

*Standing Committee on Estimates and Financial Operations — Eighty-fifth Report —
Consideration of the 2021–22 budget estimates — Motion*

Resumed from 28 February on the following motion moved by Hon Peter Collier (Leader of the Opposition) —

That the report be noted.

Hon KLARA ANDRIC: I welcome the opportunity to once again make a contribution on the Standing Committee on Estimates and Financial Operations' eighty-fifth report, *Consideration of the 2021–22 budget estimates*. As I have said, I welcome the opportunity to speak again. I will continue my remarks from the previous sitting week and try to go on from where I left off from last time. If the chamber can recall, I was speaking on chapter 5 of the eighty-fifth report, titled "Provision of information", which I went into in some detail last time I made a contribution to this report. I will try not to be too repetitive and will complete my remarks regarding that matter.

As members know, ministers are entitled to and can exercise the non-provision of information for certain reasons. These reasons can include things such as legal professional privilege and an unreasonable impact on one's privacy and security and of course the safety of those who may be directly or indirectly involved with an agency. Other reasons for the non-provision of information include commercial sensitivities, security reasons and also when the disclosure of information would require a substantial allocation of resources. Those are the key reasons for the non-provision of information; however, it should probably be noted that the entitlement for non-provision does not apply to certain things, which I may have touched on in one of my previous contributions to the eighty-fifth report. Nevertheless, the entitlement does not apply during hearings when members can pursue information and when a minister has advised that the information requested does not exist or is not held within that relevant department that the request is going to. All instances of non-provision are listed on table 4 on pages 11 and 12 of the eighty-fifth report. From my recollection, I went through some of the information on table 4 —

Hon Pierre Yang: Would you like to go through them again?

Hon KLARA ANDRIC: How about I go through some of them, not all of them, honourable member? I will refer to two examples. That should cut it in terms of the eighty-fifth report.

Hon Martin Aldridge: You could list at least the section 82 examples.

Hon KLARA ANDRIC: Hello, honourable member. Good to see you.

Hon Martin Aldridge: Read them all out. Read out the noncompliance.

Hon KLARA ANDRIC: No, I think I will stick to two examples that I have noted, which include the withholding of property condition reports of Government Regional Officers' Housing by the Department of Communities to protect the privacy, security and safety of the occupants. The other example that I might use is the redaction of a police officer's name when accompanying a minister on a chartered aircraft, which, as we know, is for privacy and security reasons. With this in mind, I wish to point the members who are paying very close attention to my contribution to finding 2 of the eighty-fifth report, which states —

The Committee's consideration of the 2021–22 estimates of expenditure was not adversely affected by Ministers' decisions not to provide certain information.

As members would probably agree, it is quite pleasing to hear that the committee was not impacted and it could still perform its inquiry, even with some information being withheld. The committee's examination, despite instances of non-provision of information, in fact emphasises the importance of balancing the need for transparency with considerations such as the ones that I mentioned, which is privacy, security and the like. It is reassuring that the committee's scrutiny was not affected by those decisions and it indicates the effectiveness of the oversight role.

On the subject of non-provision, it should be noted that WA has enacted legislation regarding non-provision of information, which, I understand, is unique to our state's jurisdiction. The honourable member mentioned it just then; I did not quite hear him before, but I will take it that he was talking about section 82 of the Financial Management Act 2006. Am I correct?

Hon Martin Aldridge: Was it more a recommendation of one of the royal commissions —

Hon KLARA ANDRIC: I am not too sure. No?

Hon Martin Aldridge: — about the non-provision of information to Parliament provisions in the Financial Management Act? That is maybe something for the committee to examine in its next report.

Hon KLARA ANDRIC: I am sure Hon Peter Collier is writing down notes on the honourable member's question.

Hon Pierre Yang: He is pondering.

Hon KLARA ANDRIC: Yes, he is, is he not?

Nevertheless, I take this opportunity to thank members of this committee who have worked quite tirelessly to collaborate the information that we have before us in the eighty-fifth report. I have made a few contributions on it

previously and if given the opportunity, I look forward to making another contribution about the eighty-fifth report and its findings at another time.

