



Parliamentary Debates

(HANSARD)

FORTY-FIRST PARLIAMENT
FIRST SESSION
2021

LEGISLATIVE COUNCIL

Thursday, 9 December 2021

Legislative Council

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THE PRESIDENT (Hon Alanna Clohesy) took the chair at 10.00 am, read prayers and acknowledged country.

LEGUME PASTURE — SERRAMAX

Statement by Minister for Agriculture and Food

HON ALANNAH MacTIERNAN (South West — Minister for Agriculture and Food) [10.04 am]: The McGowan government is continuing to deliver vital research and development to improve options for farmers across the state. Yesterday, we launched the next phase in the life of the “caviar of legumes”, SerraMax. The new serradella variety was selectively bred by the Department of Primary Industries and Regional Development from seed collected from the Greek island of Santorini by a departmental team led by the legendary John Howieson in 1987. We have also launched an expression of interest process for seed growers for the new yellow serradella legume pasture.

SerraMax seed does not require scarification and can be sown using twin or summer sowing techniques to lower the cost and risk of failure of pasture establishment. SerraMax provides a pasture option for livestock producers in low to medium rainfall areas, while its nitrogen fixing qualities can improve soil fertility and boost the yields of following crops. The hard seeded variety is well suited to acidic sands, has good insect and disease tolerance, establishes quickly to outcompete germinating weeds and can be harvested with a conventional harvester. It is also suitable for use as a permanent pasture or in mixtures with perennial grasses, as it regenerates well compared with other yellow serradella varieties. The variety has performed well in field trials in Western Australia and New South Wales and will now move to the next stage of bulking up available seed for growers.

SerraMax will open the door to alternative production strategies for our farmers in low and medium rainfall areas, improving business resilience. We encourage broadacre producers to investigate SerraMax and examine how this unique new pasture option could provide benefits to their operation in the short and long term.

PAPERS TABLED

Papers were tabled and ordered to lie upon the table of the house.

TOWN OF BASSENDEAN CATS LOCAL LAW 2021 — DISALLOWANCE

Notice of Motion

Notice of motion given by **Hon Lorna Harper**.

BUSINESS OF THE HOUSE — SITTING HOURS

Standing Orders Suspension — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [10.07 am] — without notice: I move —

That so much of standing orders be suspended so as to enable the Legislative Council to sit beyond —

- (a) 5.20 pm on Thursday, 9 December 2021;
- (b) 9.45 pm on Tuesday, 14 December 2021;
- (c) 6.20 pm on Wednesday, 15 December 2021; and
- (d) 5.20 pm on Thursday, 16 December 2021;

and that members' statements on those days be taken at a time ordered by the house.

If I may, by way of explanation, President, this is a result, as honourable members would be aware, of extensive discussions behind the chair on how we might achieve the government's legislative agenda. In particular, I want to thank the Leader of the Opposition for his role in reaching agreement on what I think is quite a sensible proposition. In the course of those conversations, we canvassed a range of ways that we might add some additional hours, including starting earlier for example. But the proposition that we have reached agreement on would see the following happen. We anticipate completing the second reading of the Aboriginal cultural heritage bills and going into committee today by 5.20 pm. We would complete the Aboriginal cultural heritage legislation's committee stage and third reading by close of business on Tuesday next week. We would complete the third reading of—this is not its proper name—the puppy farming bill, if I can call it that, by close of business on Wednesday next week, and complete the industrial relations legislation by close of business on Thursday next week. If we need a few minutes beyond those times, the motion before us gives us the opportunity to do that, but I have sought and been given a commitment from the Leader of the Opposition that, in good faith, we are aiming to meet the deadlines that I have just set out. It will require everybody's cooperation; I appreciate that. I thank the house for that and urge members to support the motion.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [10.10 am]: I thank the Leader of the House for that. I want to run through this and confirm. I potentially would have used “exhaustive” as much as extensive discussions behind the chair yesterday.

Hon Colin de Grussa: Exhausting?

Hon Dr STEVE THOMAS: Exhaustive and exhausting conversations yesterday. I want to confirm those. I make the note that the proposals that we are now discussing were actually initiated by me on behalf of the opposition, so the time frames that we are discussing have been put to every member of my team. We have also had extensive discussions with the crossbench, and apologies to any crossbench member who has not been included, but we have attempted to include the crossbench in all these discussions.

Hon Sue Ellery: By way of interjection, if you will allow me, I canvassed the proposition with the crossbench as well, so I am confident that they were part of those conversations.

Hon Dr STEVE THOMAS: Yes; both sides have been in on that. Just allow me to reinforce what the opposition has proposed and what is the expectation of the house so that there can be no uncertainty.

These discussions started yesterday. We proposed to finish the Police Amendment (Compensation Scheme) Bill 2021 yesterday, and I thank Hon Peter Collier for his performance in that. We achieved that.

We proposed to then start on the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021. We proposed and agreed to complete the second reading debate on the Aboriginal cultural heritage bills and to commence the Committee of the Whole stage on this sitting day. I am confident that that will be achieved sooner rather than later and we will work to that end. We have committed to complete the committee and third reading stages of both Aboriginal cultural heritage bills by the close of business on Tuesday, 14 December, ideally by 9.45 pm, the normal time. That will be our aim, but if that is not immediately deliverable, I understand that is why the Leader of the House has moved the motion that we are about to vote on today, and the opposition accepts that in good faith. Obviously, we expect both sides to agree to this and approach it in that manner. Our lead speaker on the Aboriginal cultural heritage bills, Hon Neil Thomson, has been canvassed and has consented that that will be the aim of the opposition.

We agreed that we will attempt to complete the Dog Amendment (Stop Puppy Farming) Bill 2021. Hon Colin de Grussa will be the lead speaker for the opposition on that bill, and we are committing to complete that by close of business on Wednesday, 15 December, ideally by 6.20 pm. I know that other members who will be contributing to that, including myself and Hon Donna Faragher, have committed to that process.

We are then committed to complete the Industrial Relations Legislation Amendment Bill by close of business on Thursday, 16 December. The commitment is, through all our endeavours, to complete that by 5.20 pm, the normal closing time, at which point we can then finalise.

Obviously, all those things will require the commitment of my team. I have canvassed everyone and they have all given that commitment, including Hon Nick Goiran, who will be the lead speaker for the opposition on the industrial relations legislation. I thank him for that.

Under those circumstances, obviously, we expect the government to not unnecessarily delay things. This is on goodwill, so we expect that both sides will do the right thing. If we are to achieve this in the recommended time, we expect both sides will play fair. It is probably my reputation that will be trashed if this does not proceed as proposed. We appreciate that the Leader of the House did not move a motion for early starts next week, and I accept that that may change if we are unable to live up to our commitments in the interim; we might end up negotiating an early start. I am quietly confident that we will hold to this agreement and will get to end this year in as good humour as possible—although it is Thursday, and I do like to ask a funny question or two on a Thursday! We will to the best of our ability try to maintain the dignity of the house.

Question put and passed with an absolute majority.

MINISTERS OF THE CROWN — PERFORMANCE

Motion

HON NICK GOIRAN (South Metropolitan) [10.16 am] — without notice: I move —

That this house —

- (a) expresses its grave concern about the sustained underperformance of senior ministers within the McGowan Labor government in 2021;
- (b) particularly notes —
 - (i) senior health officials have such little confidence in Minister Cook that they have not shared with him timely information about serious issues such as the bacterial contamination outbreak at Sir Charles Gairdner Hospital and the breach of SafeWA app data;

- (ii) the calculated intervention of the Attorney General in the operations of the Corruption and Crime Commission, which resulted in more than 1 000 breaches of law, has led to orders from the Supreme Court declaring the actions involving the Premier's own department were invalid, while in the interim multiple promised law reforms have not occurred; and
 - (iii) the refusal of Ministers Ellery and McGurk to change their policy settings that continue to see victims forced to face their attacker at school or home will now be compounded by the extreme risk there will not be a teacher for every classroom at the commencement of term 1 in 2022; and
- (c) calls on the Premier to give serious consideration to changing the portfolio responsibilities of those ministers with a demonstrated track record of underperformance and no confidence.

The Parliament of Western Australia has a number of roles. Members will be aware that chief of those is to consider and pass or reject various laws proposed primarily, but not exclusively, by the executive. That is not the only thing that the Parliament of Western Australia has a duty and responsibility to do; it must also hold the executive to account. As we come to the end of our sittings for 2021, President, it is clear that the performance of senior ministers in the McGowan Labor government has been nothing short of abysmal.

The chief culprit is, of course, the Minister for Health. It is well documented that the health system is in crisis. Only this morning, the Australian Medical Association said that the latest plan proposed by the minister and department for when we open up to the arrival of COVID is all wrong. The Australian Medical Association has proposed remedial plans for that.

Members will be well aware that once upon a time Minister Cook was the shadow Minister for Health and he was extremely concerned when the figures for so-called ambulance ramping were in the realm of 1 500 hours. Ambulance ramping hours are now in the realm of four times that amount, yet the Minister for Health has had the best part of five years to do something about that.

Hon Alannah MacTiernan: He hasn't had a pandemic to deal with!

Hon NICK GOIRAN: It is interesting once again that the Minister for Regional Development seems to think that there has been a pandemic for five years. Although that might be —

Several members interjected.

The PRESIDENT: Order!

Hon NICK GOIRAN: — some form of excuse —

Several members interjected.

The PRESIDENT: Order!

Several members interjected.

The PRESIDENT: Order! Members, that was the third time I called order. I expect order to be achieved the first time I call it. I understand this is a contentious motion, but I require the chamber to demonstrate respect to the member on their feet.

Hon NICK GOIRAN: This is a highly contentious motion because of the abysmal performance of senior ministers in the McGowan Labor government.

Hon Alannah MacTiernan: He kept the state safe.

Hon NICK GOIRAN: The Minister for Regional Development is obviously feeling some form of attention deficit syndrome because she is not mentioned in the motion. Rest assured, Minister for Regional Development, I have no doubt whatsoever that my colleagues will be quite happy —

Several members interjected.

The PRESIDENT: Order!

Hon NICK GOIRAN: I am sure, Minister for Regional Development, that my colleagues in due course will be quite happy to underscore your underperformance.

Hon Alannah MacTiernan interjected.

Hon NICK GOIRAN: But for the time being, Minister for Regional Development, this motion is about the Minister for Health.

Hon Alannah MacTiernan interjected.

Hon NICK GOIRAN: He has been consistently underperforming and it is well known —

Several members interjected.

The PRESIDENT: Order!

Hon NICK GOIRAN: It is well known and on the public record that the Minister for Health has been underperforming consistently.

Hon Alannah MacTiernan: He's kept the state healthy.

Hon NICK GOIRAN: There is no better example of that, Minister for Regional Development, than the fact that a patient died from legionnaire's disease at Sir Charles Gairdner Hospital. Was the Minister for Health informed about any of this? He knew nothing about it. The shadow Minister for Health asked the minister about it. He seemed all at sea. It took Hon Steve Martin to ask some questions in here before we finally got to the bottom of the matter. These are serious matters. The Minister for Regional Development might not agree, but in due course she will be able to stand up and defend the Minister for Health. We think he has been abysmal. If the minister thinks he has been fantastic, in due course she can get up and say so. But his performance has been shocking, and he has had five years to do something about it. In opposition he was quite happy to identify serious concerns, but then he realised, strewth, he actually has to do some work! It is amazing, Minister for Regional Development, that senior government ministers have not quite worked out that they have to do more than simply win an election. Once they win an election, the real work starts.

Hon Sue Ellery: You'll never know what that feels like.

Hon NICK GOIRAN: Minister for Education and Training, do not worry; your turn is coming!

Not only have senior health officials —

Several members interjected.

The PRESIDENT: Order!

Hon NICK GOIRAN: Not only have senior health officials chosen not to provide information to the Minister for Health about serious issues, including water contamination at Sir Charles Gairdner Hospital, but also we know, because of work undertaken by the Standing Committee on Estimates and Financial Operations, that senior health officials chose not to advise the Minister for Health about Western Australia Police Force requests to breach the SafeWA app data. During the second hearing of the Standing Committee on Estimates and Financial Operations on Wednesday, 23 June this year, I asked: when did the Chief Health Officer first make the director general of Health aware of Western Australia Police Force requests for access to SafeWA data and when did the Chief Health Officer first discuss WA police requests for access to SafeWA data with the Commissioner of Police? The information that came back subsequently was that the earliest written documentation between the Chief Health Officer and the acting director general regarding the Western Australia Police Force request for SafeWA data was on 8 January 2021. Further, the Chief Health Officer noted in his diary that the WA Police Force request for SafeWA data was discussed informally with Western Australia Police Force staff on 13 January 2021. Senior health officials were discussing this breach as early as January, but the Minister for Health knew absolutely nothing about it. They had no confidence in sharing with him serious issues and serious information.

It was revealed recently—again, because of the work undertaken by the Standing Committee on Estimates and Financial Operations—that one of the senior health officials was sitting in the seat of the director general in an acting capacity during the course of January and February. He wrote to his superior, the director general, on 22 February to say —

When I was covering for you I (verbally) raised the issue of police access to the COVIDSafe app information (eg raceway shooting) with —

The name of this particular individual, who is a person at the State Solicitor's Office whose name is redacted in the document —

... and his colleague who attends the Premier's meetings. There seems to be minimal judicial oversight of such requests and I think 2–3 were made in connection with that incident. I have repeatedly called this out as a cause for concern which could threaten public trust.

These guys talked about it themselves, but they did not mention it to the Minister for Health, such is their lack of confidence in that minister.

He is not the only minister with a demonstrated track record of underperformance and no confidence. I turn to the Attorney General of Western Australia —

Hon Alannah MacTiernan: Oh, my God. A work rate of about five million times his predecessor.

Hon NICK GOIRAN: It is interesting that the Minister for Regional Development, from the comfort of her chair, has decided to try to defend the performance of the Attorney General, which has seen the law of Western Australia broken more than a thousand times.

Hon Alannah MacTiernan: From the comfort of my chair? Do you want me to stand up?

Hon NICK GOIRAN: More than a thousand times the law of Western Australia has been breached because of your Attorney General. That is a decision that has been made as a result of the Supreme Court decision. The Minister for Regional Development might like to do one of two things: listen or read.

Hon Alannah MacTiernan: Who are you protecting? Are you on the laptop?

Hon NICK GOIRAN: The executive summary of the Standing Committee on Procedure and Privileges report says quite simply that it is the PPC's view that at the heart of this matter is an entirely inexplicable sudden cessation of good faith negotiations between the PPC and the Corruption and Crime Commissioner.

Hon Alannah MacTiernan: Good faith negotiations? You're running a protection racket!

Withdrawal of Remark

Hon TJORN SIBMA: I think the Minister for Regional Development absolutely slurred my colleague then, and I ask her to withdraw.

Hon NICK GOIRAN: Further to the point of order, President, the Minister for Regional Development just referred to a "protection racket", and it was in response to a decision by the Standing Committee on Procedure and Privileges, which you chair —

Hon ALANNAH MacTIERNAN: That is not a point of order!

Hon NICK GOIRAN: It is absolutely out of order for this member —

The PRESIDENT: Order! I will decide what is a point of order. I ask the member to bring his comments back to the particular standing order he wishes to address.

Hon NICK GOIRAN: That is the point of order, President. The Minister for Regional Development has implied that you and your committee are some form of protection racket, and we, the opposition —

The PRESIDENT: Thank you, honourable member. We have one point of order before the house from Hon Tjorn Sibma, and I will not invite any further commentary on the matter.

