Session X: Progressive Reform – *Transforming rules of procedure and parliamentary process*

Introduction

Good morning.

My name is Thomas George and I am a Member of the New South Wales Legislative Assembly. I represent the beautiful electorate of Lismore in the north-east of NSW. I am also Deputy Speaker of the Legislative Assembly, an office that I have been honoured to hold since 2011.

I would firstly like to thank the staff of the Parliament of the Cook Islands and everyone involved with organising the 35th CPA Australia and Pacific Regional Conference, you have made me and all of the other delegates feel most welcome.

As Deputy Speaker I thank you also for giving me the opportunity to speak on an interesting aspect of parliamentary procedure, 'transforming rules of procedure and parliamentary process'.

The Parliament of NSW shares many of its fundamental principles with other parliaments that operate under the Westminster parliamentary system, such as the majority's right to govern, the minority's right to be heard, and the function of holding the Executive Government to account.

The core roles of a Westminster Parliament, such as the Parliament of NSW, are to **legislate**, to **represent**, and to **scrutinise**, and it has been the experience of the Legislative Assembly of NSW that our Standing Orders have proven to be sufficiently robust and effective in upholding Westminster principles and facilitating the work of the Assembly.

Consequently, we have not seen the need for a fundamental transformation or reform of our procedural rules and processes.

The need to adapt

Of course, this is not to say that we have not had to modify and refine our rules over the years to adapt to Members' changing needs and to meet the public's changing expectations.

But because most Members of the Assembly would agree that things are basically working well, the evolution of our Standing Orders and other procedures has been gradual. When change has occurred it has been in response to factors like advances in technology and the way that this has impacted on the work of the Assembly, for example, committees being able to meet and question witnesses through videoconferencing, and House Papers being published electronically rather being printed in hard copy.

Similarly, changing expectations as to how the House should operate, such as the expectation that the House will work on more 'family-friendly' hours, has also resulted in changes to our rules and procedures.

As is appropriate, the changes to our practices and procedures have been largely driven and 'owned' by our Members, with advice from the Clerks, as it is the Members who have the best feel for what is, and what isn't working in the House.

The Assembly undertook two comprehensive reviews of the Standing Orders in 1994 and 2006. In both cases the reviews were undertaken to ensure that the Standing Orders reflected the evolving practices and procedures of the Assembly, and also to modernise the language and make the rules more accessible to new generations of Members and the public.

More recently, the Assembly has introduced new procedures into its Standing Orders, by way of stand-alone Sessional Orders, which are intended to give Members greater opportunities to represent their constituencies, to enable the Assembly to discuss certain petitions presented to the House, to give the occupants of the Chair greater scope to maintain order in the House, and to give some committees greater flexibility in relation to their membership.

The first of these new procedures enables Members to give what is known as **Community Recognition Statements**. Community Recognition Statements, which were first adopted in 2013, are 60 second statements that are congratulatory in nature, predominately about constituency or local issues and are uncontroversial. The Statements may recognise charity work, retirements or honours and awards, such as sporting achievements and school awards, or they may offer words of thanks or condolence.

On the other hand, Community Recognition Statements should not contain policy matters; requests for the Government, the House or another body to take some form of action; or criticisms or negative reflections on any person, including Members, Office Holders, the Government, the Opposition, or a third party.

Since their introduction the Statements have proven to be very popular with Members, as it gives us an opportunity to speak about the people and the organisations in our electorates that are doing great things, and to share their stories with the rest of the State. To effectively represent our constituencies we Members must be able to demonstrate that we are engaged and connected with our constituents, and Community Recognition Statements give us a great opportunity to do just that.

The second of the new procedures, which was introduced in 2011, provides for a 16 minute discussion in the Assembly on **petitions that have been signed by 10,000 or more persons**. This is a fantastic procedure that enables us to demonstrate to our constituency that the petitions that we receive are noted and given proper consideration in the House. Petitioners are also able to view the discussions from the Public Gallery, which, I believe, helps to further engage our constituents with the processes of Parliament and reinforces the important principle that petitions are one of the most direct and long-standing means by which constituents can bring their concerns to the Parliament.

I, myself, have participated in a number of 10,000 signature petition discussions on subjects such as palliative care and coal seam gas mining. In each case I found the experience to be most valuable, in that it allowed me to better understand the concerns of the electorate and also gave me an opportunity to articulate my views, both as a local Member and as a member of the Government, on the issues being discussed.

The next procedure which I, as Deputy Speaker, have found to be most useful, assists occupants of the Chair with maintaining order in the House by giving them the discretion to **remove Members from the Chamber for up to three hours or until the conclusion of certain business** for being disorderly. Before this procedure was introduced in 2012, the first option available to Chairs was to call a Member to order three times, only after which they could direct the Serjeant-at-Arms to remove the disorderly Member from the Chamber for the remainder of the day.

This addition to the Chair's tool-kit has been greatly beneficial on two main fronts, firstly because it gives us the capacity to respond to instances of disorder in the Chamber quickly, and secondly, because it gives us the flexibility to determine penalties that are appropriate to the nature and the scale of the disorder.

