolished within five years however in 1956, 1959, 1961 and 1964 the Act was amended (period extended) until the Mitchell Freeway caused the buildings to be demolished along with the Barracks in 1966.
- 2.15 During this period, an Inter Departmental Committee was formed to study the environment of Parliament House. Led by Professor Gordon Stephenson who came to Perth in 1953 following a commission from the State Government to prepare a plan for the metropolitan region of Perth and Fremantle with Town Planning Commissioner Alistair Hepburn. Their plan was completed in 1955 and provided a blueprint for the planning of Perth and Fremantle for many years.
- 2.16 Whilst assessing the impact of the Mitchell Freeway and of the Public Office development, the importance of Parliament Hill and its relationship with the City led to the following observations:

Parliament House should always be visible and accessible. It should be part of a wider design embracing a **Parliamentary Precinct**.<sup>2</sup> ... [emphasis added]

## Parliamentary Reserve Board

- 2.17 In June 1972, an Aboriginal consulate was set up on Parliament House lawns to draw attention to the lack of housing for Nyoongar people in the metropolitan area. This action corresponded with activities in Canberra protesting the government's approach to Indigenous land rights.
- 2.18 The President of the Legislative Council first contacted the police and asked them to have the tent and protesters removed but the police quickly pointed out that they had no authority to act (on the reserve) and there were no circumstances that constituted an infringement of the law. A phone call to the Minister for Lands reaffirmed that the Government had no jurisdiction to act on the parliamentary reserve. Despite being controlled by the Presiding Officers, there were no by-laws, policies or legislation to enforce a direction by a Presiding Officer and until there was the protest group were not undertaking illegal activity.
- 2.19 The Presiding Officers subsequently sought advice from the State Solicitors and then wrote to the Governor (via Executive Council) requesting to constitute the Parliamentary Reserve Board under the *Parks and Reserves Act 1895*.
- 2.20 On 6 June 1972, the Governor approved the establishment of the Board and the control, care and management of the parliamentary reserve was conferred to the Parliamentary Reserve Board Corporate Body in accordance with the *Parks and Reserves Act 1895*.
- 2.21 Advice received from the Minister for Lands on 7 July 1972 confirmed that the Governor in Executive Council had appointed the inaugural members of the Board. The members appointed were those who were members of the Joint House Committee<sup>3</sup>.
- 2.22 In 1972, the Parliamentary Reserve Board comprised of four members from each House and the two Presiding Officers. The Secretary was the Joint House controller (now the Executive Manager Parliamentary Services).



<sup>2</sup> Dplh.wa.gov.au. (1983). *Parliament House Precinct: Planning Bulletin*. [online] Available at: [https://www.dplh.wa.gov.au/getmedia/7fce848c-5bc6-4508-92ab-041d81cadbe3/PB\\_Parliament\\_House\\_Precinct\\_Policy](https://www.dplh.wa.gov.au/getmedia/7fce848c-5bc6-4508-92ab-041d81cadbe3/PB_Parliament_House_Precinct_Policy) [Accessed 22 May 2019].

<sup>3</sup> Joint House Committee was comprised of the members of the House Committees of the Legislative Council and the Legislative Assembly who considered matters relating to the provision of facilities in Parliament House.

## Parliamentary Reserve By-Laws

- 2.23 The newly appointed Parliamentary Reserve Board exercised its powers and hastily resolved to make by-laws (Parliamentary Reserve By-Laws 1972) that were Gazetted and commenced on 28 July 1972. The by-laws essentially reflected the standard provisions of the *Parks and Reserves Act 1895*. These standard provisions allowed the Parliamentary Reserve Board to deal with the matter at hand. However, the Board did not address the broader question of what additional by-laws were needed to deal with any special circumstance that may arise at a Parliament.
- 2.24 The Presiding Officers swiftly used the new by-laws and, on 8 August 1972, ordered the Secretary of the Board to instruct the protesters to remove themselves from the reserve within 72 hours otherwise they would be in contravention of the law.
- 2.25 The Parliamentary Reserve By-Laws 1972 made by the Parliamentary Reserve Board have been amended twice (Gazetted 8 October 2004 and 8 January 2015) and approved by the Governor in Executive Council.
- 2.26 The application of the by-laws is restricted to the parliamentary reserve, and is subject to the powers and privileges of the Parliament. Only authorised officers could exercise the powers under the by-laws. This included members of the Parliamentary Reserve Board and the Board Secretary (Secretary of the Joint House Committee) under the Board's delegated authority.