Honourable members, I have considered the point of order and although I did not catch the full detail of the comment, I take it that the member is referring to standing order 45. Because I did not catch the comment, I am unable to consider whether improper motives were imputed. However, as the honourable member has taken offence, I invite the minister to withdraw the comment.

Hon ALANNAH MacTIERNAN: I withdraw.

Debate Resumed

Hon NICK GOIRAN: Thanks, President. I was quoting from the executive summary from the standing committee that the President chairs, which has undertaken exceptional work, albeit that this particular report was from the previous iteration of the committee. Paragraph 5 of the executive summary continues to say —

This coincided with the bald usurpation of the powers and privileges of the Legislative Council through the calculated intervention of the Attorney General and State Solicitor's Office ... to the potentially unlawful benefit of the CCC.

This particular report goes on to say at paragraph 19 —

In September 2019 the Attorney General commenced legal proceedings against the President of the Legislative Council. Purporting to be acting in support of the CCC, one of his portfolio agencies, the Attorney General's arguments as set out in his statement of claim are potentially highly destructive of over 300 years of parliamentary privilege and the immunities and powers generally of a Westminster system House of Parliament.

...

After more than a year of various things, including —

... unsuccessful attempts by the Attorney General to both strike out important aspects of the President's pleadings and avoid discovery of important evidence ...

The Attorney General of Western Australia has been avoiding the discovery of important evidence and has tried on multiple occasions to strike out important aspects of the pleadings of the President representing the Legislative Council of Western Australia. That is no small matter at all, as members know full well, because our standing committee has found —

1,120 records reviewed by the SSO and subsequently produced by the DPC to the CCC, in purported response to the first and second CCC notices, were in fact subject to parliamentary privilege.

In other words, the law of Western Australia has been broken more than a thousand times and it is the Premier's department that has done it. It has all been done because of the architect, the Attorney General, yet the Minister for Regional Development talks about his work rate. Stop breaking the law of Western Australia! That is not the kind of work rate that we want. He might be doing some other things, and on occasion I have acknowledged that the minister has done some good things, including the recent law that we passed earlier this week.

Hon Alannah MacTiernan interjected.

Hon NICK GOIRAN: But we are not going to support him breaking the law of Western Australia a thousand times, honourable member. We are simply not going to do that. If she wants to get up and support him breaking the law of Western Australia, she should get up from the comfort of her chair and go and do that.

Hon Alannah MacTiernan interjected.

Hon NICK GOIRAN: On 26 October this year, the Honourable Justice Hall, whom obviously the Minister for Regional Development does not agree with, made his final orders. Guess what? He is the umpire, Minister for Regional Development, and his final orders were to conclude this particular matter. That included, according to the statement the President issued only recently on 30 November this year —

... to declare that the receipt by the commission on 22 July 2019 of the Department of the Premier and Cabinet's records in reply to the commission's various notices to produce documents was in contravention of section 3(2) of the Corruption, Crime and Misconduct Act 2003 ... in excess of the commission's powers, rights or functions and invalid ...

Who is responsible for that? It is either the Corruption and Crime Commissioner or the Attorney General—or both of them. The Minister for Regional Development can absolutely get up and defend aspects of the Attorney General's performance, but this episode resulted in the law of Western Australia being breached a thousand times. Tell me how many other cabinet ministers who have been both engineer and architect of the law of Western Australia that has been breached a thousand times still get to keep their job. It is absolutely outrageous! The Premier should move this member on.

As I said, this is not the only problem with the Attorney General, because, as has been outlined in the motion, while he has been dabbling in trying to sue the Parliament, while he has been dabbling unsuccessfully to strike out proceedings, and while he has been busy trying to avoid providing evidence to a court, to the umpire, what has been going on? Multiple promised law reforms have not occurred.

Members will know that I have repeatedly called the McGowan Labor government out for the complete lack of progression with the elder abuse laws that were supposed to be reformed. When we come back at the start of next year, more than five years will have passed since Premier McGowan and the Attorney General promised the people of Western Australia that they would expedite the reforms. Here we are five years later, and there is nothing to be seen—not one bit whatsoever with regard to elder abuse. It is shocking.

Last year, more than 12 months ago, after the very tragic death of Annaliese Ugle, this same member, the Attorney General, whom the Minister for Regional Development loves to defend, said that the government would expedite reforms to the Bail Act. What has happened? The whole year has gone by and we have seen nothing whatsoever because he has been too busy dabbling in this nonsense in the Supreme Court. He has been found out. It has cost the taxpayers of Western Australia a massive amount.

In the meantime, of course, the government had to make sure that it expedited the bill to make it as difficult as possible to extend Roe Highway—very important. Throughout the whole of the forty-first Parliament, there is no chance whatsoever that the McGowan Labor government is going to extend Roe Highway, but one of its most important tasks this year was apparently to expedite the passage of that bill. It is insane that this is the priority of the McGowan Labor government, the Attorney General and the Premier—senior ministers. This is no way to run a legislative program.

Of course, as members will know, there is also the highly contentious matter of the Premier of Western Australia saying prior to the election that he would not dabble and tamper with the laws under which members of this chamber are elected—it was not on the agenda. Reporters wrote that the Premier grew increasingly exasperated at questions being asked of him, and he continuously said that it was not on the agenda. Here we are at the end of the first calendar year of the McGowan Labor government in the forty-first Parliament and guess what? It has been expedited through the Parliament. What about the elder abuse reforms the government promised it would expedite five years ago? What about the bail reforms after the tragic death of Annaliese Ugle? There has been nothing whatsoever. This type of defence that the Attorney General has, this fantastic work ethic, is all misdirected. It is directed to matters that are evidently not a priority.

Hon Alannah MacTiernan: They are not your priorities; they are our priorities.

Hon NICK GOIRAN: Is the government not going to expedite the elder abuse law reforms it promised five years ago? It is a disgrace, Minister for Regional Development; it is an absolute disgrace.

Several members interjected.

The PRESIDENT: Order!

Hon NICK GOIRAN: I turn to the final limb of the motion and I note a situation. Members will be well aware that children who continue to be forced to see their attackers at school or at home has been an ongoing concern of mine for a long time. I want to draw to members' attention a report from the Commissioner for Children and Young People from October 2020 entitled *School survey findings on student wellbeing*. Page 14 has the heading "What are the barriers to supporting student wellbeing?" and refers to access to support services.

At page 15, the report says —

Child protection concerns

Survey respondents also discussed the challenges in getting support to address child protection concerns, including a lack of follow up when schools have raised concerns, and limited capacity and resourcing of child protection services.

Page 18 says —

“The sheer volume of numbers of students who require a level of intervention and support beyond the capacity of the current resourcing of the school. A single student on a risk management plan for self-harm requires constant vigilance from approximately 6 staff on a daily basis from admin team to classroom teacher and EA support.”

The question is: how many of these risk management plans exist? The Department of Education, through the Minister for Education and Training, has told us in supplementary information that, as at 25 October 2021, 69 of these RMPs are live and underway. According to the Minister for Education and Training, again in supplementary information, the genesis of these risk management plans is what is known as a notification that occurs when a student is charged or when a diversionary option is taken such as a caution or referral to a juvenile justice team. Throughout the year, I have constantly asked the Minister for Education and Training how many such people this applied to, particularly regarding alleged and convicted offenders attending the same public school as their victims. A good example was the response provided by the Leader of the House on 4 May this year that as at April 2021 there were six. There constantly seem to be five, six or seven students each day at the same school as their attackers. This is something I have been discussing for more than two years. Members will be aware of the motion I moved on 25 September 2019 in which I implored the government to abandon its policy that saw some victims of child sex offences attending school each day knowing they may be confronted by their abuser. It was only in August this year that this comment was made by the Leader of the House —

I am satisfied that at a macro level the policy settings are right around ensuring agencies talk to each other, around setting up the protocols for communication, and around constantly reviewing those and making sure that they are up to date.

The victims would not agree with the minister that the policy settings are right. The five, six or seven of those who are constantly in this situation are traumatised when this happens. The Commissioner for Children and Young People evidently does not agree and the survey produced from last year suggests the same. We continue to call on the government, whether it is Minister Ellery or Minister McGurk, to do something about this appalling set of circumstances. It is intolerable and, if they do not do something about it, the Premier needs to step in and do something about it.

HON SUE ELLERY (South Metropolitan — Leader of the House) [10.41 am]: I need to indicate that I am not the responsible minister responding to this motion. I need to leave the house on urgent parliamentary business in a little while, so I want to make some comments now in response to paragraph (b)(iii) of the motion before us, which refers to me and Minister McGurk and our alleged refusal to do certain things.

There certainly is a refusal that the house ought take note of and be really thankful for, and that is the refusal by the WA electorate to elect a government that would have seen Hon Nick Goiran be a minister. This is a man who, if he were a minister, would adopt the following approach based on what we have seen of his performance in here. He knows better than everyone, he is driven by a deep ideology that blocks science and expert advice, and he spends his time stacking branches and attending clan meetings. He has never been a minister and he never will be a minister while he pretty much singlehandedly, although helped by some, focuses his energy and resources on alienating every single possible moderate Liberal voter across Western Australia and long may he reign—long may he reign.

I want to address the two issues. We have talked before about the claim Hon Nick Goiran makes that the government is doing something wrong by having our policy and implementing that policy as it relates to children who have been the subject of sexual abuse by other children. I have made the point before, and I am going to make it again: there is actually somewhere we should look to for advice on this and that is what this government has done. Volume 10 of the final report of the Royal Commission into Institutional Responses to Child Sex Abuse, titled *Final report: Children with harmful sexual behaviours*, makes the following points —

Where a child has displayed harmful sexual behaviours, it is important that institutions respond in ways that promote the safety and wellbeing of all children involved ... Where appropriate and safe to do so —

Safe to do so —

children should maintain contact with the institution in which the incident occurred ... institutions should develop plans to ensure ongoing safety, to support victims and child witnesses, and to manage the behaviour of children who have exhibited harmful sexual behaviours. Planning therapeutic interventions ...

...

... experts advised that removing a child from school is likely to dislocate them from their supports, including peers and friendship groups.

The commission went on to make the following very important point —

There will most certainly be instances in which it is not appropriate for a child to remain at the same school as the children whom they have subjected to sexualised behaviours.

That is the advice that this government has followed. The advice is for each single circumstance to be treated on the particulars of the circumstances as they apply, that a case management approach be put in place, that judgements be made about what is in the best interests of the child who has been the victim of inappropriate sexual behaviours by another child, and that actions be taken accordingly. Hon Nick Goiran does not like that. That is the science; that is the experts' advice. That comes from the single biggest authority in the country on how to deal with child sexual abuse—the Royal Commission into Institutional Responses to Child Sexual Abuse. Hon Nick Goiran is not interested in a sensible application of the policies that the royal commission recommends. He just has an ideological point of view and thinks he knows best, and therefore that is how the government should set its policies in place. There is the evidence of the kind of minister he would be if, at some point in the distant future, he is ever part of a Liberal government. Each case needs to be assessed on an individual basis, and that is exactly what happens.

I will make some points about the areas for which my colleague Minister McGurk is responsible. Hon Nick Goiran has made points in the past about the independent review into the Department of Communities' policies and practices for the placement of children with harmful behaviours in residential care settings. The government welcomed those findings and is acting on putting them in place. It is important to know that a number of actions have been taken by Communities, including a practice directive to frontline child protection staff that ensures that Communities must not knowingly place a child who is subject to reporting conditions under Communities' protection in residential care with other children. It is useful to know the example that the honourable member has used previously about this. Members may have seen the public reporting about Macie and Lee. It is important to understand a couple of things. It should be made clear that Macie and Lee were not placed in residential care arrangements together after the assaults occurred. The assaults occurred when Macie and Lee were no longer in a placement arrangement at the same location. It also needs to be made clear that it was under the previous Liberal–National government's policies and practices that the decision was made—not by this government but by the previous government—to place Lee and Macie together, but he never mentions that when he raises this issue. He just talks about this government.

I have limited time, so I will now touch on the other element that, apparently, I am to be condemned for, and that is the notion that these children are further at risk because there is an extreme risk—is that the word that was used?—that there will not be a teacher for every classroom at the commencement of term 1. People need to understand the process. Every year in term 4 there is a process of recruiting new staff. New graduates come on, teachers move to other jobs, they move around the state and the recruitment process occurs. Members will be interested to know that this year there are fewer teaching vacancies to be filled at this point than there were at the same time last year because we are focused on making sure that there will be teachers in front of every classroom across Western Australia. We have a range of initiatives in place to tackle that.

It is also useful for people to note the circumstances that led to the current pressures—there is no question about that—and that was the decision made by the universities four years ago to change the teaching course structure from one year to two years. There are fewer graduate teachers coming out of universities as a direct result of that decision by the universities. Every year since then the department has had to put in place additional measures, and we have done so successfully, to ensure that there is a teacher in front of every classroom. Whether it is the LEAP program that Hon Peter Collier started as a way of addressing the transition of year 7s to secondary schools when he was the minister; whether it is the provision of limited registration; whether it is the more than 2 000 people in the teacher recruitment pool; whether it is the more than 2 400 teachers in the casual teacher pool; whether it is working with the Teacher Registration Board of Western Australia to make it easier for retired teachers to re-register and come back to provide part-time services; whether it is Teach for Australia; whether it is the On-Country Education program training Aboriginal and Islander education officers to become teachers, which is a great program; or whether it is the Teacher Flying Squad—all those measures are in place. Right now in Western Australia there are fewer teacher vacancies for us to fill than there were at this time last year. Hon Nick Goiran has nothing to complain about with what we are doing to get teachers in front of classrooms.

He raised other matters. It would be to his interest if he paid attention to the people who put together the report for the royal commission and how a policy is put in place to ensure that children are safe at school. If members opposite are worried about the impact on teacher numbers from mandating vaccination, it would benefit everyone if they went back to their communities and encouraged everybody to get vaccinated. If they want to help, if they want to be positive, if they want to demonstrate to those moderate Liberal voters who are desperately looking for someone sensible inside the Liberal Party because they cannot stand the people associated with “The Clan”, they should go back to their communities and encourage everyone to get vaccinated.

HON MARTIN ALDRIDGE (Agricultural) [10.50 am]: I rise to support this motion moved by Hon Nick Goiran on the performance of government ministers. There are too many matters to canvass in the 10 minutes I have, but I will give it a red-hot crack. One of the things I found most surprising was that the cracks were emerging in the health portfolio at the last election, although they were disguised. The cracks were well emerging. For the past

four and a bit years the government has blamed everything on the former Liberal–National government. It has now moved on. It has something new to blame, and that is the pandemic, although from time to time it likes to revert to the roles of previous governments. However, the day will soon come when it does not have either of those things to blame and it will have to defend and own wholly its decisions and performance and those of its ministers.

As I said, the cracks were well emerging before the last election. Despite that, it appears that since the election there has been a bit of a spat between Minister Saffioti, Minister Cook and the Premier over the Treasury portfolio. It has resulted in the Minister for Health, who was already under immense pressure, being given additional portfolio responsibilities. Can members believe it? The Minister for Regional Development said by interjection, “Don’t you know we are in a pandemic?” Her government has given the Minister for Health additional portfolio responsibilities—state development, jobs and trade; and science. They are not insignificant portfolios. If there was ever a time when we should have a dedicated Minister for Health, one would think it would be in an environment when there was a sustained public health emergency. One would think that would be the case. However, clearly there is a conflict, an internal war in the Labor Party, that has required this type of arrangement to be established, which has further burdened the Minister for Health in doing his job.

