



Standing Orders and Procedure Committee

Report 5/57 – October 2021

Citizen's Right of Reply – Mr Benjamin Geary





LEGISLATIVE ASSEMBLY

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The motto of the coat of arms for the state of New South Wales is "Orta recens quam pura nites". It is written in Latin and means "newly risen, how brightly you shine".

Contents

Membership _____	ii
Terms of reference _____	iii
Chair's foreword _____	iv
Chapter One – Mr Benjamin Geary's request for a Right of Reply _____	1
Appendix One – Reply from Mr Benjamin Geary to comments made by Ms Jodie Harrison MP, Member for Charlestown _____	2
Appendix Two – Citizen's Right of Reply procedure _____	4

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Terms of reference

The Standing Orders and Procedure Committee has been appointed to inquire into, and report on any matter relating to the Standing Orders or the procedures of the House and its committees.

Chair's foreword

At a meeting of the Standing Orders and Procedure Committee held on 23 July 2021 the Committee resolved that Mr Geary should be given a Citizen's Right of Reply in response to comments made by Ms Jodie Harrison MP, Member for Charlestown, in the Legislative Assembly on 11 November 2020.

It should be noted that, in accordance with Clause 6 of the Citizens' Right of Reply procedure adopted by the Legislative Assembly on 7 May 2019, the Committee has not judged the truth of any statements made in the Legislative Assembly or Mr Geary's submission.

I present the report to the House.

A handwritten signature in blue ink that reads "Jonathan O'Dea". The signature is written in a cursive style with a large initial 'J'.

The Hon. Jonathan O'Dea MP
Chair

Chapter One – Mr Benjamin Geary's request for a Right of Reply

- 1.1 On 11 May 2021, Mr Benjamin Geary wrote to the Speaker seeking a Citizen's Right of Reply in relation to comments made by Ms Jodie Harrison MP, Member for Charlestown, in the Legislative Assembly on 11 November 2020.
- 1.2 The Committee has considered Mr Geary's request, and concludes that Mr Geary should be given a Reply, in a form agreed to by Mr Geary and the Committee, and that it be published by the Legislative Assembly. Mr Geary's Reply can be found at Appendix One of this report.
- 1.3 In agreeing that a Reply should be given to Mr Geary it should be noted that, in accordance with Clause 6 of the Citizens' Right of Reply procedure adopted by the Legislative Assembly on 7 May 2019, the Committee has not judged the truth of any statements made in the Legislative Assembly or Mr Geary's submission.

Appendix One – Reply from Mr Benjamin Geary to comments made by Ms Jodie Harrison MP, Member for Charlestown

In reference to the comments made by Ms. Harrison in the Legislative Assembly on 11 November 2020, I make the following comments:

*Ms Harrison's comments caused significant damage to my work reputation, causing people to consider me unscrupulous, of poor morality, and poor character.

*During a time of economic recession and financial distress, Ms Harrison's comments caused me more distress, including mental health issues. She showed a lack of understanding or knowledge of the challenges faced by builders and sole traders.

*Ms Harrison referred to me as 'Ben Geary of BJB Builders Pty Ltd'. This is incorrect, as I never operated as a 'Pty Ltd' or company. I operated as a sole trader business.

*Ms Harrison stated that I failed to complete works at an Adamstown Heights property. She stated that there were more than 100 building defects, and in excess of \$170,000 in incomplete and defective works. A building assessment cites only 12 defects, and a much lower \$46,000 of incomplete works. Works were in fact suspended due to non-payment of invoices totalling \$53,000, and other issues including contractual breaches.

*Ms Harrison stated I inadequately carried out significant works on a home in Kahibah, and left the home damaged, incomplete and defective. Ms Harrison stated I did not comply with a fair trading order to rectify this issue. This has caused significant damage to my reputation. In fact, the works were suspended on the site due to non-payment of two invoices, giving me contractual rights to suspend or terminate works.