The final provision that I wish to talk about was introduced in 2015 and allows specialist and portfolio committees that are administered by the Assembly to temporarily appoint **substitute members** in cases where members are unable to participate in committee activities for a period of time or for an inquiry. This was a practical measure to give committees more flexibility in carrying out their functions, even in instances where they may lose one or more of their membership due to unforeseen circumstances.

While these measures demonstrate that the Assembly has, over the years, adapted our Standing Orders and procedures to meet the changing demands of administering a modern Parliament, I still would not wish to argue that we have transformed our rules in a fundamental way.

Shedding light on the Assembly's rules and processes

Though our rules and procedures have not undergone the sort of transformation that is alluded to in the title of this session, the way in which we have made the rules of the House more accessible and better understood by Members, the public and our other stakeholders has.

We are fortunate that our current Speaker, the Hon. Shelley Hancock MP, understands the critical importance of empowering Members and those that they represent with knowledge and a better understanding of how and why the Assembly works in the way that it does, and knows that this knowledge is fundamental to promoting the work of the Assembly, better engaging citizens with the machinery of Parliament and Government, and strengthening parliamentary democracy in the State.

The Assembly's focus on making its procedures, rules and processes more transparent and accessible is highlighted in our Strategic Plan, which emphasises:

- **A digital Legislative Assembly**, and utilising technology to improve systems and better equip Members to participate in deliberations and decision making in the House and on Committees; and

- **Raising awareness of the Legislative Assembly's role** and the activities of its Members, to reinforce the significance of the Assembly within the parliamentary system of government in NSW, and the links between Members, their communities and the Parliament.

The Assembly has done a great deal of work in these important areas recently, much of it channelled through our Procedural Research and Protocol Unit, which has been strengthened and re-positioned for this purpose.

The Unit has completed a number of innovative projects whose purpose is to illuminate and make accessible the rules, procedures and functions of the Assembly to Members and the public. These include:

'An Introduction to the Parliament of NSW' video

- An accessible, professionally produced **video series**: 'An Introduction to the Parliament of NSW', 'Working in the Chamber', 'Working with Committees, 'The Passing of a Bill' and 'Representation, Renovation and Rum', which are available via the Parliament's YouTube channel;

Interactive Sitting Day Schedule

- An **Interactive Sitting Day Schedule**, which is a chart that illustrates the set Routine of Business that will be dealt with by the Assembly during a sitting week, and provides a concise and accessible explanation of each item of business with the click of a mouse. The Interactive Schedule is available on the Parliament's website; and

- The **Procedural Digest** series, which is produced after each sitting period and provides a plain-English summary of significant procedural events that have taken place in the Assembly during the period covered. The Assembly is quick to acknowledge the debt it owes to other legislatures, particularly the Australian House of Representatives, for this idea. The Digests are also available on the Parliament's website.

The Assembly is also doing some innovative work in providing targeted training to senior staff of government agencies on the role, functions and procedures of the Legislative Assembly.

Public Sector Seminars

The Assembly's **Public Sector Seminars** are one-day programs in which participants receive presentations from Members and senior parliamentary officers on the range of work that is undertaken by the Assembly. Participants are also briefed on the procedural and practical relationships between the public sector, Ministers and the Parliament, and they are able to observe first-hand the Assembly at work by watching Question Time from the Public Gallery

The Seminars have been run between 3 and 4 times each year since 2013 and have proven to be very successful, with excellent attendance and consistently good feedback from participants.

While the Seminar series is outward-looking and aims to shed some light on our work and practices, there are also clear benefits for the Assembly itself, as skilling up our stakeholders on our procedures is already resulting in better working relationships between the Parliament and our colleagues in the government sector.

Like the work that is being done to explain the work and procedures of the Assembly to the public and staff of government agencies, equally, the Assembly is working with its Members to ensure that they, too, fully understand the rules of the House and their rights and responsibilities as Members of Parliament.

Procedural publications for Members

To this effect the Assembly has developed various procedural toolkits for Members, such as:

- The **'Short Guide to Procedure'** publication, which offers Members a concise reference guide to the practice, procedures and precedents of the Assembly;

- The **'Practical Procedure for the Introduction and passage of bills in the Legislative Assembly'** publication, which provides Members with accessible information on the often complex process of considering legislation. The publication also works as a practical step-by-step guide to introducing and considering bills in the House; and

- The **'Chair's Guide to Dealing with Disorder in the House'** publication, which is a guide for occupants of the Chair about the forms of disorder that may arise in the House. Importantly, the Guide gives Chairs practical tools with which to maintain order and deal with instances of disorder on the Chamber floor and in the Public Gallery.

These publications are intended to be used in conjunction with the oral briefings and advice that are provided to Members on an informal one-on-one basis by our Senior Clerks, on both general procedural matters, and specific procedural issues that have arisen in the House.