Members need only consider ambulance ramping as evidence of that. In August, there were 6 528 hours of ambulance ramping. Previously we have heard significant debate about ambulance ramping. In September, there were more than 5 000 hours; in October, nearly 5 500 hours; and in November, nearly 4 500 hours. We have to go all the way back to May 2020 to find a single month when the ambulance ramping benchmark was below Cook’s own crisis benchmark. That means there has been 18 months of ambulance ramping crisis. That is not my definition and not your definition, President, but the definition of Minister Cook, the Minister for Health and many other things. I have said in previous debates that this is not just a metropolitan issue. It is having an impact on regional hospitals and ambulance services and, as I have mentioned, it is even having an impact on the Royal Flying Doctor Service. Members would be aware of media coverage in the past fortnight of a Royal Flying Doctor Service plane sitting on the tarmac at Jandakot Airport while patients were cared for because an ambulance was not available to transfer those patients to hospital.

There is a staffing crisis in the health system. Members would be aware of hospitals in the Kimberley that have had to transition from being 24/7 emergency department hospitals to being 7.30 am to 7.30 pm hospitals, providing coverage only during the day. Could you imagine, President, what would happen if things got so bad and a hospital in the metropolitan area did that? Sir Charles Gairdner Hospital could say, “Because of the pandemic, we’re experiencing extreme workforce pressures, so we’ll have to reduce staffing to daylight hours.” Could you imagine how that would go down, President? It is not something that anyone has imagined because it would never happen. Yet for people who reside in Wyndham and the Kimberley, that is an acceptable response: we cannot staff the hospitals, so we are going to shut them!

We have also seen executives of the WA Country Health Service admit in emails to imminent service failure at some of our largest hospitals in the Pilbara. Emails have gone out to staff in the wheatbelt and the metropolitan area with the words “name your price” to try to lure staff to those areas to avoid imminent service failure. The Minister for Health has the portfolio responsibilities of state development, jobs and trade, and science whilst his health system is in crisis.

In a similar vein, I move on to another issue relating to workforces. We have to go only as far as Geraldton to see the significant pressures that are faced by our largest public hospital north of Perth. Geraldton Health Campus has a staffing level of 281 FTE nurses, yet only 200 FTE nurses are permanently engaged. For the fortnight 27 October to 10 October, more than a quarter of the health workforce was rostered for overtime; 88 staff were rostered to work more than 80 hours and seven of those staff were rostered for more than 100 hours.

I saw this issue emerging during the field day season. Nurses came up to me in a significant emotional state, saying they could no longer cope. They are leaving the profession they love because they can no longer meet the demands placed on them by the public health system. That is a staggering and concerning admission.

I turn to vaccination rates, about which I just heard the Leader of the House challenge us all. Some areas of the state are significantly underperforming on vaccination rates. We know that the government signed up to the national transition plan of 80 per cent of people being fully vaccinated. Obviously, this government decided to take that rate to 90 per cent. We are very close to 80 per cent—I think yesterday’s figure showed that 78.6 per cent of people over the age of 12 are double dosed—at which time the Premier will announce a date to reopen when we reach 90 per cent. That was his commitment. We will see whether it transpires.

Earlier in the year during question time, the Leader of the Opposition in the other place challenged the government to start thinking differently about the vaccination strategy. She challenged the government to start taking vaccines to people instead of setting up centres and waiting for people to arrive. She was ridiculed by the government for making that suggestion ahead of the commencement of many country shows and agricultural field days. She said that we should establish pop-up vaccination clinics. She was ridiculed by this government and the Minister for Health. What is happening now? We are seeing exactly what the Leader of the Opposition asked for.

It was interesting to see the response from the government, particularly the State Emergency Coordinator and the Premier, who are singing from the same hymn sheet on this issue. They are saying that if parts of the state do not reach 90 per cent vaccination, they will ring fence them; they will not let those areas open up when the state opens up because they have not met the 90 per cent target. I find this most interesting.

I draw members' attention to the eighth report of the Auditor General, tabled on 18 November 2021, which provided some interesting facts. It states —

Vaccination rates among Aboriginal people in WA are consistently low throughout the State ... Aboriginal people 18 years and over have been eligible for vaccination since April 2021. On 9 November 2021, only 31% of Aboriginal people in WA are reported as fully vaccinated, compared to an overall rate in WA of 67.8%.

...

At the current rate of progress, around 40% of Aboriginal people will be fully vaccinated by December 2021, and 80% of Aboriginal people will not be fully vaccinated until mid-2022, almost 6 months after the target date.

This is a nonsense—this ring fencing proposition by the State Emergency Coordinator and the Premier. The Auditor General made it clear during her briefing to members last week that the rate of Aboriginal vaccination in the Pilbara is no different from the rate in Perth; it is in the low 30 per cents. This is an identified priority, a vulnerable cohort, yet somehow these facts are not getting through to the decision-makers.

Hon Sandra Carr interjected.

Hon MARTIN ALDRIDGE: The member will get her time shortly.

These facts are not getting through to the decision-makers. What are they doing about this?

Several members interjected.

The PRESIDENT: Order!

Hon MARTIN ALDRIDGE: The Auditor General found that the government has no implementation plan to deal with these vulnerable cohorts. It is just chasing this high-level target: “Don't worry about the vulnerable people in the community; we'll just ring fence you from Perth.”

Hon Alannah MacTiernan interjected.

Hon MARTIN ALDRIDGE: It is a nonsense; but what more can we expect from a minister who has so many portfolios and has a track record of failure, and from government members who are not prepared to admit their own failings?

Hon Alannah MacTiernan interjected.

The PRESIDENT: Order!

Hon MARTIN ALDRIDGE: They are not prepared to admit their own failings and fess up to the challenges that are facing our health system—a health system that is in crisis and is not going anywhere quickly.

HON TJORN SIBMA (North Metropolitan) [11.00 am]: As we conclude the year, I think the government is looking pretty wobbly.

Hon Alannah MacTiernan interjected.

Hon TJORN SIBMA: I love this! The Minister for Regional Development, on a Thursday morning when she is rostered on non-government business, is the gift —

Hon Dr Steve Thomas: She's on the reserves bench today!

Hon TJORN SIBMA: She was chaperoned earlier.

Hon Dr Steve Thomas: Yes, she's on the reserves.

Hon TJORN SIBMA: I take her to be usually the gift that keeps on giving. A dismissive response to very obvious failings in the health system is met by that minister and every single member of the government with derision. It is as though the problem is not occurring. Some government members might have to put their brain outside the door before they enter the chamber or the caucus room, but the vast majority of Western Australians do not. If they want to keep it up, just keep it up. I have never seen a government grow so arrogant and so disconnected so rapidly. It is extraordinary. The half-life deterioration of this government is proceeding apace. I have never seen anything like it.

It is not only in areas of critical service delivery or in matters of high policy. The fundamental business hygiene of managing a department seems to be beneath the elevated minds of cabinet members. It just does not trouble

them. I want to address particular aspects of this motion specifically. The first is paragraph (b), which refers to the “timely” provision of information. In the last Parliament, we talked quite consistently about the contempt that this chamber was treated with in both questions on notice and questions without notice. There was a reluctance to provide information; and, if information was provided at all, it had to be eked out. The provision of information to this house has deteriorated even since the low benchmark of the last Parliament. It is true. Let me explain it. From time to time, I do base level assessments of the performance of functional attributes of government departments. One of them is expenditure; another might be leave provision.

On this occasion, I want to talk about credit card spend across all government agencies. Earlier this year, in a question on notice, I asked fundamental questions about how many people in government departments have credit cards, how much expenditure they put on credit cards, what are the thresholds and what are the items of spend. Sometimes we get interesting information back; sometimes we do not. It is just a test of fundamental business hygiene across government. When I put that question for the 2019–20 financial year, we learnt that about \$311 million of government transactions had occurred over the plastic. That understandably is a common sort of level—a baseline level—of transaction value. But it does not explain variation. The majority of that spend came from the health services. Out of about \$311 million worth of expenditure, nearly \$48 million was undertaken by the various health services.

Hon Dan Caddy: But \$48 million is not a majority of \$300 million.

Hon TJORN SIBMA: I mean in terms of agencies. Let me go into it. One of the interesting facets was that the WA Country Health Service spent \$29 million on purchasing cards out of a total health spend of \$48 million.

Hon Dan Caddy: Which is the biggest agency?

Hon TJORN SIBMA: This is interesting. Let me go into it. A follow-up question then presents itself. What sorts of categories of expenditure is the money being spent on? “We cannot possibly answer that question.” The government can provide me with the number of card holders, the values of transactions, the transaction limits and the volume of transactions, but it cannot group the spending categories. That, to me, is very odd. The government must have a system that permits it to do that. I know that the government has a system that permits it to do that because an obligation is placed on the CFO and the CEO of an agency to report on credit card misuse in every annual report. How could agencies possibly report on credit card misuse if they cannot compartmentalise categories of expenditure? Somebody going down to JB Hi-Fi and buying themselves a new smart speaker or pair of headphones should be easily detectable because it would be aberrant in terms of the categories of expenditure that are ordinarily used. But I was told that that information was too hard to get.

I followed it up a few months later and I asked the government a simpler question: for each agency, what were the top 10 transactions that occurred in a financial year? When I started to get answers dribbling back, as they do through the questions on notice system, I was continually referred to the same answer. I was referred to question on notice 338, but I never got the answer to question on notice 338 until the end of that process. Question on notice 338 was as I have outlined. It was to the Treasurer. He refused to answer the question and said it would be an unnecessary diversion of resources. That is absolute rubbish. The government’s system permits it to answer these questions. This is not high policy. This is fundamental business hygiene, and the Treasurer of this state—who refuses to share the Treasury portfolio with any of his senior cabinet ministers, because he does not trust them—refused to answer the question. I note Hon Dan Caddy’s interest in this issue, because I understand one of his previous roles was in the coordination of answers provided to questions on notice. I think the collusion that goes on is extraordinary.

Hon Dan Caddy interjected.

The DEPUTY PRESIDENT: Order, members!

Hon TJORN SIBMA: They must miss him there! But his replacement, whoever that might be, is not answering questions harder and stronger than even Hon Dan Caddy managed. Government standards have deteriorated. It is obvious that there is an answer to that question, and it is actually not a politically loaded one. I am not after any minister’s head. I am just asking ministers to take an interest in what is going on in their portfolios and they are just refusing to do it. I absolutely stand in support of the motion moved by Hon Nick Goiran today. Another statement was made about a completely different and more serious issue earlier in the week. The standard you walk past is the standard you accept. That also has to be the case with the standard of responses and the quality of information provided to this chamber, whether it is in the chamber or through the questions on notice process.

Hon Darren West: I think Liberal voters would agree with you.

Hon TJORN SIBMA: Another sterling contribution!

Several members interjected.

The DEPUTY PRESIDENT: Order, members!

Hon TJORN SIBMA: It suggests to me that underperformance of ministers is the expectation. The lowest of lowest standards has been set in this jurisdiction for the performance of a health minister. What now is the measure of failure if 6 000 hours of ambulance ramping are not enough to move the Minister for Health on, if a 50 per cent blowout in elective surgery waiting lists is not enough to move the minister on, or if the utilisation of code yellows

as the default daily management mechanism is not enough to move the minister on? We know that the minister is canvassing journalists, saying, “I don’t like my portfolio very much. Let me write an op-ed in the portfolio I really want.” Western Australians deserve better; this chamber deserves better.

I absolutely stand in support of this motion, and it is time that the government took motions like this a little more seriously and treated the Western Australian public with a modicum of respect. I think some members opposite still have it in them, but for others it might be a bit too late.

HON ALANNAH MacTIERNAN (South West — Minister for Regional Development) [11.11 am]: It is an extraordinary proposition that has come before us, with two extremely talented ministers under attack. I ask members to take their minds back to the glory days of the last years of the Barnett government and the sorts of performances that we were getting out of those ministers—ministers were coming into and going out of portfolios! I note that although they were scraping the bottom of the barrel at the end, Hon Nick Goiran was still able to break through and stack enough branches at that stage—but we will get back to him later.

Singling out two very able and capable ministers really is just an exercise in, I guess, a pure lack of situational awareness. We have a worldwide pandemic. What has our Minister for Health been able to achieve in this state during that worldwide pandemic? With the Premier, he has been overseeing a situation in which we have the lowest rate of death and disease in this country and, indeed, one of the lowest rates of death and disease across the entire world. At the same time, they have been able to keep a functioning economy and a state where people can have a great degree of freedom and liberty. I would have thought that is an extraordinary achievement.

Quite clearly, the members who raised this stuff do not want to hear the answers—they are going off doing “Clan” business!

That is really an extraordinary performance, and one that should be celebrated. The people of Western Australia actually had the opportunity to express whether they thought what had been done by the health minister, with the Premier, during that pandemic had been a good job. If we look at the result of that election, we see that it was a landslide of a proportion that has never been experienced anywhere else in Australia! That tells us that the people of this state absolutely appreciate the work of the health minister in keeping Western Australians safe. It is extraordinary that, notwithstanding that amazing performance, the opposition has come in here and talked about underperformance.

No-one has ever suggested that being health minister is easy. I have been in Parliament for 25 years and it has always been an incredibly challenging job to get this portfolio right. We all understand the challenges not only in our health industry, but also right across the country in getting sufficient staff—the staff levels that we need—to fill the jobs in whatever area. That is not new or surprising. This struggle is also being experienced in South Australia, Tasmania and New South Wales. If we look at some of the data, we see that the number of FTE employed in WA Health increased by 2 487 between the March quarter of 2020 and the June quarter of 2021. Even in this time of great constraint, we have actually been able to get a 6.7 per cent increase in staff. Since January 2021, 1 158 nurses and 440 doctors have been recruited to work in the WA health system. An additional 1 200 graduate nurses are expected to be employed in 2022. These are pretty significant figures. Let us look at the relative performance of our government. Since we came to office in March 2017, there has been a 14.7 per cent increase in the number of FTE in WA Health. That is an increase of more than 5 000 people. Just to give members an idea, in the last three years of the previous Liberal–National government, the number of FTE declined by 900. It was on a trajectory down. We came in and increased that number by over 5 000. We are spending \$10 billion per year on Health. That is one-third of the state budget! Indeed, WA spends more per capita on public health and hospitals than any other state; it is 18 per cent higher than the national average. On every metric, we are keeping the population safe. We are also going out and recruiting staff. We would all like to recruit more. We have a \$2 million recruitment program. With the closing, quite rightly, of the national border by the federal government, we have not been able to get the normal volume of international staff. We have put a huge effort into increasing the number of FTE being engaged generally.

One of the first things the Minister for Health did when we came to government was to get Perth Children’s Hospital open, which had languished for quite some time under the previous government as it was unable to make progress. We have allocated the money for a mothers’ and babies’ hospital. That money has been set aside. Since the budget came down, more money has been allocated. Everyone knows that we cannot get as many staff as we want.

Several members interjected.

The DEPUTY PRESIDENT: Order, members! I am struggling to hear the Minister for Regional Development.

Hon ALANNAH MacTIERNAN: The Minister for Health not only has kept us safe and overseen a massive increase in the number of staff, but also is engaging with the recommendations of the sustainable health review and looking at how we can deal with some of these systemic problems in the industry. At the same time, he has managed to do other things that are very important to the community. This was probably not very important to Hon Nick Goiran, who is completely out of touch with the community, but getting a system of voluntary assisted dying in place, which was supported and wanted passionately by over 80 per cent of Western Australians, was a great achievement.

Obviously, we are working on looking at how we can use the emergency services more strategically. All of us would be aware that many, many people who are using ambulances and emergency departments have moderate health issues that could be dealt with more appropriately elsewhere. The challenge has always been: how do we get those people properly triaged out of the system? There is no lack of endeavour or ability to make the case for an enhancement of expenditure of \$10 billion a year in the health area.