## Parliamentary precinct

- 2.27 Following on from activities of Professor Stephenson in the 1950's, in November 1971 the Metropolitan Regional Planning Authority published a Planning Bulletin setting out details of the Precinct Policy. A review of the Precinct Policy was commenced in April 1980 and completed in November 1981. The planning bulletin of July 1983<sup>4</sup> outlines, amongst other things, the objectives, policies and controls including view corridors.
- 2.28 The issue of a Parliamentary precinct from a planning and development perspective has been ongoing. For example, in April 1986, there was debate in the Legislative Council about developing the area around Parliament House, mention of the Parliamentary Precinct Committee and a letter read into proceedings from the State Planning Commission, which advised that the Parliamentary Precinct Committee would disband.<sup>5</sup>
- 2.29 In October 2010, the Office of the Government Architect developed a Parliamentary Precinct Master Plan Report<sup>6</sup> in that report it was stated:

... the Precinct currently exhibits a number of shortcomings. It suffers from poor connection with the centre of the city, is underutilised for Government related accommodation, is inadequate in providing for the requirements of Parliamentary Services and delivers a relatively poor quality public domain.

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<sup>4</sup> Dplh.wa.gov.au. (1983). *Parliament House Precinct: Planning Bulletin*. [online] Available at: [https://www.dplh.wa.gov.au/getmedia/7fce848c-5bc6-4508-92ab-041d81cadbe3/PB\\_Parliament\\_House\\_Precinct\\_Policy](https://www.dplh.wa.gov.au/getmedia/7fce848c-5bc6-4508-92ab-041d81cadbe3/PB_Parliament_House_Precinct_Policy) [Accessed 22 May 2019].

<sup>5</sup> Heatherington, R., 1989. Legislative Council Hansard. [online] Parliament.wa.gov.au. Available at: [http://www.parliament.wa.gov.au/hansard/hansard1870to1995.nsf/vwMainBackground/19890406\\_Council.pdf/\\$file/19890406\\_Council.pdf](http://www.parliament.wa.gov.au/hansard/hansard1870to1995.nsf/vwMainBackground/19890406_Council.pdf/$file/19890406_Council.pdf) pp.419-421

<sup>6</sup> Parliament.wa.gov.au. (2017). *Parliamentary Precinct Master Plan Report Findings and Recommendations*. [online] Available at: [http://www.parliament.wa.gov.au/publications/tailedpapers.nsf/displaypaper/4010208c1488c22795ad826348258125000ca2e8/\\$file/tp-208.pdf](http://www.parliament.wa.gov.au/publications/tailedpapers.nsf/displaypaper/4010208c1488c22795ad826348258125000ca2e8/$file/tp-208.pdf)

## 3 Management

### Presiding Officers

- 3.1 The authority for the Presiding Officers to manage the parliamentary reserve is not defined in any legislation.
- 3.2 As outlined above (p. 5), in 1951 the State Solicitor's Office advised that in the absence of any enabling legislation, the President of the Legislative Council and the Speaker of the Legislative Assembly were jointly responsible for the management of the parliamentary reserve. From 1972, legislative responsibility for management of the reserve fell to the Parliamentary Reserve Board. The Board and the Joint House Committee shared identical membership with the chair shared on a rotational basis between the President and Speaker. In a practical sense, business of the Board tended to occur concurrently with meetings of the Joint House Committee.