*Ms Harrison stated that I have left families with 'defect-riddled' homes, which is incorrect. Fair trading and building reports have listed minimal minor defects. The clients are residing in their homes.

*Ms Harrison stated that families are 'thousands of dollars out of pocket' which is incorrect. Owners are able to claim through 'home building compensation fund' as per my bankruptcy, despite the owners having unpaid invoices owing to me. Ms Harrison's statements harmed my reputation, causing people to believe I lack good morals and integrity.

*Ms Harrison stated I was free to work for other customers and operate as a builder in the lower Hunter. She called for an urgent investigation into my trading. Factually, I acted responsibly and did not offer my services to clients throughout the year of 2020. I shut-down my business and prepared for bankruptcy.

*On the 5th of February 2021, my new employment was terminated due to a newspaper report of Ms Harrison's speech. The termination notice stated that the negative publicity could potentially risk the company reputation.

Reply from Mr Benjamin Geary to comments made by Ms Jodie Harrison MP, Member for Charlestown

*As a member of parliament, I expect that Ms Harrison would support the community, small business, and families. Instead, she has caused me distress, mental health issues, loss of employment, and damaged my character and reputation.

Appendix Two – Citizen's Right of Reply procedure (adopted 7 May 2019)

That, during the current Parliament, unless otherwise ordered, the following Citizens' Right of Reply be adopted:

- (1) That where a submission is made in writing by a person who has been referred to in the Legislative Assembly by name, or in such a way as to be readily identified:
 - a. claiming that the person or corporation has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that the person's privacy has been unreasonably invaded, by reason of that reference to the person or corporation; and
 - b. requesting that the person be able to have consideration given to an appropriate response being published by the Legislative Assembly or incorporated into Hansard, and the Speaker is satisfied:
 - c. that the subject of the submission is not so obviously trivial or the submission so frivolous, vexatious or offensive in character as to make it inappropriate that it be considered by the Standing Orders and Procedure Committee;
 - d. the submission was received within 6 months after the relevant comments were made in the House unless the applicant can show exceptional circumstances to explain the delay; and
 - e. that it is practicable for the Committee to consider the submission under this resolution, the Speaker shall refer the submission to that Committee.
- (2) That the Committee may decide not to consider a submission referred to it under this resolution if the Committee considers that the subject of the submission is not sufficiently serious or the submission is frivolous, vexatious or offensive in character, and such a decision shall be reported to the Legislative Assembly.
- (3) That if the Committee decides to consider a submission under this resolution, the Committee may confer with the person who made the submission and any Member who referred in the Legislative Assembly to that person or corporation.
- (4) That in considering a submission under this resolution, the Committee shall meet in private session.
- (5) That the Committee shall not publish a submission referred to it under this resolution of its proceedings in relation to such a submission, but may present minutes of its proceedings and all or part of such submission to the Legislative Assembly.
- (6) In considering a submission under this resolution and reporting to the Legislative Assembly the Committee shall not consider or judge the truth of any statements made in the Legislative Assembly or the submission.
- (7) That in its report to the Legislative Assembly on a submission under this resolution, the Committee may make either of the following conclusions:
 - a. that no further action be taken by the Committee or the Legislative Assembly in relation to the submission; or
 - b. that a response by the person who made the submission, in terms specified in the report and agreed to by the person or corporation and the Committee, be published by the Legislative Assembly or incorporated in Hansard by the Speaker.
- (8) That a document presented to the Legislative Assembly under paragraph (5) or (7):
 - a. in the case of a response by a person or corporation who made a submission, shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character; and
 - b. shall not contain any matter the publication of which would have the effect of:
 - i. unreasonably adversely affecting or injuring a person or corporation, or unreasonably invading a person's privacy, in the manner referred to in paragraph (1); or

- ii. unreasonably adding to or aggravating any such adverse effect, injury or invasion of privacy suffered by a person.

(9) That a corporation making a submission under this resolution is required to make it under their common seal.

The provisions of Standing Order 306 do not apply to any report made by the Committee to the Legislative Assembly under this resolution.