Hon Nick Goiran is quite obsessed with the Attorney General. We note that his colleague in the last Parliament Hon Michael Mischin was likewise very obsessed with the Attorney General. The Attorney General is a colourful figure who has achieved a great deal. It is ironic that the member should be talking about the lack of law reform. We have had not only law reform in areas like the one vote, one value electoral equality legislation, but also a whole heap of stuff that has been really important. Let us stack up what was done in law reform in the Barnett government with what has been done under this government. We have the bikie no consorting legislation that we are currently dealing with. We passed the Sentence Administration Amendment Bill—the no body, no parole bill—the Criminal Law Amendment (Intimate Images) Bill and the Sentence Administration Amendment (Multiple Murderers) Bill. We tasked the Corruption and Crime Commission to pursue unexplained wealth. We removed the statute of limitations from civil claims against historical sex abuse. We are implementing the custody notification system, the Fines Enforcement Registry reform and the overhaul of the family violence act.

But all that Hon Nick Goiran can focus on is the laptops. His colleague became agitated when I talked about running a protection racket on those laptops, but it is very clear that there is a lot to hide. I look at these former members: Mr Edman, Mr Hallett and Mr Ellis, and we know subsequently about Mr Chown. Where do you guys get these people from? We talk and laugh about the Australian Sex Party in Victoria; we have the “Sex Pest Party” here! Seriously! How do you get—out of such a small collection—so many people? Who knows what Mr Edman was referring to when he was telling members that there was enough stuff on that “bleep” computer to bury “bleep” a lot of people and ruin their political careers forever, not that there are probably many left with political careers! He went on to say that there were videos, pictures and lots of lovely little collections that he had on there. Therefore, there is stuff on that computer and that, of course, is the big issue for Hon Nick Goiran. The big issue for Hon Nick Goiran is not to have that material come forward.

I will just read a little bit of the note here. When this matter went before the Honourable Justice Stephen Hall of the Supreme Court, he found that the mechanism that was adopted at the State Solicitor’s Office for examining approximately 70 000 emails was not a valid method; however, although the process was misconceived, he found that there was nothing sinister behind it. He also acknowledged that Darren Foster found himself in an invidious situation because he had these competing notices to produce made against him. It was a complex and unprecedented case. I am pleased to note that now —

Hon Dr Steve Thomas interjected.

Hon ALANNAH MacTIERNAN: This is not a black-and-white issue. As the Honourable Justice Stephen Hall acknowledged, these were very complex matters. The judgement continues —

No doubt those who developed this process did so in good faith and in an effort to resolve a seemingly intractable impasse.

Members opposite were not there trying to help that impasse, were they? They were worried about what was going to be on the laptop.

HON STEVE MARTIN (Agricultural) [11.25 am]: I rise to make a brief contribution on this excellent motion moved by my colleague Hon Nick Goiran. I will use the brief time I have to concentrate on the health issue; in particular, the performance of Minister for Health, Roger Cook; and, in particular, a regional health issue around Geraldton Health Campus. Before I get to that, I will make some comments on the recent performance of the health minister regarding bacterial infections in the water in the North Metropolitan Health Service and particularly at Sir Charles Gairdner Hospital. I am keen to see where this leads.

We have heard from members opposite that the Minister for Health is doing an outstanding job. He will not be resigning or getting sacked. Was there somebody in that department who did not tell the health minister about the *Legionella* contamination at that hospital? Was it a level of miscommunication or did the minister not want to know? I have no idea what happened and, quite clearly, neither did the health minister. Let us keep an eye on that. Whose head will roll after that disagreement? We have heard from Hon Martin Aldridge about the 6 000 hours of ambulance ramping. We are almost immune to that number now; it just seems normal. Month after month, there are hours and hours. We have seen the elective surgery cancellations, but the Minister for Health is doing a good job, according to the minister opposite.

I will briefly talk about Geraldton Health Campus. I recently asked a question about how that hospital is travelling and how many intensive care unit beds in Geraldton regional hospital are available for use. Of course, the answer was nil—there are not any. I believe that the minister has been telling the local Geraldton media about staffing levels there: “Nothing to see here! We’re going okay. We need a certain number of FTEs to run it safely, but we’re topping them up with casuals and agency staff, so it’s all fine.” As we heard again from Hon Martin Aldridge, that sounds

sort of okay until we realise the workload that is putting on the 80 per cent of full-timers who are left. Agency staff in the midwest are hard to find. By the way, they are almost impossible to find in the Pilbara and the Kimberley, and even in the wheatbelt. The 80 per cent of staff who are staffing that hospital are under enormous pressure because they are relying on casuals and agency staff, who are difficult to find. Over time, those staff are working longer shifts and extra days.

I will get to my point about Geraldton hospital. I have a press release from Hon Roger Cook dated 21 February 2020. It states —

- The ... design of the \$73.3 million Geraldton Health Campus redevelopment has been finalised

Good news! There are upgrades coming. That was an election promise—how long ago, Hon Darren West?—in 2017. We are now at the end of 2021. In early 2020, the design had been finished, a tender-for-works package had been released and, according to Hon Roger Cook, the Geraldton Health Campus redevelopment had reached two significant milestones.

The press release has some comments from Hon Darren West —

“After many years of dashed promises and waiting, the Geraldton Regional Hospital is finally being upgraded.

“We promised this upgrade at the last election and the McGowan Government is once again delivering for the people of Geraldton and the Mid-West.

Those comments are from 21 February 2020. Roll on 4 June 2020, and another press release reads —

Premier Mark McGowan and Health Minister Roger Cook today turned the sod to mark the start of construction of stage 1 of the redevelopment.

Excellent work! What did stage 1 entail? It was a car park. It is an outstanding car park. It is one of the finest car parks in the Western Australian health system! The government did extraordinary work on the car park, and there was good news for the citizens of Geraldton and the midwest in that funding for a new intensive care unit was included in the \$73.3 million. It has been on the books since 2017, it was spruiked in early 2020 and it is coming in the middle of 2020—it is nearly there. Hon Darren West said, “We promised it.” A few short days later, I believe it was 8 June, there was bad news for the citizens of Geraldton and the midwest. ABC news at 7.33 am on 8 June reported —

Long-awaited upgrades to the Geraldton hospital have been delayed again and now the project is set to be completed in 2024.

The car park was done, but we will see whether that happens.

The intensive care unit has not been completed. I asked the minister last week what would happen if there was a COVID case in Geraldton. The minister responded that a patient would be treated in Geraldton, unless they got really sick, of course. Then, where would they go? They would go to the city. Geraldton Health Campus is the biggest hospital north of Perth, and, as members for the Mining and Pastoral and Agricultural Regions would know, it is a long way north of Perth. The only serious large hospital north of Perth does not have an ICU bed and will not have one soon.

Hon Kyle McGinn: Karratha and Port Hedland have got pretty good hospitals.

Hon STEVE MARTIN: Do they have ICU beds?

Hon Kyle McGinn: Karratha and Hedland have got pretty good hospitals.

Hon STEVE MARTIN: They have great hospitals but —

Hon Kyle McGinn: Don't run them down.

Hon STEVE MARTIN: I did not run them down. Hon Kyle McGinn will find that Geraldton —

Several members interjected.

The DEPUTY PRESIDENT: Order, members!

Hon STEVE MARTIN: I will ask the Minister for Health how many ICU beds there are in those two hospitals. I thank the member for the prompt. I will follow-up in that regard. I am guessing there are none.

Several members interjected.

The DEPUTY PRESIDENT: Order, members!

Hon STEVE MARTIN: I look forward to the upgrade at Geraldton hospital from this minister. I hope it happens quickly and that the citizens of Geraldton and the midwest get the facility they deserve from this minister. Thank you.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [11.32 am]: My issue with this motion is that it gives me too much scope. It is too hard to work out which government ministers I want to put on the list of the most incompetent and underperforming, and so today I have decided to focus on the worst three. This is my personal view, so I am prepared for some debate.

There is some room on this, but falling from silver to bronze, the third-worst minister today has to be the Minister for Forestry. The Minister for Forestry who shut down the timber industry. The Minister for Forestry who two years ago said —

The native forestry industry injects \$220 million into the Western Australian economy each year and supports more than 800 jobs in the forestry industry.

He said the McGowan government is committed to the forestry industry. It is only a bronze medal. He is surely the most anti-forestry Minister for Forestry we have ever had because he shut down virtually the entire industry. You would think that would have come first, surely? No; he has been relegated to third position; he is on the lowest step of the podium.

Let me move to second position. Pip, pip! Jumping to second-worst performance—based on today’s performance alone—has to go to the Minister for Agriculture and Food, surely! She has been relegated; she is only second.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon Dr STEVE THOMAS: She has moved to second position. Even the Leader of the House did not trust her with the government’s response today. The Leader of the House had to lead her in and relegate the minister to second place. The most anti-agriculture minister —

Several members interjected.

Point of Order

Hon PETER COLLIER: With respect, Deputy President, you made a ruling about interjections. I cannot hear the Leader of the Opposition as a result of interjections.

The DEPUTY PRESIDENT: Members, I have called the house to order on a number of occasions. I ask members, particularly given the limited time that is left, to hear the member in silence. I invite the member to address his remarks through the chair.

Hon Dr STEVE THOMAS: Thank you, Deputy President; I will do precisely that.

Hon STEPHEN DAWSON: The Leader of the Opposition is being very inflammatory this morning, so perhaps if he were less inflammatory —

Several members interjected.

The DEPUTY PRESIDENT: There is no point of order.

Debate Resumed

Hon Dr STEVE THOMAS: Thank you, guys. We were up to silver position. Even the government’s response was superseded by the Leader of the House today. Obviously, the B-team was rolled out—the most anti-agriculture minister this state has ever seen—not the farmer’s friend, the farmer’s foe.

I move now to the gold medal position. The gold medal—well out in front, without doubt—has to go to the Attorney General of Western Australia. I remind members of the evidence of the Corruption and Crime Commissioner to a parliamentary inquiry this year, which I read to the house. He said in no uncertain terms, and his staff confirmed this, that the Corruption and Crime Commission was always prepared for Parliament to determine parliamentary privilege. We heard rants earlier about Hon Nick Goiran’s motion and the focus on the Attorney General. Hon Nick Goiran is absolutely right. The Corruption and Crime Commissioner and his staff told a public hearing that the CCC was always prepared for Parliament to determine parliamentary privilege, but that somebody got in the way. It would have been useful had the commissioner named that “somebody”—that external force—who got in the way. In my view there is only one person it could possibly be, and it is perhaps by inference, but I do not want to put words into the commissioner’s mouth. The Attorney General exceeded his authority and broke the law. When the Attorney General of this state tried to take over due process, it resulted in a thousand-plus infractions of the law. We have talked about due process before. The Attorney General in this state wins the gold medal for incompetency for not doing his job properly and, in my view, for hoodwinking the Legislative Council. Those three ministers should be removed. This is a disgrace.

Motion lapsed, pursuant to standing orders.

**ABORIGINAL CULTURAL HERITAGE BILL 2021
ABORIGINAL CULTURAL HERITAGE AMENDMENT BILL 2021**

Second Reading — Cognate Debate

Resumed from 8 December.

HON COLIN de GRUSSA (Agricultural — Deputy Leader of the Opposition) [11.38 am]: When I began my contribution yesterday I pointed out, of course, given the commitment the opposition made to get through this

legislation in as timely a manner as it could, although recognising that that would reduce the opposition's ability to effectively scrutinise this important legislation and reform, that I would limit my remarks to specific aspects of the bills. In particular, my main concerns are around the processes for tiers 1, 2 and 3 activities and exempt activities.

The government appears to have taken a reasonable approach to addressing these matters in this legislation, but without having had much detail or enough time to properly consult on it, it is difficult for us to gain a clear understanding of how it is all going to work. I am not sure that the debate in the other place provided any clarity either. Effectively, anyone in this state who holds tenure over a piece of land of 1 100 square metres or more will be unsure about what this legislation means for them. Significant portions of Western Australia have never been surveyed for Aboriginal cultural heritage, and a great deal of that is on freehold land. I would have thought that it would be highly likely that much of that freehold property would have cultural heritage issues that could be identified.

That is important, because we do not want to miss any of the Aboriginal cultural heritage in this state; we want to ensure that it is there and that it is correctly assessed. On 23 November, the minister in the other place said —

This is also a pragmatic approach. Properties over 1 100 square metres in size will generally be on the outskirts of the city anyway.

I am not sure which city we are talking about. He continued —

If someone has been using their land normally up to now, it is highly unlikely that they will need to worry about this.

That is quite disturbing, in reality. Firstly, what is “normal” use of land? Secondly, if tier 2 or 3 activities that are considered “normal” are being carried out on that land, are we going to exempt those activities? That would raise a question about the point of the legislation. We will have a bunch of exemptions for properties that would mean that cultural heritage will not be assessed. Conversely, if a range of “normal” activities are exempt, it will compromise the intent of the legislation. If we go the opposite way, every single activity on that land will need to be assessed, which in my view will create a huge capacity and capability issue.

The government has put \$10 million of one-off funding in the budget for capacity building and the establishment of administration and so on for some of the local Aboriginal cultural heritage services, but there is no guarantee of funding beyond this budget. I am not even sure where the figure of \$10 million comes from, because the government apparently has no visibility of the scale and scope of the organisational capacity that will be required by LACHS throughout the state. Co-design of the activities that will be exempted or captured under the tiers 1, 2 or 3 categories has not been done, so where does the \$10 million figure come from? Will it be anywhere near enough?

There is quite an issue here, in my view. We are looking at roughly 54 000 properties of 1 100 square metres or more, and the majority of landowners do not have a clue about whether or not Aboriginal cultural heritage exists on their property. If they have had activities carried out on those properties for years, it could be assumed that those activities will fit into the broader categories of tiers 2 and 3. Will they be exempt? If they are exempt, how will the legislation protect cultural heritage that may exist on those properties.

Conversely, landowners need clarity as to what activities will be exempt and how to go about the process of determining cultural heritage. How will they ensure that that happens in a timely manner? With that much land to survey, there will be the capacity issue we talked about a moment ago. That may well lead to backlogs on some of these surveys, which will potentially cause delays and so on in the activities that can be undertaken on that land. As I said, there is a capacity issue and a capability issue in making sure that those organisations have the ability to do the surveys.

The other interesting thing about that is how support will be provided to those local Aboriginal cultural heritage services. Will centralised support be provided by state government agencies? Will it be providing those individual LACHS with the necessary funding to provide the services that they do? The important and salient point here is that it is one thing to mandate a requirement to consult to ensure the protection of Aboriginal cultural heritage, but it is another thing to provide those organisations at the pointy end of that process with the means with which to deal with what will be a substantial workload. We can be of no doubt that there will be a substantial workload by virtue of the fact that these bills incorporate processes that encapsulate a lot of land across Western Australia.

The other part of that is the actual survey itself and the integrity of that process. This process must be of the highest integrity so that the system not only does not miss cultural heritage, but also will not be open to challenge necessarily by landowners or whomever. Will a proposed methodology be standardised across the assessment of cultural heritage? Will we see, as is the case in other jurisdictions, codes of practice, for example, and specified guidelines into the ways in which the surveys are conducted, the way the results of the assessment itself and those of significance are interpreted, and in the management approach as defined by the act? Obviously, we want those surveys to be done not only in accordance with archaeological and ethnographic best practice, but also to provide a clear understanding of the process so that everyone involved in that process understands what is going to be done and how that works. Essentially, it is very important that we get the survey methodology right. It is not clear in the legislation whether that will be standardised and that all those various corporations that are doing the assessments will follow a standard methodology. Also, what will the clarity be from a landowner's perspective?