### Parliamentary Reserve Board

- 3.3 Management of the reserve, as outlined above (p.6) is vested in the Parliamentary Reserve Board. Also as outlined above, the first membership of the Parliamentary Reserve Board were the members of the Joint House Committee<sup>7</sup>. It is worth noting that, the membership of the Parliamentary Reserve Board has remained aligned to that of the Joint House Committee. There is no requirement for the membership to be the same, but custom and practice has resulted in it mostly being so.
- 3.4 The Joint House Committee were primarily concerned with the provision of services and amenities to Members in Parliament House. The Parliamentary Reserve Board's sole focus was the management of the parliamentary reserve through the enforcement of the by-laws.
- 3.5 With the membership of the Joint House Committee and the Parliamentary Reserve Board being the same on most occasions, it was foreseeable that meetings of the Joint House Committee would include matters that cover management of the reserve and that the secretary of the Joint House Committee would be appointed as Board Secretary<sup>8</sup>.
- 3.6 The point of difference being that each new appointment to the Parliamentary Reserve Board (following a resignation) required the approval of the Governor whereas the Standing Orders of each House establish membership of the Parliamentary Services Committee.
- 3.7 To improve efficiency a request was made to the Governor in 1996 to amend the membership to perpetual succession. This allowed for membership of the Parliamentary Reserve Board to change from time to time by resolution of the Board without a named member being approved by the Governor.

#### Parliamentary Services

The Parliamentary Services Department was created on 1 April 1998 by the amalgamation of the three "service" departments of the Parliament—Joint House, Joint Printing and Joint Library into one department—as it was considered that the Presiding Officer's, Members, Chamber Departments and staff could be more efficiently and effectively serviced by one co-ordinated entity rather than three.

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<sup>7</sup> Now known as the Parliamentary Services Committee

<sup>8</sup> Parks and Reserves Act 1895, s. 7

- 3.8 In 1998, following a structural change and creation of a Parliamentary Services Department the Joint House Committee became the Parliamentary Services Committee.
- 3.9 To this this day, the Parliamentary Services Committee and the Parliamentary Reserve Board operate as one committee and share, for the most part, the same membership. This includes the Board/Committee Secretary. The Parliamentary Reserve Board has only held three official (and separate to the Joint House Committee) meetings since 1996.

### **Board Secretary**

- 3.10 Under the Parliamentary Reserve By-Laws 1972, the Secretary of the Board has a number of powers including removing people from the reserve and initiating legal proceedings with respect to an offence against the by-laws.
- 3.11 The Board Secretary is the primary decision maker on behalf of the Board for operational matters and, in real terms is responsible for the control and management of the reserve on a day-to-day basis and the enforcement of the by-laws. However, more strategic or significant matters; such as major building/reserves modification the Parliamentary Reserve Board will be formally put to the Board for decision.
- 3.12 The major problem with the Board Secretary position is that the powers vested in the by-laws are too narrowly focused on one position, with the Police powers dealing with criminal activity only and not breaches of by-laws. There needs to be multiple authorised officers who have the authority to provide legal directions under the by-laws/precinct legislation.

## 4 Security

- 4.1 Security at the Parliament of Western Australia involves the interaction of various powers and authorities established under statute, common law, and the rules and procedures of parliament, as well as policing and other security arrangements. This complexity and the absence of overarching legislation applying to the precinct makes it more difficult for the WA Parliament to provide properly for the security of members, staff, the public and the buildings.
- 4.2 Security brings into conflict two principles. The first is the right of people in a parliamentary democracy to observe their Parliament at work and to have reasonable access to their representatives. The second is to provide for the safety of people who work in Parliament House (employees and members), and those who visit it on business or to see it in operation.
- 4.3 For a disaffected person(s) looking to create disruption/harm, places of "significance" and of mass gathering are preferred targets. Consequently, the Parliament (and the parliamentary reserve) faces a higher risk than most other locations. As the centre of democracy in our State and with a prominent site overlooking the city, the Parliament has both symbolic and historic significance that may bring attention from those not sharing Western democratic values. On a local level, Parliament House is often construed, wrongly, by disaffected persons as being responsible for the decisions of government agencies.
- 4.4 Parliament House attracts a large number of people, primarily during sitting weeks, including about 40,000 visitors per annum, approximately 17,000 of whom are school children. It houses 95 members and 390 staff (parliamentary, electoral and ministerial) on sitting weeks and approximately 195 staff on non-sitting weeks. In addition, publicly coordinated protests and rallies are held on the Parliament House forecourt to raise awareness and call on Parliament or more commonly the Government to act in relation to public issues. Large rallies attract on average, 300 protesters but can draw thousands.
- 4.5 The fact that Parliament House is a higher risk target creates some significant practical problems in relation to ensuring the safety of all people working at or visiting Parliament House. The primary challenge is how the democratic right of peaceful assembly and access is balanced against the required security mitigations to ensure the safety of users and prevent interruptions to the business of the Parliament. Other jurisdictions have addressed this issue by passing legislation to clarify the precincts of Parliament House and the powers of Presiding Officers and others to manage their precincts. This legislation includes a power for authorised persons to exclude persons and things from the precincts.