The personal support from our Senior Clerks is also extended to our panel of Temporary Speakers, who preside in the Chair in the absence of Madam Speaker, the Assistant Speaker and myself. This support is aimed at equipping our Temporary Speakers, particularly those that are new to the role, with all of the procedural tools that they will need to confidently manage House proceedings and maintain order.

New Temporary Speakers, for example, are offered one-on-one briefing sessions with our Acting Deputy Clerk, who will provide:

- advice on the application of the Standing Orders and common situations that might arise in the Chamber, and how Chairs might respond to them;

- a package of loqs, or scripts, that the Chair might commonly use while in the Chair; and

- a package of publications, including the 'Short Guide to Procedure' and the 'Chair's Guide to Disorder', which I referred to earlier.

Of course, the personal support offered to our Temporary Speakers, and indeed all Members, by our Senior Clerks is ongoing and I can say that all Members appreciate the 'open door' policy of Assembly staff and their willingness to provide assistance and advice whenever it's called for.

Changes to the Routine of Business information pamphlet

The Assembly also provides targeted education programs and training to Members and Members' staff on particular aspects of its procedures and practice when the need arises. One example of this occurred in March of this year when the House adopted a number of changes to its weekly Routine of Business and some other consequential changes to the Standing Orders.

To ensure that Members and Members' staff fully understood the changes and were equipped to work within the new Routine, the Procedural Research and Protocol Unit and the Table Office jointly undertook an education program consisting of a series of briefing sessions and the distribution of an information pamphlet.

This type of proactive engagement with Members and their staff about our procedures plays an important role in ensuring that the House runs smoothly and in accordance with the rules that govern it.

Lastly, I would like to talk about the great work that the Assembly is doing to build the procedural capacity of its own staff in order to ensure that the services and advice being provided to Members, the public and other stakeholders is of the highest standard.

A challenge for any Parliament is how to retain that invaluable corporate and procedural knowledge that can easily leave an organisation when Clerks and other senior officers leave the service of the House. This challenge is of particular significance to the Assembly as, in recent years, we have seen some of our most senior and experienced officers retiring.

Legislative Assembly succession plan

To combat any potential procedural 'brain drain' resulting from our experienced staff leaving, the Assembly has put in place a comprehensive succession planning policy and a program of knowledge sharing among staff. These activities include:

- An ongoing program of procedural de-briefs that follow each sitting period. The purpose of the de-brief sessions, which are led by the Acting Deputy Clerk, are to discuss notable events that have taken place during the previous sitting period and the procedures that underpin them;

- A work rotation policy, whereby staff are able to move between different units within the Department of the Legislative Assembly, such as the Committee Office, the Procedural Training and Protocol Unit and the Table Office, to expand their procedural and organisational knowledge and experience; and

- A program to give more staff an opportunity to work in the Chamber and develop first-hand experience in supporting the Assembly as a Clerk-at-the-Table.

Conclusion

While the onus is on all Parliaments to ensure that their rules and procedures are fit-for-purpose and serve Members, the public and the institution itself effectively, I do not believe in change for change's sake.

Rather, I believe that those practices and rules that have served the NSW Parliament and other Parliaments so well for so long should be maintained and promoted as standard bearers for a stable democratic process. By the same token, a complete overhaul of a Parliament's procedures may have the unintended consequence of de-skilling Members and parliamentary staff who have acquired invaluable procedural knowledge and experience over time.

But regardless of whether we wish to maintain our rules or transform them, it is paramount that we work hard to find new and innovative ways to make these procedures, which were once considered to be the secret domain of Clerks and Speakers, both accessible and easily understood by Members and the constituency alike. In my view, a healthy, engaged and dynamic democracy depends on it.

Office of the Clerk contact details

E-mail: Helen.Minnican@parliament.nsw.gov.au

Telephone: +61-2-9230 2666

If you would like more information on any of the things that I have spoken about today, please feel free to contact the Office of the Clerk of the Legislative Assembly at the details shown on the slide.

Let us now proceed to some discussion points on the topic of transforming the rules of procedure and parliamentary process.

Some discussion points

1. I've talked about our Westminster traditions in NSW, are there any parliamentary procedures that you have in your jurisdictions that uniquely reflect your cultural heritage?

2. What has been the experience of your jurisdictions with changes to parliamentary procedure? Has this change been driven by Members, Clerks or public expectations?

3. In NSW we hear a lot about "plain English drafting" to ensure clarity of meaning and eliminate ambiguity, or to remove "Clerks' mumbo jumbo", as one of our Members puts it.

   Does this lend itself to procedure, or do you risk losing some of those parliamentary terms which might sound outdated but are, in fact, well understood by practitioners?

4. Some procedural reforms are practical and non-contentious as they reflect the will of the entire House; others are more contentious and might be seen in terms of party politics where the majority make the rules.

   Are there any examples of the latter which delegates might wish to share from their jurisdictions?

5.   Where there is procedural change, how do we explain this to Members? What user-education and engagement strategies have worked in your jurisdictions?

6.   Do Members have input into procedural change in your jurisdictions, or is it senior Members that lead the change, or a mix of both? What is the appropriate role of Clerks in this process?