I said at the start, and my colleague Hon Neil Thomson said in his contribution, that the opposition will not oppose this legislation. It is a significant reform. It is a reform that is well and truly overdue; however, it is also a reform, certainly in my view and I would suggest certainly in the opposition's view, that should be done across the chamber so that we get it absolutely right for the future, with clarity for everyone involved. We want to make sure that the things that have gone wrong in the recent past do not happen again. We want to preserve and protect the cultural heritage of this state at the same time as ensuring that we provide clarity for Western Australians as well. The opposition does not oppose this legislation, but we are very disappointed in the way that the bills have been handled both in this place and the other, with a lack of ability for us to be involved in the process of scrutinising the legislation thoroughly and properly. The government will say that this has been developed over a number of years. The reality is that the bills before us have significant amendments over the ones that were proposed in the previous Parliament and it is a limitation that we have not had an ability to consult widely in a reasonable time frame on the changes in the legislation in general.

We hear a number of different views from many different stakeholders involved in this debate about the various levels of support for the bill. The process through which this has been done is not good enough. It is not acceptable that at the very end of the sitting year we are forced to hastily deal with such an important piece of legislation. It is really important for Western Australia. There is uncertainty and a lack of clarity not only in the way the bill has been introduced, but also about the regulation-making powers. There is a lack of understanding of what those regulations may entail and how some of these processes will be developed. It is clear that process from here must involve wide consultation with as many stakeholders as possible about land use and cultural heritage. We would have preferred that that was front-ended, I guess, so we had the opportunity to see the result of that consultation before the bill came into this place. The opposition believes that Aboriginal cultural heritage is too important to play politics with. That said, we should all have a very good opportunity to debate this legislation properly so we get it right for the future of Western Australia. I am not sure that the government really appreciates how important that is. That opportunity has been to a large extent missed by the fact that we now have to consider this legislation in such a short time frame without the ability to consult. With that, I will leave my remarks and again reiterate that we will not oppose this legislation.

HON PETER COLLIER (North Metropolitan) [11.51 am]: I rise to make some comments on the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021, and I am delighted to do so. I reiterate what has already been stated, particularly by Hon Neil Thomson; that is, the opposition will not oppose these bills, which is a quirk of words, I guess, but I say it reluctantly. Ideally, I would like to be able to say we support the bills, but we do not. That is not out of spite or political vitriol, but necessity, because as much as these bills are most definitely a positive step forward for streamlining a process for recognising Aboriginal heritage, they raise more questions than provide answers.

I will make a number of comments about the bills, but before I do so, I will confine to the first couple of minutes my, dare I say, critical comments about the contempt that the government continues to have for the opposition, constantly, relentlessly, day-to-day, day in and day out in this chamber and the Parliament. It is evident that this government now treats the Parliament as this petty little inconvenience. We have seen the destruction of conventions on a daily basis; we have seen legislation railroaded through the Parliament without due scrutiny and complete contempt for the processes that have existed for hundreds and hundreds of years.

These bills are a perfect example of that. Without a shadow of doubt, these bills, which deal with our First Nations peoples, with issues of heritage, deserve cross-partisan support. I am always a little reluctant to pass comment about lack of consultation on Aboriginal heritage, because as a former Aboriginal affairs minister for six years, I am conscious that no matter how much consultation you do, never the twain shall meet in this area. No matter how much consultation you do, you are never, ever going to get everyone on the same side ever, but the government could have so easily got us on board with this. I was so desperate for this thing to go through in a seamless fashion, and it took me all of my courage not to oppose the bill, as opposed to supporting it, which I cannot in all conscience. I find it extraordinary that a bill of this calibre, of 350 pages and hundreds and hundreds of clauses, was read into the Legislative Assembly one afternoon, declared urgent and had to be passed the next day. Do members know what we have become now? We have become the enemy, not the opposition. There is a seismic shift when a government treats the opposition as the enemy because it treats the opposition with contempt; it wants to kill it. The opposition is irrelevant.

Hon Stephen Dawson: That's not what we do in this place.

Hon PETER COLLIER: I am sorry, minister, but that is how I feel; that is honestly how I feel. How could the government bring in this Aboriginal Cultural Heritage Bill?

Hon Stephen Dawson: I will not comment on that end. That is certainly not what is going on here.

Hon PETER COLLIER: Why are we sitting for another week to deal with this bill now? This again gets back to that very point: the government is doing it because it can, not because it is right. As I said, and I will say it over and over again, for four years I sat in the chair on the other side as leader of a government with a thumping majority. Never once did I or my colleagues ever consider using the tactics you guys are using—never once. We could have.

Day in and day out we could have done exactly what the Leader of the House does almost on a daily basis now and completely usurps the conventions of Parliament, but I did not because I respect this place. We are seeing the destruction of the conventions of this Parliament and every single member sitting opposite is complicit. They will all be gone and I will be gone, but this place will have to live with it.

I am very disappointed that a bill like this is being treated with this contempt. We are dealing with Aboriginal heritage, constructing legislation that, ideally, will ensure that nothing like Juukan Gorge ever occurs again. It will ensure that a seamless process will engage and empower Aboriginal people, so they can be part of the decision-making process that will protect Aboriginal heritage and at the same time allow for development in a cooperative, collaborative fashion. That is what I like to think will happen with this legislation and I am not convinced it will, because, as I said, the devil is in the detail. There are many question marks around this legislation because much will be left to regulation, and there is much subjectivity.

As I said, I understand where the minister is coming from in terms of the criticism he will receive from a lot of Aboriginal land councils and Aboriginal groups throughout Western Australia. I have been in his seat and I know what he is going through and that no matter what happens, he will never be able to appease everyone. We have to get to a good balance. We have to achieve a balanced outcome and we have to have consultation. To be honest, from the briefing and my reading of the information that has been provided, I think there has been reasonable consultation. Having said that, this is just the start. This is a marathon and we are only at the 100-metre mark, because we have a long, long way to go to work through the regulations. As I said, there are many gaps in this legislation that have to be filled. If we do not get it right, I will say at the outset—I want this on the public record—I want the government to 100 per cent own this legislation. Even though I am not opposing it, it is the government's legislation, so if it all goes pear-shaped and there are problems in the short to medium term with this legislation as a direct result of there being so little time for the people's house, the Legislative Assembly and the Legislative Council, to scrutinise this legislation, it will be at the government's feet, not ours. We are pragmatic and understand it is definitely an improvement on the existing act, but I am not convinced that we are there yet. Having said that, the minister will be pleased to know that that is the last criticism I will provide.

I will go through a couple of things to give people a little bit of history on how we got to this point. This legislation contains some really good provisions and I think it is probably positive in many aspects, but we will have to deal with problems into the future. Aboriginal heritage is extraordinarily important. It is part of us as a nation. As I have said over and over again, I loved being the Aboriginal affairs minister. I personally resurrected the Western Australian Aboriginal Advisory Council that was made redundant under the previous government because it did not meet, even though it is a statutory body. I introduced the KindiLink kindergarten program for Aboriginal students and the cultural standards framework into our schools, which means that Aboriginal culture is now being taught in our education system, and a raft of other things. This is not a chest-beating exercise; I am just showing that I am genuine about this.

When I took over the portfolio about 10 years ago, one of the very first things I had to deal with was reforming the Aboriginal Heritage Act. I went down exactly the same path as the minister. I went all over the state. I will tell members what else I did. I wrote to every single member of Parliament and invited them to every consultation workshop in their region—every time. I made sure that I engaged every member, regardless of their political colour or persuasion, and invited them to the consultation workshops. I have not been invited. I do not know whether anyone on this side has been, but I certainly have not been. That could have been avoided. This is not a partisan issue. It is yet another example that it is in the Labor Party's DNA to treat the opposition as the enemy rather than the opposition. That is a dangerous place to be because it breeds contempt.

The minister might be interested in this because he will see the comparison between what I presented to cabinet as the minister and had passed by cabinet. It was one of those times—I am sure the minister will get there—when a minister can see the finish line. We actually introduced and read our bill into Parliament. At that stage, our alliance colleagues decided they had a few issues with it, time ran out and we could not get it through, which was a real shame. In retrospect—I will go through this in a moment—it was probably a good thing because it meant that section 18 was retained. I am pleased to see that section 18 notices will be removed. For the benefit of members, I will read from my notes so they can hear an analogy between the bill that we have here and the bill that I presented back in 2014. My notes refer to the consultation on the proposed amendments. We engaged Dr John Avery, an expert in the field, who went all over the state. I will not read the whole of what he said, but an exposure draft version of the bill was released for public comment in June 2014. The consultation period was extended for an additional two weeks to allow remote Aboriginal communities more time to forward submissions on the bill. In total, 172 responses were received, which represented approximately 120 stakeholders from all sectors that made use of the opportunity to express their views on the bill through either a written submission, a face-to-face meeting or both. On 10 November 2014, the bill was endorsed by cabinet and introduced into the lower house. The point is that we had quite a considerable amount of consultation.

Let us look at what that bill hoped to achieve. The amendments to the AHA would have delivered a number of key benefits. It would have enhanced the protection of the state's Aboriginal heritage by significantly increasing the penalties for site damage. The minister will love the next point. The penalties would have increased tenfold from

\$100 000 to a maximum penalty of \$1 million for bodies corporate that were convicted of a second or subsequent offence. The courts would also have had the ability upon conviction to order site remediation when that was possible. If time was available to commence a prosecution against the alleged offender, the penalty would have increased from 12 months to five years. You don't think I copped it when I increased the penalty to \$1 million! One of the biggest criticisms was that it was too high.

Hon Stephen Dawson: I bet you did.

Hon PETER COLLIER: I did. As I said, time moves on. That was, of course, prior to the Juukan Gorge incident and a raft of other things. A lot of water has gone under the bridge.

The former bill would have improved the efficiency and effectiveness of the decision-making processes for applications made under section 18 of the AHA. The revised process would have provided for areas where no site exists or where no site damage would occur to be handled by the chief executive officer of the then department of Aboriginal affairs. The CEO would have been required to assess the information provided against the criteria outlined in proposed section 7A and any matters prescribed in the regulations. Proposed section 7A would have required the CEO to consider the following: any existing use or significance of the area or object; any former or reputed use or significance of the area or object; anthropological, archaeological and ethnographical interests; aesthetic values; any matter prescribed in the regulations; and associated sacred beliefs, ritual and ceremonial usage. That could almost have come out of the current bill. The consideration of proposed section 7A would have inherently involved the participation of Aboriginal people to assist in the identification and assessment of those factors.

The Aboriginal Cultural Material Committee will retain its role of assessing proposals when damage to a site may result and of making recommendations to the Minister for Aboriginal Affairs. That will remove barriers to early engagement between land users, such as project proponents and Aboriginal people who speak on behalf of the area. By encouraging early engagements, the process will move away from site damage and towards site avoidance. The ability will exist to have section 18 permits transferred from one party to another without the need to make a new application—for example, when a project is purchased by another company—and for a legal land user rather than just the landowner to make a section 18 application. The creation of a new register of declarations and permits will make every decision by the minister and the chief executive officer freely available and will significantly increase the transparency of the decision-making process. The clarification of roles in the assessment of Aboriginal heritage sites will make it clear that the CEO of the department of Aboriginal affairs has this role. The requirement to have an anthropologist on the ACMC will be removed as Aboriginal people are more than able to speak on behalf of themselves without the legislation perpetuating previous policies of having someone speak on their behalf. Improvements will be made to provisions relating to the appointment of honorary wardens so that the minister is better able to appoint honorary wardens who have powers appropriate to their role to help protect Aboriginal heritage, and there will be an in-built mechanism requiring its review every five years so that the AHA will remain relevant and effective.

It did engage with Aboriginal people. There was a lot of consultation with Aboriginal people. It tried to seek a balance, while at the same time making the process seamless. As the minister would well know, a large number of cases for approval go to the minister—I will come to this in a moment—but not sites, and that is a real issue. In fact, when I left the position of Minister for Aboriginal Affairs, there was a backlog of 15 000 applications, so we had to deal with that. We had to get to a point where agriculture, mining and industry in a generic sense, although it did not have carte blanche with Aboriginal heritage, did not come to a grinding halt. Surely we could find a common medium where Aboriginal heritage was recognised, and at the same time provide a seamless process where there was no Aboriginal heritage. It is eminently sensible. Ideally, that is what we hoped to achieve through that bill. It is virtually identical to the aims and processes of this bill. I think we see eye-to-eye on that. The big difference is that that sought the retention of section 18 applications. The problem with section 18s in itself was that they caused a backlog. As minister, I would get anything up to 130 section 18s from the ACMC every year. No wonder we had the Juukan Gorge issue when the ACMC has to deal with those sorts of heritage issues. Believe it or not, the problem is that the Aboriginal Heritage Act, with the establishment of the ACMC, does not have any requirement to have Aboriginal people on that board. That was the problem. It did not even have a set number on the board. I changed that. How can I word this? I was going to say I did it by stealth —

Hon Stephen Dawson: You ensured that there were representatives on the board.

Hon PETER COLLIER: I did, and I will show the minister how I did it in a moment. I have so much to get through and it is a shame I do not have the time.

I draw members' attention to the Aboriginal Heritage Act 1972. I wanted to read this into *Hansard* but I might table it. In essence, the act refers to the membership of the ACMC, and states in section 28(2) —

The membership of the Committee consists of —

- (a) appointed members, each of whom shall hold and vacate office in accordance with the terms of the instrument under which he is appointed; and
- (b) ex-officio members.

The only requirement is subsection (3), which states —

Of the appointed members, one shall be a person recognised as having specialised experience in the field of anthropology as related to the Aboriginal inhabitants of Australia and shall be appointed by the Minister after consultation with the persons responsible for the study of anthropology at such of the establishments of tertiary education situate in the State as the Minister thinks fit.

In essence, firstly, it does not say how many members are required; and, secondly, there is no requirement to have any Aboriginal people on the ACMC. When I first started, there were five members on the ACMC, none of whom were Aboriginal, making judgements on Aboriginal heritage under section 18. Go figure! That should not have happened, so I changed it.

I will read from the 2015–16 annual report of the Department of Aboriginal Affairs for our last year of government, 2016. This will explain the situation. It states —

Report from the Deputy Chair—Ms Vanessa Kickett

I appointed Vanessa; she was very good —

In 2015–16 the Aboriginal Cultural Material Committee (ACMC) assessed 419 heritage places in relation to section 5 of the *Aboriginal Heritage Act 1972*. This was 154 more places than were assessed in the previous year. The Committee continues to work toward reducing the number of heritage places lodged in the Register of Places and Objects pending assessment by the ACMC.

The ACMC also considered 73 Notices under section 18 of the Act to impact upon Aboriginal heritage places and seven applications under section 16 of the Act to undertake research.

During the course of the year, the ACMC welcomed four additional members, bringing the total number to 10, of which seven Aboriginal members all bring with them a wealth of experience and cultural knowledge.

There we go. I increased the membership of the ACMC to 10. Seven of those 10 members were Aboriginal people. I thought that was a positive step forward. But that does not matter in terms of the magnitude of the considerations that members of the ACMC have to deal with on a day-to-day basis—in what are part-time positions, I might add. It was always problematic.

I thought I would check to see whether things had changed in the ensuing four years. In the chamber on Tuesday of this week, I asked —

How many heritage places in relation to section 5 of the Aboriginal Heritage Act 1972 are currently waiting to be considered by the Aboriginal Cultural Material Committee?

I was told there are 16 109. If people do not think there is a problem with the current act, they should understand that. I then asked —

How many section 18 applications have been submitted in 2021?

I was told —

There are 142, inclusive of resubmissions and withdrawn applications.