Hon NICK GOIRAN: Thank goodness the time has just elapsed for the previous speaker, because it will give the honourable member an opportunity to look up the Financial Management Act 2006 and read section 82. When the honourable member does that, she will find that it does not provide an exemption for Labor cabinet ministers. There is no such exemption under section 82. It is part of the statute book of Western Australia, and as a result the honourable member might be interested to know that each cabinet minister is required to comply with that law, not if the honourable member feels like it might be a thing to do, or to spend time reading out the basis for non-provision. It seems obvious to me after that contribution that the honourable member does not understand the provision. The provision simply means that any time a minister of the Crown decides to not provide information to Parliament, for whatever reason, they have to notify Parliament and the Auditor General pursuant to section 82. It is not optional, not if they feel like it, and it does not matter what the reason is; they have to do it. The point at recommendation 2, which the honourable member conveniently seemed to pause at and not read, is that the committee has recommended that this particular list of ministers comply with section 82.

The honourable member may also be interested to read the response from the McGowan Labor government provided on 15 February 2022, more than two years ago. The then McGowan government said that it supported recommendation 2 and that ministers would follow the requirements of section 82 of the Financial Management Act 2006. The government said two years ago that its ministers would comply with section 82.

A question that members might like to consider is now that two years have passed, have the ministers complied with section 82 or not? This question has come up on at least four occasions. I know that pursuant to standing orders, this particular debate was adjourned on 6 April 2022, 26 October 2022 and on 10 May 2023. It appears that in approximately 16 minutes' time, this matter will then conclude, although I think there may be a standing order that will allow some opportunity for an extension. Maybe this would be the opportunity to do that. After four hours of consideration of this report, the house is yet to be informed of whether any of these cabinet ministers have complied with section 82.

I wonder if there is any point in the Standing Committee on Estimates and Financial Operations spending time drawing to members' attention the occasions of the non-provision of information if the attitude of the government of the day is to simply say that it supports ministers' compliance with that law, but then takes no active steps to ensure that that actually occurs. At least one of the ministers in the frame of this matter is no longer a minister or indeed a member of Parliament because it affected the Premier of the day, who, if I am not mistaken, was also the Treasurer of the day. Of the eight examples, four applied to that particular individual. Others listed include the Minister for Emergency Services, the Attorney General and the Minister for Housing.

On careful examination of the report, members might note, including the previous speaker, that there were eight occasions of non-provision set out in a table, itemising the alleged basis and reasons for the non-provision. It is worth noting that the committee has not suggested that ministers send a section 82 notice regarding all eight occasions. On careful examination, members will note that the occasions that do say that it is necessary as a matter of law in Western Australia that this be done, are for claims of legal and professional privilege, or when the claim has been for commercial sensitivity or agency resourcing. That is quite contrary to what the honourable member was suggesting to the house—that, somehow, this is some kind of a shield or defence that makes the cabinet minister immune from compliance with section 82. It is quite the contrary. If the shield being put up is of legal professional privilege, then yes, the cabinet minister can assert that, but at the same time as asserting that, they ought to simultaneously issue a section 82 notice at that particular point in time. It will trigger an inquiry by the Auditor General who will then avail herself of that information and provide an opinion to Parliament as to whether that decision by the cabinet minister to put up that shield of legal professional privilege is reasonable or not. That is how the law operates on this particular issue.

The law falls down when there are ministers of the Crown deliberately or incompetently not complying with the law of Western Australia. Despite the fact that two years ago, there was a commitment made that ministers would follow the requirements, it is not readily apparent to the chamber at this time, some two years later, whether that has occurred. As I said, the problem is that in approximately 11 or 12 minutes, time will have elapsed after four hours of consideration of this point.

Of course, this is not the only issue that has been set out in the report by the Standing Committee on Estimates and Financial Operations. One of the issues that it sets out is a matter to do with the whereabouts of children in the care of the CEO. Members may be aware that there are more than 5 000 children in Western Australia in the care of the state. That is to say that the circumstances of their ordinary homes—some may refer to it as the family of origin—are such that they are at risk to the point that the state intervenes and takes them into care. More than 5 000 children in Western Australia are regrettably in that situation. At that point, the duty falls on the state to be the stand-in parent. One of the things that ought to happen is that the stand-in parent ought to know the whereabouts of the children that are in their care.

In the reporting period set out on page 17, there were 82 children whose whereabouts were unknown at some point in 2020–21. Yesterday, the Minister for Agriculture and Food kindly read into the house the response on behalf of the Minister for Child Protection confirming the numbers for the last calendar year. I do not readily have that information available to me at this time, but I can say with confidence that the figure was less than 82. That ought to be encouraging to all of us. That says that the number of children in the care of the state whose whereabouts are reported as missing seems to be declining. I suspect that also correlates with a period of time when the number of children in care is probably increasing. That tells me that those responsible for the care of these children are now being more attentive to the issue of the whereabouts of those children than was the case some four or five years ago. Again, this is the benefit of the scrutiny provided by the committee and by members to executive government on a very important issue like this—the whereabouts of children in the care of the CEO.