### Security on the reserve

- 4.6 Responsibility for security on the parliamentary reserve is vested in the Parliamentary Reserve Board and determined by the by-laws and existing laws.
- 4.7 The Parliamentary Reserve By-Laws 1972 administered by the Board, include some powers related to the maintenance of law and order in the grounds of Parliament House. This includes the power to remove persons, vehicles, animals and other things that are found to be in contravention of the by-laws, as well as powers for identification of people, and search of vehicles.
- 4.8 The Secretary of the Board is responsible for the enforcement of the by-laws and primary decision maker on operational matters on behalf of the Board.

## **Board Secretary**

- 4.9 Under the Parliamentary Reserve By-Laws 1972, the Secretary of the Board has a number of powers including initiating legal proceedings for offences against the by-laws.

## **Authorised Person**

- 4.10 Under the *Parks and Reserves Act 1895* (as amended), there is provision for an "authorised person". Section 7A (1) outlines the powers of authorised persons (on the reserve) which include enter and search provisions, requesting personal details of people (under s. 3 of the *Criminal Investigation (Identifying People) Act 2002*) and the stopping, detaining and searching any vehicle (for more information see Appendix 4).
- 4.11 The Parliamentary Reserve Board has delegated its management powers to the Secretary. Having a single position, (Executive Manager Parliamentary Services) authorised as the Secretary responsible for the enforcing the Parliamentary Reserve By-Laws limits the ability to deal with simultaneous events, and can be delayed if the Secretary is unavailable.
- 4.12 The Parliamentary Reserve Board and the by-laws only pertain to the reserve on which parliament sits. Where parliamentary staff and/or proceedings are located outside of the reserve, the powers do not apply. Examples are:
- the Legislative Council and Legislative Assembly Committee offices and hearing rooms located in leased offsite accommodation, and
  - approximately 80 parliamentary staff accommodated in satellite buildings outside the reserve.
- 4.13 This means the control of those areas differs to that of the reserve. The Parliamentary Reserve By-Laws do not apply.

## **Policing arrangements – Parliament House Security Officers**

- 4.14 The Parliament House Security Officers have no greater powers than ordinary citizens do. They rely on s. 25 of the *Criminal Investigation Act 2006* to carry out citizen's arrest if they suspect that a person is committing an offence.
- 4.15 The Security Officer's do not have authority to require a person to submit to a search. They rely on persons consenting to a search. If a person refuses, the only course of action is, under the authorisation of the Secretary of the Parliamentary Reserve Board, to refuse entry.
- 4.16 Refusal of entry can only be authorised by the Secretary of the Parliamentary Reserve Board if a breach of the by-laws has occurred.
- 4.17 Where a person refuses to leave the Parliamentary precinct, then the Security Officers may rely on the Secretary of the Parliamentary Reserve Board to use their authority.

## **Policing arrangements – Protective Security Officers**

- 4.18 In 2017, the Western Australia Police Force, under direction from Government, introduced a Protective Services policing model for Parliament House. This followed a series of security incidents on the parliamentary reserve and replaced a previous arrangement where police were only present during sitting hours.
- 4.19 The WA Police Force Protective Services Officers (auxiliary officers) are located at Parliament House on a daily basis and reflects a smaller scale arrangement to those in place in the Victorian, New South Wales and Queensland Parliaments. As many as 14 Protective Services Officers will be rostered on a sitting day, fewer on non-sitting days.