Again, if members think the ACMC can comprehensively and, dare I say it, without failure, deal with 142 section 18s in a year, they need their head read. Further, I asked —

How many section 18 applications are currently waiting to be considered by the ACMC?

There are 12 at the moment, so the ACMC should get through them. I also asked —

Are there any other applications waiting for approval by the ACMC in relation to the Aboriginal Heritage Act 1972?

I was obviously referring to section 16. The answer was —

There is one Aboriginal Heritage Act 1972 section 16 application requiring consideration by the ACMC.

If we ever wanted evidence on why we need this bill, it can be seen in those figures alone. If we think that a 1972 bill—quite frankly, it was well received in those days and served well for a number of years—is still appropriate in 2021, 50 years later, with some minor amendments, quite frankly, that argument is flawed. That is why I said that, overall, in a general sense, I support the intent of this bill. We desperately need it. As we move forward and as those last 50 years have seen, there is much more understanding, appreciation and love for Aboriginal heritage. I am not only talking about Aboriginal people; I am also talking about the nation. We acknowledge that Aboriginal heritage is an essential part of our past, our present and our future.

I would like to go through some aspects of the bills. I do not intend to go through every molecule of the bills because I can ask questions during Committee of the Whole. If he would not mind, I would like the minister to respond to a few questions in his reply to the second reading debate, which will help me. The first is about the Aboriginal Cultural Heritage Council. It is proposed that there will be two chairs. I like that idea. There will also be four to 10 members. The appointment process will be a vexed issue. I promise the minister that this will be an issue for him. To get

those male and female Aboriginal persons who will be—dare I say it—acceptable to the Aboriginal groups across Western Australia will be extremely problematic. I am not saying for one second that it will not work. I am saying that it will take an enormous amount of consultation and a great degree of patience.

I turn now to the local Aboriginal cultural heritage services. They will be responsible for negotiating cultural heritage management plans and consulting with Aboriginal people. I just make a point here. With regard to LACHS and consultation—I am going out on a limb a bit—some people make the assumption, and it tends to feed into their mantra, that somehow there is a them-and-us attitude 100 per cent of the time with industry, mining and Aboriginal people, and that never the twain shall meet; no matter what happens, we cannot negotiate. I am not part of that; I really am not. I was Minister for Aboriginal Affairs for almost nine years. I travelled the length and breadth of this state and I constantly engaged with Aboriginal people. I found, particularly up in the remote areas when we went through the Regional Services Reform Unit, that the engagement and the communication with a lot of the big boys, the multinationals and the mining companies et cetera, was very good. I think it has actually improved, and it is continuing to improve—it has to improve.

Hon Sandra Carr: The big boys?

Hon PETER COLLIER: Sorry?

Hon Sandra Carr: It is interesting that when you talk about mining, you say the big boys.

Hon PETER COLLIER: And the big girls, yes—the big companies.

Hon Sandra Carr: I appreciate that.

Hon PETER COLLIER: Thank you. Yes—fair cop.

We have to be careful that we do not throw the baby out with the bathwater. If we keep going down the path of always portraying the big companies as the evil elements of society and we point to lack of consultation as the excuse, we will never progress and we will be stuck with the same legislation. We need to acknowledge that enormous inroads have been made with the Indigenous land use agreements and reconciliation action plans that have been implemented very effectively and comprehensively across the state over a number of years. With Juukan Gorge in particular we have seen even further acceleration. That is a good thing. As I said, that consultation is good.

The bill states that a LACH service will be able to charge a fee. This is a bit of a sensitive issue. We will have to be careful that Aboriginal groups and people are not exploited through this process. I assume that the charging of fees will be done through regulation.

Hon Stephen Dawson: Yes. They will have to go through the council.

Hon PETER COLLIER: Good. They will have to go through the council, of course. That is fine.

The prescribed bodies corporate, or the local Aboriginal groups who hold the authority over an area of land, will be responsible for negotiation of the agreement. Again, that will provide an opportunity for engagement and consultation with Aboriginal people. It will empower Aboriginal people. When we have these arguments with the land councils, there are some in particular that will never, ever agree with any of this—never. When we do that—I do not mean to be flippant about this—rather than just say, “Scoreboard; that’s the way it is; our way or the highway”, we should actually point to the consultation process that has existed up until this point and is embedded in the legislation. We need to do that and engage with people in—dare I say it—a sincere and meaningful way and get them to understand that they are being empowered and that this bill is actually about Aboriginal heritage.

I know for a fact that one of the biggest criticisms of the bill has been that all power will rest with the minister. I copped it when the bill I introduced said that ultimately the CEO would be the final recipient of that decision-making responsibility. The minister would have signed off on it, but the CEO would have made the determination. Ultimately, it has to land somewhere. My issue with this is that I have received an enormous amount of correspondence on this bill, as all members have. Hon Neil Thomson tabled a lot of the letters I received, as everyone else did. I do not intend to go through them. In almost all the correspondence I received, the single biggest issue was a lack of consultation. I went back over it yesterday while I was sitting here, and again this morning. I have not found, with all due respect to those people who have written to me, any constructive suggestions or recommendations on how the bill can be improved. There could be some problems with the implementation, and I concur with that. Until the regulations are identified, I think we have an issue here. However, if people are going to say—the minister will know exactly what I mean by this—that the only solution is that the Aboriginal people ultimately have the power of veto, that is impractical. To provide that power of veto is impractical. I understand where some groups of Aboriginal people are coming from. I have to say this is not all Aboriginal people at all. They will be engaged in the process. From what I can see, they have been engaged, to a large degree, in the consultation phase and they will be engaged in the process to develop the regulations. As opposed to being fearful, I strongly, strongly recommend that those groups with concerns engage in a very wholehearted fashion in the development of the regulations. I understand, minister, that they will get that opportunity, will they not? There are some workshops in January; is that correct?

Hon Stephen Dawson: The work starts in January. I will go into that in my reply later.

Hon PETER COLLIER: To those groups or land councils et cetera that are watching and reading this debate, I am not criticising them. All I am saying is that rather than go back to a default position of veto, they should say, “Well, that’s not going to happen, so let’s try to work a way through this so that we can be part of the decision-making process.” Being part of that consultation process is the way to get a more beneficial outcome. Can the minister be as extensive as he possibly can in his response to explain to the chamber, so that it is on the public record, exactly how Aboriginal people can be engaged in that consultation process in the development of the regulations? As I said, there are so many gaps in the bill with the determination of land use tiers et cetera and the various bodies, that we have to make sure that we do not completely alienate those groups. I do not want it to happen. I would like to think that the minister is sincere in his approach, and I am sure that he will provide that information.

I have already been through the penalties. The penalty for damaging Aboriginal places, objects or ancestral remains and cultural heritage will be \$10 million for a body corporate and \$1 million or imprisonment of up to five years for an individual. As I mentioned to the minister, I got a smashing on this matter when I wanted the penalty to go to \$1 million. I imagine there will be some critics, but I imagine they will be negligible. Most people would think that is small change. If someone is going to destroy Aboriginal heritage, quite frankly, \$10 million would be tea money to some of these companies, so I do not have a problem with it. Having said that, I am interested to know where that figure came from. Was it plucked out of the air or based on some determination; and how does it compare with other jurisdictions’ penalties?

The minister referred to “the management of activities that may harm Aboriginal cultural heritage”. The key feature in this area is about tiered land use. This gets back to the aspect of a bill that I introduced almost 10 years ago now, whereby a piece of land was deemed not a site, which would bypass the section 18 process and the application would go through the chief executive officer of the department.

I will go through the briefing note and advice provided by the minister, and I thank him for that—mind you, it is in the bill. I am concerned about the subjectivity in part 6 of the bill. Again, this is where I take on board the point made by Hon Colin de Grussa about uncertainty, particularly in the agricultural sector and among small land users. It will be easy for some members of the community to, dare I say, spread the fear, for want of a better term. If that fear can be eroded and avoided, it will go a long way to enhance the confidence of those groups so that they feel that they are not going to lose their land, and if they want to put in a swimming pool, change a fence, or whatever it might be, they will not have to put in an application. The lack of clarity is providing that uncertainty. I genuinely get that, but the determination will be very difficult. For example, an “exempt activity” in the bill includes small-scale residential developments, emergency services and recreational activities. There is a little ambiguity in that area, and that does not require approval.

A tier 1 activity will be specified in the regulations and will include minimal ground-disturbance activities. That is where the subjectivity inevitably comes in. I will be fascinated to know how that is determined. A tier 1 activity does not require approval. Tier 2 activities will be specified in the regulations, and will include low ground-disturbance activities and will require an Aboriginal cultural heritage permit from the Aboriginal Cultural Heritage Council. Proponents must take all reasonable steps possible to avoid or minimise the risk of harm to Aboriginal cultural heritage.

Tier 3 activities will be specified in the regulations and will include moderate to high ground-disturbance activities. The bill sets out the pathway for when the Aboriginal party and the proponent reach agreement and the ACH Council approves an ACH management plan. When the Aboriginal party and the proponent are not able to reach agreement, it is the decision of the minister whether to authorise the ACH management plan. It is that lack of clarity that causes unrest, confusion and concern.

Having said that, I have been through this forensically in the past and also with this bill and I understand that the regulations are forthcoming. That is why I emphasise, yet again, if the government wants to avoid an absolute—I nearly said “cluster”, but I will not!—mess in the future, it will have to make sure the regulations are watertight but also empower Aboriginal people so they cannot in any shape or form look back and say, “Oh, the minister is just going to tick off on things.” A process must be gone through before that so that we do not go back to a particular group that is playing hardball and using its power of veto, because then the state would come to a grinding halt. I am sure Aboriginal people do not want that. They want to work hand in hand with industry, with agriculture and with their non-Aboriginal brothers and sisters. That aspect of the bill will need clarity, minister.

I refer also to the management plan itself, and I will read from the second reading speech, which states —

Both parties will be required to use their best endeavours to agree on a plan. When agreement cannot be reached, the council may assist the parties to reach agreement and act as a mediator. When agreement still cannot be reached, the council must make a recommendation that the minister authorise a management plan, which may be the proponent’s, the Aboriginal party’s or the council’s, or refuse to authorise a management plan. The minister’s decision must be made on the grounds of whether he or she is satisfied as to the matters set out in the bill and what is in the interests of the state. It is open to the minister to seek the views of other members of executive government in making his or her decision on what constitutes the interests of the state.

Alarm bells definitely went off for me when I heard that line. If they went off for me, I can bet your bottom dollar they went off in particular for those groups that will make the minister's life difficult over the months ahead. I will read it again —

It is open to the minister to seek the views of other members of executive government in making his or her decision on what constitutes the interests of the state.

I know that the current Minister for Aboriginal Affairs has a deep appreciation for Aboriginal people, but his tenure in this place is finite and he will not be here in years to come. We may not have a minister in the future who has the same interest in and compassion for Aboriginal people that the current minister has. If we embed that in the bill, it will be problematic in the future. We have to be careful. Subjectivity opens the door for further criticism and, in the minds of those groups that are adamantly opposed to the bill no matter what, it will justify them saying, "We told you so." As I said, that process is vital.

I need to move on. I will not bother going through the protection mechanisms with regard to the 60-day limit et cetera. The remaining clauses are operational and administrative in nature and cover miscellaneous matters, regulation-making matters and transitional provisions. Damn—I am only halfway through. I could ask for an hour's extension—joking!

On the issue of Juukan Gorge, a Senate inquiry was held into that action. A number of the recommendations are a bit concerning to me.

Hon Stephen Dawson: The Senate recommendations?

Hon PETER COLLIER: They are about the federal takeover of heritage issues. As a ferocious federalist, I would be very opposed to that, and I would like to think that the state government would be as well. I will read out a couple of the recommendations. Recommendation 1 states —

7.13 The Committee recommends that, at a matter of urgency, the Australian Parliament amend the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* and the *Environmental Protection and Biodiversity Conservation Act 1999* to make the Minister for Indigenous Australians responsible for all Aboriginal and Torres Strait Islander Cultural Heritage matters. As an interim measure, the Australian Government should take action to prohibit clauses in agreements that prevent traditional owners from seeking protection through Commonwealth legislation.

7.14 Administrative responsibility for all Aboriginal and Torres Strait Islander heritage matters should be transferred to the relevant portfolio agencies reporting to the Minister for Indigenous Australians.

Under recommendation 3, it states —

7.77 The Committee recommends that the Australian Government legislate a new framework for cultural heritage protection at the national level.

There is an assumption, of course, that the commonwealth government does not want to take over heritage and that it would just be mirror legislation. In either case, it would be problematic. If we want to see industry, agriculture and heritage come to a grinding halt, we should give it to the feds; it would be an absolute basket case and would not work. I embrace the Senate report, but any talk of the federal government taking over heritage issues, which I know there has been talk of, would be problematic.

Hon Stephen Dawson: I would find it extraordinary, given in my last portfolio of environment we were going the other way. The commonwealth was actually handing over to the state.

Hon PETER COLLIER: Yes. Tell me about it; I have been there. It depends on the day. The commonwealth government does not understand the implications. It must be retained within state tenure.

I will provide a personal perspective on the issue of consultation. As I said, I spent a lot of time on this. I resurrected the Aboriginal Advisory Council of Western Australia. I asked a question on this. That council still meets regularly, does it not?

Hon Stephen Dawson: Yes.

Hon PETER COLLIER: Was it consulted on this bill?

Hon Stephen Dawson: Yes.

Hon PETER COLLIER: It was; good. Was it comprehensive? Did it put in a submission?

Hon Stephen Dawson: It has been involved at various times.

Hon PETER COLLIER: That should still be a beacon for a broad cross-section of Aboriginal views and representation.

In the last minute that I have can I say to members that the current act is unworkable. We must move forward. We have paralysis out there with industry, and members will find that mining will come to a grinding halt if this thing does not alter in the not-too-distant future. Having said that, that is not the real motivation for changing the act. The motivation for changing the act is that not only is it unworkable, but also, more significantly, we will get to a point at which Aboriginal people are enshrined in the determination of the Aboriginal heritage places that represent

them. Members cannot argue against it. It is eminently sensible. The bill must empower Aboriginal people so that they are part of the decision-making process and they can work hand in hand with their non-Aboriginal brothers and sisters, as I have said, and find a way forward.

Members will find that Aboriginal people are extraordinarily resilient, willing and cooperative. I do not want them to be alienated. I want them to be part of the consultation process even further, particularly as we move into the pointy end of the regulations. Having said that, because in this instance the opposition has been the enemy of the government, which really disappoints me, I cannot offer full support for this bill. It really bothers me. Having said that, I stand with the alliance to say that although I endorse the bill and I think it is a positive step forward, my view will be that I will not oppose the bill.

The ACTING PRESIDENT (Hon Dr Sally Talbot): Hon Peter Collier, I believe you were seeking leave to table some documents?

Hon PETER COLLIER: I was. What was it? The Aboriginal Cultural Material Committee—that is right. Sorry!
[Leave granted. See paper [981](#).]

HON WILSON TUCKER (Mining and Pastoral) [12.36 pm]: I rise today to give my contribution to the second reading debate of the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021. I would like to state from the outset that I will not be supporting the Aboriginal Cultural Heritage Bill 2021 today for several reasons, which I will go into shortly. First, I would like to acknowledge the significant history and effort that has gone into this bill. It is an important piece of legislation, as is arguably all legislation that comes before this house. But this bill is particularly important, given the number of groups and people in WA who will be affected by this legislation, and it is really important for what it is trying to achieve, which is to preserve our history and cultural legacy here in the state. This bill will certainly have implications for not only our generation, but also generations to come. This is a once-in-a-multigenerational bill that will affect the culture of this state, which goes back over 40 000 years.