A range of other matters that took place in the agency hearings are set out on pages 17 to 28. It is regrettable that there is not more time to consider this. I encourage members to ask the cabinet ministers whether they intend to comply with section 82 after all of this time.

Hon PIERRE YANG: Thank you, deputy chair, for the opportunity to say a few words on the eighty-fifth report of the Standing Committee on Estimates and Financial Operations entitled *Consideration of the 2021–22 budget estimates*. I thank my colleague Hon Klara Andric for her contribution and deep dive into this report on the four occasions of it coming before the Council. I will reiterate her words on finding 2 of this report. It states —

The Committee’s consideration of the 2021-22 estimates of expenditure was not adversely affected by Ministers’ decisions not to provide certain information.

I think it is important that we look at the words of the standing committee on that aspect.

I do not do this often these days, but if I may, I will go against my own practice on this occasion. The Standing Committee on Estimates and Financial Operations has terms of reference articulated and stipulated under section 3 of schedule 1 of the standing orders of the Legislative Council of Western Australia. It states —

- 3.1 An *Estimates and Financial Operations Committee* is established.
- 3.2 The Committee consists of 5 Members, 3 of whom shall be non-Government Members.
- 3.3 The functions of the Committee are to —
 - (a) consider and report on —
 - (i) the estimates of expenditure laid before the Council each year;
 - (ii) any matter relating to the financial administration of the State; and
 - (iii) any Bill or other matter relating to the foregoing functions referred by the Council;
 - and
 - (b) consult regularly with the Auditor General.

This committee is capably led by Hon Peter Collier, and I take this opportunity to congratulate him on his re-ascension to the position of Leader of the Opposition. Congratulations, Mr Collier. The committee also has as members Hon Samantha Rowe, as deputy chair; Hon Nick Goiran; Hon Dr Brad Pettitt; and, formerly, Hon Jackie Jarvis, before she was elevated by the government to become a minister of the Crown. She was replaced on the committee by my very good friend Hon Dan Caddy.

I would like to look at the conclusion of the eighty-fifth report of the Standing Committee on Estimates and Financial Operations and reiterate the words of that committee, which has three non-government members. These are the words of the whole committee; there is no dissenting report or dissenting motion. It is the unanimous position of this standing committee after its examination of the 2021–22 budget estimates. It states —

- 6.1 The Committee is satisfied that its consideration of the 2021–22 estimates positively contributed to the scrutiny of Government and its operations. The Committee focussed on a number of areas, such as changes to the 2021 Appropriation Bills and the performance management framework, that are not typically scrutinised by other bodies. Of note, the Committee considered the Government’s decision to use higher than expected surpluses to fund broad policy initiatives from the following perspectives:
 - the impact on the Appropriation (Capital 2021–22) Bill 2021
 - the use of special purpose accounts as a vehicle to manage the funds associated with those initiatives
 - the impact of these policy initiatives on the whole-of-government financial estimates.

- 6.2 The Committee considers that the processes it developed for considering the 2021–22 estimates provided an appropriate level of Government scrutiny. The Committee thanks all Ministers and Parliamentary Secretaries, witnesses and participating Members for their assistance.

It is worth noting that Hon Klara Andric and a number of my other colleagues on this side of the chamber spent some time looking at this report and examining the findings and recommendations of the Standing Committee on Estimates and Financial Operations on the 2021–22 budget estimates. I remember my experience of being involved in this process in the last calendar year—the previous financial year—along with my very good friend Hon Darren West, who is now looking after the environment and water portfolios. I recall that process; it is a time when members of the committee and of this place can put pertinent questions to the government. I certainly recall the first occasion, when I was a new member of this place, back in 2017. Hon Martin Pritchard was then government Whip and helpfully allocated a number of sessions for me so that I could have the experience of being involved in the estimates process, examining the government’s budget and financial management.

It is also worth noting that this could be the last time we consider the eighty-fifth report of the Standing Committee on Estimates and Financial Operations. In two minutes and eight seconds we will bid farewell to this report, and I certainly want to thank the committee for its work on delivering this very sensible, pertinent and unanimous report on the 2021–22 budget estimates. It involved a lot of work and responsibility on the shoulders of the chair of that committee in the fortieth Parliament, Hon Alanna Clohesy. Hon Peter Collier has now taken that baton, and I thank the committee for its work.

Question put and passed.