- 4.20 The Protective Services Officers are not commissioned Police Officers and are employed under a specific Certificate of Appointment with limited powers. They are principally employed to be the first response to armed hostile activity at Parliament House.
- 4.21 They carry and can use a suite of force options including Taser, pepper spray, baton, handcuffs and firearm. They are on site during normal business hours and whenever Parliament is sitting to protect those who work in and visit the areas around Parliament House.

#### **Policing arrangements – Sworn Officers**

- 4.22 Prior to the posting of Protective Services Officers, various arrangements had been in place. For approximately 15 years, a Police Sergeant was permanently located in an office at the main entrance of Parliament House. Following that officer's retirement, a police presence at Parliament House became sporadic.
- 4.23 The police are not subject to the authority of the Presiding Officers, and their powers are limited when a proceeding of parliament is taking place by the privileges, immunities and powers of the Parliament. For this reason, police generally cannot perform a function within parliamentary buildings without the prior consent of the Presiding Officer(s).
- 4.24 The Police can unilaterally act using their powers outside the buildings when an offence has occurred under the criminal code.

#### **Security in the Parliamentary precinct**

- 4.25 As part of the arrangement referred to above, WA Police Protective Service Officers are deployed in the Parliamentary precinct. They undertake regular patrols and provide an immediate armed response to security threats. Their focus is to protect people and respond to hostile attacks in the Parliamentary precinct.
- 4.26 While the existing arrangements generally work well, the Presiding Officers are of the view that these could be improved and some certainty for these services would benefit through a service level agreement with the Commissioner of Police.

## 5 Conclusion

- 5.1 Notwithstanding a daily armed presence by Protective Security Officers, the Parliament has no overarching and coherent legislation granting appropriate powers to parliamentary staff to adequately deal with security threats that occur on the Parliamentary precinct or locations outside the precinct where members and staff work.
- 5.2 The limited powers granted to the Parliamentary Reserve Board are not sufficient to investigate or enquire into circumstances that may give rise to reasonable suspicion that an offence is occurring or may occur and to deal with a threat on the Parliamentary precinct (yet to be defined) in a timely manner.
- 5.3 Parliamentary precinct legislation would enable the Parliament to determine a number of authorised officers, including Police Officers who can exercise investigative and exercise exclusion powers for the safety and security of the persons and infrastructure on the precinct. The proposed legislation does not require reasons to be provided to refuse entry, to search a person or person's property, to exclude a person/group from the Precinct and importantly protects authorised officers from prosecution/liability when their powers are used in good faith in accordance with the legislation.
- 5.4 The Parliamentary precinct needs to be defined by more than a planning policy.
- 5.5 The limitations for control and management to only the parliamentary reserve is impracticable considering members and staff work off the reserve.
- 5.6 Proper provisions should be made for the security of members, staff, the public and the buildings.
- 5.7 Ambiguity in terms of what can and cannot occur within the broader Parliamentary precinct, including enforcing control to admit or exclude, and secondly, who can or cannot take action must be addressed.
- 5.8 There should be provision for other land and buildings to be declared as part of the Parliamentary precinct for a temporary or indefinite period, such as the committee rooms and location of regional parliamentary sittings.
- 5.9 It is unacceptable that building or other works can take place around the Parliament without the approval of both Houses of Parliament.
- 5.10 Security Officers require greater powers. They rely on s. 25 of the *Criminal Investigation Act 2006* to carry out a citizen's arrest if they suspect that a person is committing an offence.
- 5.11 Parliamentary precinct legislation is required to promote the good order, security and safety of people attending the Parliamentary precinct and clarify a number of matters.

## Appendix 1

### PARLIAMENTARY PRECINCTS LEGISLATION IN OTHER JURISDICTIONS

The following provides a brief overview of the parliamentary precincts legislation in the other Australian jurisdictions.