Australia, as a country of the Commonwealth of Nations, is a very young country, but we are incredibly fortunate here in WA, and in Australia, that we have the oldest living culture living in this country, which has an unbroken history, going back over 40 000 years. I will give a bit of a shout-out to the Mining and Pastoral Region and say that—this is particularly true in the Kimberley and Pilbara areas—the groups still living there have managed to survive the early years of colonisation here in this country, through the tyranny of distance, and have really formed their identity through their spiritual and physical connection to country.

The other side of the equation that this bill seeks to address is the economic interests of the state. WA is in an economically advantageous position, given that we have an abundance of natural resources here at our disposal. These resources provide a lot of economic benefits for not only the state, but also the country and the region. There are a lot of countries that rely on our LNG reserves and iron ore deposits. Efforts to protect the state's economic interest and preserve the country's heritage are really at constant odds, and the bill before us today strives to find a middle balance. That is a very difficult balance to strike, and I do not envy the government nor indeed the minister in trying to achieve that. I agree with the words of Hon Peter Collier: I think it is a lose–lose situation. It is impossible to really strike that balance and appease all stakeholders on both sides of this equation. However, I oppose this bill because I believe that it does not strike the right balance in preserving our cultural heritage. This is not just my own view, but is echoed by the majority of the prescribed bodies corporate and traditional owners here in WA.

I have consulted with and heard from many Aboriginal people, and we have heard testimony from many members, certainly from Hon Dr Brad Pettitt who read out many names of distinguished people who have voiced their opposition to this bill. The vast majority of the Aboriginal people I have consulted do not want this bill, and most landowners I have spoken to also do not want this bill. The only people who seem to be happy with this bill are those at Rio Tinto and BHP, which really raises the question: If this bill is not wanted by the very people for whom it is drafted to help protect their culture, then what are we doing here? What is this bill seeking to do? Really, it is not enough to say that this bill is an improvement on the existing 1972 act. We can do better, and we have an opportunity to do that today. I was disappointed that this bill was not referred to the Standing Committee on Legislation yesterday, as that was a good opportunity to take a step back, take a breath, and refer to the committee this very important legislation that will affect multiple generations.

It is also very disappointing to see that the majority of the recommendations in the *A way forward* report have been ignored. The incident that sparked this report was the destruction of Juukan Gorge. I believe we are all familiar with that incident by this time, and it is the very reason this bill was created. The recommendations in this report were ultimately created to prevent a similar incident from occurring in the future. Given that this bill ignores the majority of that report's recommendations, it raises serious concerns for not only me, but also all the traditional owners who have reached out to me, that this bill does not go far enough in protecting our cultural heritage.

I refer to land users. More than anything, they want certainty. That has been the overwhelming feedback that I have received through consultation leading up to this bill here today. They want to know that they can invest in this state and that the rug will not be pulled out from underneath their feet, which is incredibly important. Here in WA

and in Australia we have stable governments and stable industry, which is an attractive enticement for investors, who are important to this state. This bill aims to provide a framework to give certainty to investors. Their problem is that the bill does not contain any details. How will the LACHS operate? What will the management plans look like? What will the fee for services be? What will approval times be? What activities will fall within the tier systems? These are all going to be worked out after the bill has passed and will appear in the regulations. We have not seen those. There have certainly been calls from land councils, PBCs and traditional owners to see what some of those regulations will look like. There is a lot of uncertainty right now.

I have spoken to two exploration companies. Their main concern is really the uncertainty that this bill will bring. There is certainly a lot of red tape contained in this bill, and the companies are concerned that the LACHS will operate effectively as part of the negotiation process to get approval to use land and bring it forward. Typically, it costs in the order of \$1 million for an exploration company to conduct activities on its mine tenements. By conservative estimates, exploration companies think that this bill, once legislated and in force, will result in a two-year increase to that process. All these regulations are still yet to be determined.

Indigenous stakeholders are nervous about how this legislation will operate and perform when it is live, and if history is an indicator, they certainly have every right to be. They will be competing with mining companies and lobbyists to negotiate which activities fall into the tier system. Certainly, the government has a history of siding with mining companies and the big end of town. I acknowledge that the legislation will provide a general framework, but there is a lot of uncertainty for traditional owners about how it will operate when it is live.

I estimate there will be about 70 local Aboriginal cultural heritage services. The government has allocated \$10 million for initial funding of these organisations. I think it should be clear to anyone with any sense that \$10 million is not enough and really will not go far at all. At a minimum, the LACHS will require a principal legal officer and administrative staff. The services will need to establish governance and compliance processes, and provide in-house or seek external anthropological and archaeological services. Essentially, they will become a one-stop shop for Aboriginal cultural heritage, and that will take a lot of time, money and effort. This is a concern for not only traditional owners who will be responsible for fulfilling all these functions under the legislation, but also land users who will rely on the smooth operation of LACHS to continue to use their land. Again, the minimum time frame of two years certainly could blow out if a LACH service is dysfunctional.

Several honourable members in this chamber have already spoken about the lack of consultation on this bill. The Indigenous representatives I have spoken to and consulted with in Perth and the regions provided testimony that they do not feel they were consulted with at all. Workshops were held, but they consisted of PowerPoint slides, and, as Hon Dr Brad Pettitt indicated yesterday, they were not conducted in native languages. The people I spoke to did not feel that there was a conversation about this bill during the drafting process; it was a one-way dialogue. I understand the government and the Minister for Aboriginal Affairs need to strike a balance with this legislation. I agree that the minister is a fair minister, but this legislation is also for future ministers. Making sure the primary stakeholder feels included in this process is, to me, one of the most important aspects of this bill. Whether or not the recommendations were incorporated is one matter, as is ensuring that natural justice is performed. That the very people this bill aims to protect feel they were brought into the process is a testament to the success or, indeed, the failure of this bill.

This is a once-in-a-lifetime bill that will affect the culture of this state. It has implications for not only future generations in this state, but also other states and territories that are looking to Western Australia to see what this legislation will look like when it is implemented and how successful it will be. We had an opportunity to adopt best practice in legislative drafting principles, following the advice of the Joint Standing Committee on Northern Australia's report on the Juukan Gorge incident, but that has not been done to date. It is mind-blowing that the report *A way forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge* has largely been ignored, and we have, again, another rushed bill before this house. The government hopes to push through this bill at lightning speed so that all the controversy, anger and sadness surrounding this bill will be forgotten over the holiday period and swept under the rug in 2022.

The traditional owners of WA and I do not feel that this bill goes far enough to prevent another Juukan Gorge incident. Traditional owners do not feel they were consulted with or included in the drafting of this bill. It is for those reasons that I cannot support this bill today.

HON STEVE MARTIN (Agricultural) [12.48 pm]: I rise to make a contribution to the second reading debate on the very important Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021. Like my colleagues in the alliance, unfortunately I am forced not to support the bill for reasons similar to those we have heard, especially those from Hon Peter Collier.

There is simply too much that we do not know and the regulation process will be crucial to how this lands. The minister will have a large workload and I wish him all the best, because this is important legislation and it deserves a good outcome. As I said, I think that much of it probably depends on the regulatory framework that will be decided upon.

Before I get to the substantive issues I have with the bill, I want to comment on the consultation process. The Aboriginal Cultural Heritage Bill is large. We have been given time to examine it, but members of the other place

had almost no time to examine it. There are hundreds of pages and it contains hundreds of clauses. Even the explanatory memorandum is a doorstopper. I have no idea how members of the other place could have given it any serious scrutiny. I may be wrong, but I believe that a briefing was offered to members of the Legislative Assembly before they saw the bill. Processes in this place are important, and this legislation is significant, but the process the bill went through to get to this chamber has been nowhere near appropriate. As we approach the end of the calendar and sitting year, we are left in a difficult position. Normally, a bill such as this would take some time to go through the Committee of the Whole stage, but our time will be limited. Of course, the home for proper examination of legislation is the Standing Committee on Legislation, and I am disappointed that that will not happen.

I want to comment on some of the stuff that will fall to the regulations, particularly the tiers of activity. There is limited detail in the bill to determine what that will mean exactly. Like some other speakers, I am sure that certain industries will do it very well. In fact, I had a meeting recently with a Queensland mining company that was well aware of this legislation and, as far as I could tell, it had no dramas with it at all. It is used to dealing with this type of legislation. That is fine; it is a multimillion-dollar set-up. It has great lawyers and good processes and I am sure that it will be okay. However, I am concerned about how the bill will be handled by Aboriginal people, whom it is aimed to protect, and their heritage. I hope that they will have the resources to do their part well. Clearly, some of them do not think they will, and I will get to that later.

I am also interested in sectors of industry that are not as well prepared as the large mining company that I met with recently, particularly in the wheatbelt and the great southern—agriculture, for example. I urge the minister to consult people in the ag sector on the co-design process that the minister will be running, I assume, in the new year and for some time. I think that they are nervous—that is my best summation of how they have approached this bill. It is not something that they are used to dealing with. The pastoral industry possibly has a better grasp of these sorts of things, but this is new territory for people involved in small-scale broadacre agriculture, and they will need to be closely involved in the co-design process. In the briefing we were given some indication that a small group of people would be at the top of the co-design process and underneath there would be a wider group. I hope that there is enough room in that lead group for someone from the ag sector. Obviously, there will be someone from the mining sector and an Aboriginal person or two, I hope, but I hope that there will be someone from the ag sector in that lead group as the co-design process rolls out.

We heard from Hon Colin de Grussa about what the levels of activity mean. There is concern about what will be considered to be normal use and how that might change. For example, if a landowner of a grazing property that has been grazed for 150 years and has never been cropped, and that is its normal use, changes their view about the appropriate use of their property and they go to cropping, will that trigger a normal-use provision that shifts it from one tier to another or put in place a change? We do not know—the sector certainly does not know—and we are not going to know through this process in the house. It will be left to regulations. It is fair to say that there is a level of anxiety in the ag sector about where it will be placed in the various tiers and whether it has the resources to deal with the regulation process. It would be a shame if there were to be more regulation placed on that sector, or any other sector, for no benefit.

During the briefing and in discussions in this place, we have heard over and over again about Juukan Gorge. I understand that that was a very significant and serious event, but I am always nervous about politicians rushing to find a solution to something that has just happened. We heard from Hon Peter Collier that the process for clearing the backlogs and inefficiencies of the existing legislation has been in place for some time, but obviously something has triggered this mad rush at the end of our parliamentary sitting year. We saw that in the lower house; it had a day and a half to debate this legislation, and we have some time, but it would be a shame if, because of Juukan Gorge, there were a perceived need to get this legislation through right now. Legislation on this scale deserves as much examination as possible. I urge the minister to use the consultation process as widely and as well as he can, and I wish him all the best in that. As Hon Peter Collier said, he is not going to please everyone, and we understand that, but let us get the best result —

Hon Stephen Dawson: Welcome to my world!

Hon STEVE MARTIN: That is why they pay you the big bucks, minister!

I hope we come out of this in the best shape possible for our Aboriginal people and their cultural heritage, which has an important place in our state; for the various agricultural sectors; for the mining sector; and for landowners.

I will now move on from those industries. Apparently, properties under 1 100 square metres in size will not be captured by this legislation, and I am intrigued by the distinction; properties of 2 500 square metres will be captured. We heard the minister in the other place talk about properties on the outskirts of cities; we might suddenly creep up on a 2 500-square-metre block, a five-acre block or a hobby farm. Somehow, the Aboriginal heritage on those lands is important and worth capturing and protecting, but if it is less than 1 100 square metres and the owner puts a pool in the backyard, it is not. I would like some clarification from the minister about why that distinction was made. For those of us who live further out and have homes on larger titles of 50 or 60 hectares, would we trigger the legislation if we were to put a pool in our backyard? There are no home blocks on farms; it is a title with a house on it. If someone were to put a septic tank down on such a title, would that trigger a level of activity?

I assume our Committee of the Whole process will be quite rushed, so if the minister sees an opportunity in his reply to the second reading debate to deal with any of this, it will save us some time.

Hon Stephen Dawson: Honourable member, I will, but I suspect there will be many questions on the 1 100-square-metre issue, so I will give only a cursory response and we will deal with that later.

Hon STEVE MARTIN: I appreciate that, and I thank the minister.

I have a couple of other questions about inspectors. We have dealt with a number of pieces of legislation since I have been in this place, and it is rare for us to not have increased inspection regimes. In this legislation there is a very significant inspection regime, and I would again like a response from the minister on that. Who will qualify as an inspector? I believe that under clause 234, the inspectors may, at any time, stop and enter a vehicle, other than a mobile home. I hope those inspectors will be wearing uniforms or some other very obvious form of identification. It strikes me as being extremely dangerous for someone to be given the role of inspector and to have the authority to stop a vehicle. By the way, “vehicle” means a vehicle other than a mobile home, so that includes a road train. If an individual is given powers, more often than not they will try to use them. It strikes me that that will put those inspectors in a very difficult position, and possibly the drivers of vehicles, who will not know why they have suddenly been flagged down by someone who may be wearing a uniform that does not look like a police uniform or who may not even be wearing a uniform.

The inspector will also be able to detain a vehicle for a reasonable period. I have no idea what that means. Is that an hour, a day or a month? The inspector will be able to move the vehicle to another place suitable for carrying out an inspection. If the driver is 300 kilometres east of Meekatharra and the inspector says, “We can move the vehicle back to Meekatharra to inspect it”, will that be at the driver’s cost? Will the inspector be able to drive the vehicle? It strikes me that some of these powers around inspection are significant, so we would like some more detail about that from the minister.

I have a couple of other points to raise before the luncheon break, if I have time. I was amused by Hon Peter Collier’s remark that a \$10 million fine would be small change. It might be to BHP and Rio, but it certainly will not be to a farmer, a horticulturist or someone with a family operation. I was amused by that. There does not seem to be a distinction between BHP and a family farm, so can the minister also give us some detail about that?

Perhaps I am new to this, but I believe that under questioning from an inspector, people will not have the right to silence and they will not have the right not to incriminate themselves. There may be lawyers in the chamber who are better informed than I am. Under clause 238, “Directions”, an inspector may direct an occupier of a place or vehicle to answer questions. Again, that will put a lot of pressure on inspectors, and the people they are inspecting and asking questions of. It will not be like a police officer talking to a suspect, if you like; it will be someone possibly travelling on an outback road—are you going to interrupt me, Acting President?

The ACTING PRESIDENT (Hon Dr Sally Talbot): I was going to let you finish the sentence.

Hon STEVE MARTIN: I will come to that after the luncheon break.

The ACTING PRESIDENT: Noting the time, I will leave the chair until the ringing of the bells.

Sitting suspended from 1.00 to 2.00 pm

Hon STEVE MARTIN: I will conclude my remarks and, in summation, urge the minister—as he suggested he will—to use the consultation period wisely. This is very important legislation with far-reaching effects right across the state. I sincerely wish him all the best in this process. It is quite a task that, as I said, will have far-reaching outcomes. It is important that we do not get this wrong for all sorts of reasons. I look forward to seeing how the co-design process is rolled out and hope that all sectors get to play an adequate role. I also look forward to the minister’s second reading reply speech and a detailed examination of this legislation, if we have the opportunity, during the Committee of the Whole process. I conclude my remarks.

HON SOPHIA MOERMOND (South West) [2.03 pm]: I will keep my contribution on the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021 short, as always, and also because my honourable colleagues have covered all the valid points. I can only add that I am saddened by the lack of consultation both with our Indigenous elders and in this chamber. This is our one chance, or one of the best chances, to create a relationship of trust and cooperation with the traditional owners of this land, and it feels as though we are missing this opportunity. I think that is such an incredible shame.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [2.05 pm]: As a number of members of the opposition have indicated, the opposition is not opposed to the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021. The government will no doubt explain how they will function.