	Commonwealth	Australian Capital Territory	Queensland	New South Wales	Northern Territory	Tasmania	Victoria	Proposal for WA
	Parliamentary Precincts Act 1988 (Cth)	Legislative Assembly Precincts Act 2001 (ACT)	Parliamentary Services Act 1988 (Qld)	Parliamentary Precincts Act 1997 (NSW)	Legislative Assembly (Security) Act 1998 (NT)	Parliament House Act 1962 (Tas)	Parliamentary Precincts Act 2001 (Vic)	
Express purpose statement	NA.	NA.	NA.	NA.	NA.	NA.	To provide for the control, management and security of the Parliamentary precincts.	
<b>Primary parliamentary precinct</b>	Consists of land and all buildings, structures and works etc., on, above or under the land, and is defined by reference to both physical structures forming the boundary, and is indicated on the plan set out in the Schedule to the Act.	Consists of land and all buildings, structures and works etc., on, above and under the land, and is defined by reference to the Block of Land occupied by the Assembly building, and the public entrance canopy.	Consists of all buildings and improvements within the land reserved for House of Parliament.	Consists of land and all buildings, structures and works etc., on, above or under the land as set out in the Schedule to the Act.	Defined by reference to the meaning of Assembly precincts within the <i>Legislative Assembly (Powers and Privileges) Act 1992</i> (NT).	The grounds of Parliament House comprise the Lot of land where the Parliament House is located (however, excludes buildings of the Parliament House). A map of the land is set out in the Schedule for illustration only.	Defined by reference to the Crown Reserve Land where the Parliament House is located, and is indicated on the plan set out in the Schedule to the Act.	
<b>Other land / buildings forming</b>	Presiding Officers may certify other property that is owned or held under lease by the	The Speaker may certify that other property that is leased or	Includes any land or premises declared by the Governor in Council by gazette	Property may be declared as part of the Parliamentary precinct by	NA.	NA.	Includes any other land or premises declared by the Governor in Council, on	

	Commonwealth	Australian Capital Territory	Queensland	New South Wales	Northern Territory	Tasmania	Victoria	Proposal for WA
	Parliamentary Precincts Act 1988 (Cth)	Legislative Assembly Precincts Act 2001 (ACT)	Parliamentary Services Act 1988 (Qld)	Parliamentary Precincts Act 1997 (NSW)	Legislative Assembly (Security) Act 1998 (NT)	Parliament House Act 1962 (Tas)	Parliamentary Precincts Act 2001 (Vic)	
<b>the parliamentary precincts</b>	Commonwealth, to be treated as part of the parliamentary precinct.	managed by the Territory as to be treated as part of the Assembly precincts.	notice to be part of the parliamentary precinct for a stated period.	resolution of both Houses of Parliament.  The Act also defines a broader parliamentary zone.			recommendation of the presiding officers, to be part of the Parliamentary precincts.	
<b>Control and management of parliamentary precincts</b>	The precincts are under the control and management of the Presiding Officers.	The precincts are under the control and management of the Speaker, subject to the directions of the Assembly.	NA.	The precincts are under the control and management of the Presiding Officers. Control and management may also be vested with a Corporation.	NA.	Control of the grounds of Parliament House is vested in the House Committee.	The precincts are under the control and management of the Presiding Officers.	NA.  See note #.

## Appendix 2

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### **BARRACKS ARCH<sup>9</sup>**

Built in 1866, Barracks Arch was originally the entrance to the Pensioner Barracks which housed the Pensioner Guards. These were the guards that came to Australia on convict ships that transported nearly 10,000 prisoners to Western Australia from 1850.

Originally based in Fremantle, most convict work later moved to Perth. This created a need for accommodation in Perth for the Pensioner Guards and their families. Architect Richard Roach Jewell was appointed to design an appropriate building. He designed many of the important public buildings at this time, including schools in Perth and Fremantle, Wesley Church, the oldest part of the Treasury Buildings, the Town Hall, Perth Gaol and Government House.

After 1900, the Barracks buildings were gradually converted to offices, until the 1960s when the Government proposed demolition. The announcement created a public uproar and motivated the Royal Western Australian Historical Society to form a Barracks Defence Council. The final compromise was that most of the Barracks were demolished, but the Arch was to be retained.

Today the Arch is one of Perth's most iconic historic buildings, located at the top of St George's Terrace, next to the Mitchell Freeway and in front of Parliament House. It not only represents Perth's convict era, but shows how Western Australia slowly came to feel a need to protect its heritage buildings.



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<sup>9</sup> Heritage Perth. (2019). Barracks Arch - Heritage Perth. [online] Available at: <https://heritageperth.com.au/properties/barracks-arch/> [Accessed 21 May 2019].

## Appendix 3

### PARLIAMENT HOUSE SITE PERMANENT RESERVE (A↑1162) ACT

1951.] *Parliament House Site Permanent Reserve* [No. 6. Reserve (A↑1162)].

#### PARLIAMENT HOUSE SITE PERMANENT RESERVE (A↑1162)

15° Geo. VI., No. VI.

\* No. 6 of 1951.

AN ACT relating to Reserve A↑1162 (Perth town lot 55, Parliament House site).

[Assented to 20th November, 1951.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Parliament House Site Permanent Reserve (A↑1162) Act, 1951.*

Short title.  
Of. Acts  
Nos. 33 of  
1924 and  
31 of 1933.  
*Gazette*  
23rd March,  
1950, p. 986.

2. In this Act—

Interpreta-  
tion.

“departmental buildings” means the buildings which, when this Act comes into operation, are erected and used, or are in course of erection and intended for use, for the purposes of Government Departments on the land, but which are not Parliamentary Buildings;

“land” means the land comprising Reserve A↑1162 dedicated to the purpose of Parliamentary Buildings.

3. That portion of the land—  
occupied by and used in connection with departmental buildings already erected when this Act comes into operation;

Modification  
of purpose  
of  
dedication.  
Of. *Land Act*,  
1933-1950,  
ss. 29 and 31.

necessary for occupation by departmental buildings then in course of erection, and for use in connection with them, when completed

may,

for a term of five years commencing on the coming into operation of this Act,

continue so to be occupied and used in all respects as if to that extent that portion were reserved for the use and requirements of the Government pursuant to the provisions of paragraph (b) of section twenty-nine of the *Land Act, 1933-1950*, notwithstanding that the land is dedicated to the use of Parliamentary Buildings.

### **PARKS AND RESERVES ACT 1895 – POWERS OF AUTHORISED PERSONS**

#### **7A. Powers of authorised persons**

- (1) An authorised person who is not a member of the Police Force and who finds a person committing an offence against any by-law made by a Board, or who on reasonable grounds suspects that such an offence has been committed or is about to be committed, may without warrant other than the provisions of this section —
  - (a) remove any vehicle, animal or other thing from land placed under the control of the Board; and
  - (b) stop, detain and search any vehicle, vessel or conveyance; and
  - (c) enter and search any hut, tent, caravan or other erection which is not a permanent residence,

but an authorised person shall not exercise any power specified in paragraph (a), (b) or (c) unless he has first taken all reasonable steps to communicate to the owner or person in charge of the vehicle, animal, vessel, conveyance, hut, tent, caravan or other thing concerned his intention to exercise the power and his reasons for believing that he is authorised to exercise the power.

- (1a) The offices of member of the Board and ranger appointed under section 7 are each prescribed to be public officers for the purposes of the *Criminal Investigation (Identifying People) Act 2002* and as such may exercise the powers in Part 3 of that Act.
- (2) An authorised person may examine any vehicle on land placed under the control of the Board and require the person apparently in charge of the vehicle to inform him whether the vehicle is the subject of a licence or permit under the *Road Traffic (Vehicles) Act 2012* and to give to him the name and address of the owner of the vehicle.
- (3) An authorised person who has reason to believe that a vehicle has been used, driven, parked, stood or left in breach of any by-law made by a Board may require the owner of the vehicle and any person to whom for the time being the possession or control of a vehicle may be entrusted to give any information which it is in his power to give, which may lead to the identification of any person who was driving or who was in charge of the vehicle when the offence is alleged to have been committed.
- (4) As regards an authorised person who is a member of the Police Force, the provisions of this Act relating to authorised persons are not in derogation of but are in addition to those of other Acts relating to members of the Police Force.

[Section 7A inserted: No. 50 of 1978 s. 5; amended: No. 6 of 2002 Sch. 2 cl. 4; No. 76 of 2003 s. 11; No. 8 of 2012 s. 154.]