I want to raise a few quick points before we move to Committee of the Whole House. It is always hard to discuss Aboriginal affairs after Hon Peter Collier has spoken, so I will not try to compete with his knowledge in the area. I will just make a few broad points that the minister will, hopefully, address in his reply to the second reading debate. Otherwise, we might address some of these things in the clause 1 debate of the Committee of the Whole House.

Obviously, this bill cannot be all things to all people. I have always said about bills of this type that when everybody generally is a bit unhappy, we are probably somewhere close to the mark. In this case, despite the criticisms from groups that are not particularly happy, there are some very good parts of this bill, but not necessarily all of it. The biggest issue we face with this bill are the unknowns around the regulations that are yet to be written. Much of what we might discuss over the next day or two in the Parliament will perhaps centre around things that the minister will try to manage by regulation. I suspect that the minister will not accept amendments, so the best we can do with this is to raise issues and ask the minister to address them with good intention.

I will run through a few of those things. I agree with the comments of Hon Peter Collier that there was a large degree of consultation on this bill for a large number of years. We can absolutely consult these things to death and progress can be emasculated as a part of that. There will obviously need to be more consultation on the regulations as they go forward, but there has been a wide degree of consultation. I think there are groups that think they have not got the outcome they wanted and, as we know, lack of consultation is sometimes confused with consultation that did not deliver the outcomes desired, but government must progress. All members need to remember that at this stage this is the government's agenda, it is the government's bill, and how this process rolls out eventually will be a judgement upon the government of the day.

I would particularly like to raise a couple of things, and will just run through some of those key questions, which might minimise my contribution to the clause 1 debate. My understanding is that we need to look at this bill as a replacement that moves on from the old 1972 act. The first question is one we always need to get across: what in the bill and the process will make Aboriginal heritage not universal across the state of Western Australia and will allow appropriate development? As I understand the briefings, there will still need to be a judgement about what constitutes Aboriginal heritage, while local area committees will identify what they think are Aboriginal culturally significant areas. My understanding is that, ultimately, a review process will allow the government to make a decision about the extent to which the significance exists and whether its existence should prevent further action from occurring. I hope that the minister will explain the process and if that is the case, I can move on from that. I note that clause 100 defines "exempt activity". I want to note the prescription of 1 100 square metres as an area of exempt activity.

Again, from the briefings I have received, my understanding is that the 1972 act effectively had no exemptions. For the first time in this place we will be applying exemptions. The Acting President's memory might be better than mine, but I had to look up precisely how many square metres there are in an acre; it is 4 046.86. A quarter acre is 1 011.7 square metres. The cut-off point is a bit over the old-fashioned quarter-acre block. I will be interested to hear the minister tell me in his second reading reply whether the government was aiming for a quarter-acre block. Why is it that number, as opposed to a one-acre or 10-acre block, and what was the reason for that number? I am not suggesting that I am opposed to it. I think the government has taken the positive step of exempting most people's backyards from the legislation. The question in my mind is why the government drew the line at that point. That will be interesting to hear.

The government has indicated that the intention is for the local area consultative groups to, effectively, represent the native title holders. I presume that in his second reading reply, the minister will also describe the government's intention for those bodies. I wish the government well, because an issue that it will face is the conflicting claims over various areas. I have spent a lot of time talking to groups with conflicting claims over sites. I think that will be a very difficult issue. Hopefully, the minister can tell the house precisely how he plans to manage that. I think it is wise to link this issue with the native title holders because they have some authority over the land. However, we will probably need a greater description of how that process will work and I will be pleased if the minister can give us an indication about how that will be managed when there is a conflict.

I would like the minister to respond to a couple of other issues. The first will not surprise him and a number of industries have raised it with me. I refer to the definition of risk of harm when dealing with a site, area or item that has been determined as a cultural heritage site. This applies throughout the bill, including at clause 115. Under that provision, when applying for an Aboriginal cultural heritage permit, the applicant must set out how the proposed activity will be managed to avoid or minimise the risk of harm. There is another example at clause 163. Under that provision, the ACH management plan is to be managed to avoid or minimise the risk of harm. Another example is at clause 120. Under that provision, when granting an ACH permit, the council must be satisfied that the applicant will take all reasonable steps to avoid or minimise the risk of harm. Can the minister provide examples of avoiding harm to a site? That would seem pretty obvious, but what is the definition of "minimise"? I am thinking of Main Roads in particular. It might need to take down a tree that is determined to be culturally significant because there is no other way around it. The matter would come before the minister for ministerial discretion and a decision would have to be made about whether it was appropriate to take down the culturally significant item or object, such as a tree, to widen a road to make it safe for the community. The minister would have to justify that decision. Can the minister give us some more details about and define how that will be applied at the council level and, ultimately, the ministerial level?

I would also like the minister to describe to us the level of accountability and how much of the ministerial decision-making process will be made public. I fully understand that, ultimately, the government will have to make decisions, as it has with the legislation, and that probably both the proponent and the local area consultative

group will be somewhat unhappy. If that is the case, the interesting question is: how much responsibility will there be on the minister for disclosure around that case? Can the minister give some detail around that? That is also particularly important. We may have to ask further questions when we discuss clause 1 in the committee stage.

One of the other members mentioned this. I presume the minister will describe the relationship between the Environmental Protection Authority and its consideration of Aboriginal heritage and what will, effectively, be the new Aboriginal cultural heritage act. I suspect the EPA, of its own volition, has decided to have a greater component of Aboriginal heritage in its assessment; therefore, there will be an interaction. Will the EPA step back so that the Aboriginal cultural heritage act will be the foremost document? How will we manage the conflict? What will be done if a management plan is put in place that the Heritage Council of Western Australia and the minister endorse, but the EPA has a different opinion about? In terms of the relative strengths of these things, which one will override the other? The beginning of the EP act tends to override every other act. It is critically important that we understand that as much as we possibly can.

I agree with Hon Peter Collier that the removal of section 18 is a good outcome for Western Australia, and I commend the government for that. It has bogged down into a very difficult process. That is not to say that the new process might not bog down as well, but I am hopeful that the government will be able to push that through to a level that will provide a way forward. I think that is critical. Those are some of the key questions that I hope the minister will address in detail, either in his reply to the second reading debate or during Committee of the Whole House.

The other critical point that I want to put on the table is that much in the way of regulations will go forward. Other members spoke about ensuring that there is representation and wide consultation when those regulations are put together. I have had multiple conversations with agricultural groups, for example, that are not necessarily opposed to what the government is trying to do. Those groups want to be part of the negotiation and consultation on the regulations. I ask the minister to ensure that groups such as the Pastoralists and Graziers Association and the Western Australian Farmers Federation are part of that consultation around the regulations, along with all the other bodies that I know the department has to go through. I said earlier in my short address that we can consult these things to death and never proceed, but, in this case, the regulations will be utterly critical to the success or failure, particularly in taking the wider community with us as we go. I really think that will be a critical component. I personally request that the minister, firstly, notify the house of the groups of people who will be involved in that consultation phase and when it gets to the regulations; and, secondly, potentially engage with all those groups, as painful as that might be.

One other issue that I would like the minister to address—we may need to do it in Committee of the Whole—relates to enforcement, which I am a little concerned about. I know that the government likes having inspectors for lots of things. It has inspectors for everything. We have groups of people wandering around, from animal welfare to fisheries to health inspectors et cetera, with one lot checking people's COVID vaccination status and the next lot checking people's catch, and now we will have a group of inspectors checking that people are not removing items of Aboriginal cultural heritage. I am a little concerned that if inspectors are going to be appointed, it is done in a way that is not unnecessarily confrontational. Under part 10, some very strong powers will be granted to Aboriginal inspectors, including the power to enter into places that are not residences. That may well be reasonable. Inspectors will also have the power to stop vehicles and to seize vehicles and take them to an alternative place to be searched. I urge the minister to make sure that this process is sensitive to both sides of an argument. The minister might be able to explain this in a bit more detail. Is it feasible that a tourist could pick something up unknowingly and suddenly have their car seized? How will that interaction be managed? A lot of these situations will probably occur in the minister's electorate. For example, some gruff person driving along will take quite unkindly to being pulled over for picking up an inappropriate stone. I am not suggesting that that is the intent, but it behoves the government to explain precisely how those stop-and-search powers will be expressed. Some of that will come under the regulation component. If inappropriately used, they will be like everything else; poor old police officers get abused a lot for the things they try to do, so we might find that the enforcement and compliance section of the legislation will end up being something of a flashpoint if it is not managed carefully. I would prefer the minister to indicate the sensitivities around how that will be managed.

Hon Stephen Dawson: I might do some high-level stuff in my reply, but we might canvass that properly in committee.

Hon Dr STEVE THOMAS: That is a little further down in the bill. That is also a critical component.

Those are the key questions that I want the minister to address, either in his reply to the second reading debate if possible—I will tick them off—or as we go through the committee stage. This includes the consultation process for regulations and particularly how the definition of harm minimisation will be managed so that it does not become an encumbrance that prevents development.

Overall, I am quite supportive of these bills. I do not think any bill is perfect, and no doubt we will find some flaws in these bills. I would love to find a big enough flaw to move an amendment to recall the lower house for a while, but that might be just mischief talking! I can imagine the Legislative Assembly sitting on 22 December if we can find something. We will have a good try. It is a big bill. It is an important bill. The balance is critical. Dare I say it, as I finish my speech, I suspect that if we get to the end of this point and everybody is unhappy, the minister will probably be pretty close to nailing it.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Aboriginal Affairs) [2.23 pm] — in reply: I thank all those honourable members who have made a contribution to the debate today on the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021. These are important pieces of legislation, as many members have pointed out. I first want to respond to comments made about the complexity of the bills. I note that when the Aboriginal Cultural Heritage Bill 2021 was debated in the Legislative Assembly, the Leader of the Liberal Party, David Honey, MLA, said in his contribution —

I say to the people who wrote this bill that it is one of the clearest bills I have read, so I thank them very much. I entirely agree with Dr Honey. I thank the drafter from the Parliamentary Counsel's Office, Ms Elaine O'Hare, for her countless late nights in drafting the bill.

Hon Dr Steve Thomas: You know that sentence is in *Hansard* now!

Hon STEPHEN DAWSON: It is in there twice!

Certainly, there are levels of complexity to the bill. That is because Aboriginal cultural heritage protection is a complex, important and highly sensitive subject matter to legislate for. As we heard from Hon Peter Collier in his contribution, although the Aboriginal Heritage Act 1972 was groundbreaking for its time, it has been heavily criticised for being out of kilter with modern standards of heritage management and for its lack of clarity and certainty, which has resulted in an inefficient and ineffective framework for both Aboriginal parties and land users alike. This bill is lengthy, but we make no apologies for it. That is because it contains all the necessary checks and balances required to ensure that better protection of Aboriginal cultural heritage will exist in this state. The bill will serve to provide a modern and balanced legislative framework that will effectively recognise and protect and, indeed, celebrate the cultural heritage of Aboriginal Western Australians. It will provide a clear and transparent framework to ensure that better decisions are made about Aboriginal cultural heritage matters.

I also want to clarify the misconception about the consultation process that was raised by a number of members. When the former Minister for Aboriginal Affairs Hon Ben Wyatt announced the review of the 1972 act in early 2018, the consultation paper that marked the commencement of the three-phase public consultation process said —

Recognising there are many individuals and organisations that have an interest in Aboriginal heritage and the effect of the Act, a multi-stage consultative approach to develop contemporary legislation is proposed—starting with this consultation paper. Rather than propose amendments, this paper aims to engage stakeholders in an exploratory conversation on key aspects of the Act as it operates now. Phase two will see the release of a Discussion Paper that will offer a series of protocols on what the amended Act should do following distillation of the feedback on the Consultation Paper. The Discussion Paper will take into consideration past experience and current practice, and a scan of approaches in other jurisdictions. Following the second round of public consultation, State Government approval will be sought for the preparation of an Exposure Draft Bill. The Green Bill will be released for public comment. Feedback on the Green Bill will inform the preparation of a new Aboriginal Heritage Amendment Bill for consideration by State Parliament.

This is what the government promised to do at the start of the consultation process, and this is exactly what the government has delivered—an open, transparent, extensive and, indeed, inclusive three-stage consultation process that has lasted for almost four years.

To those honourable members who have made comment today that there has been no consultation, I say: you are wrong. You have done yourselves a disservice by not looking into the history and at what has gone on before us.

Several members interjected.

Hon STEPHEN DAWSON: To those members who have made comment that no consultation has happened, you are plainly wrong.

A key component of the consultation design process was to ensure that engagement would be accessible to as many Aboriginal people as possible, and not limited to those Aboriginal people aligned with native title representative bodies or other organisations. This was to ensure that government received views from the broad range of Aboriginal stakeholders. The design of the methodology for consultation involved significant input from Aboriginal officers of the Department of Planning, Lands and Heritage who are based in the regions and who are also members of their local community. These officers were well placed to advise on the best consultation process that would ensure maximum input from the Aboriginal community, including on the choice of culturally appropriate locations, venues and dates, and when to use interpreters and the like. Independent facilitators were hired. Butcher's paper was used to record thoughts and feedback, community members were encouraged to take photographs to ensure that their invaluable input was correctly documented and meeting records were taken, and all are available online.

I am aware of at least one location, Warburton, at which the session was done in language. It was asked to be done in language, and it was done in language. To those members who have suggested that it was not, again, you are wrong.

Hon Dr Brad Pettitt interjected.

Hon STEPHEN DAWSON: No. I answered the question the way it was asked. Your comments are wrong.

Public information sessions and workshops were held in 35 locations across the state, over 1 500 people attended, and more than 380 submissions were received from a wide range of stakeholders, including Aboriginal organisations, industry, government, landowners, pastoralists and heritage professionals, who all informed the development of the bill.

Various members of the chamber are concerned that there has been a lack of consultation, as I said, with some parts of the community, such as landholders, farmers, the housing industry and others. The Property Council of Australia and the Urban Development Institute of Australia were consulted. The Western Australian Local Government Association was consulted. Government proponents—such as Main Roads, which is most likely to be affected by the new regime—also have been heavily consulted. We will continue to engage with all stakeholders, as part of our co-design process, on the development of key documents that will support the bill, such as draft regulations. Given the importance of these documents, the WA government is committed, and has committed, to a co-design process. In relation to the farming sector, I am aware the Pastoralists and Graziers Association has been involved in conversations with my office and has been at briefings that I have attended over the past while.

Consultation and engagement with Aboriginal people about the new Aboriginal cultural heritage regime continues, but now with a focus on the development of the regulations and the guidelines that will support the new act. This includes the development of regulations that will outline activity categories and time frames; the Aboriginal cultural heritage management code, which will outline the due diligence process; and the Aboriginal cultural heritage management plan template as well as other guidelines to support the operation of the new act and to ensure that it achieves the intended purpose. Working throughout the regions and holding workshops with local people is our priority to make sure the new laws work for everyone. As I have said, I am thoroughly committed to a co-design process for this important work. The first step in this process will be to establish a reference group with representatives from Aboriginal groups and industry to provide feedback and guidance on the consultation co-design process. The reference group will also engage stakeholders and seek their feedback on the next steps and the investment needed to ensure local Aboriginal cultural heritage services are supported to administer the new heritage regime.

Yesterday, Hon Neil Thomson raised concerns about the interaction of this bill with the Environmental Protection Act 1986, as the Leader of the Opposition also mentioned today. Hon Neil Thomson also raised the risk of additional red tape and duplication. The Environmental Protection Authority was consulted throughout the process and the development of the bill. I quote from the EPA's submission on the consultation bill —

For direct impacts, the EPA is supportive of the Aboriginal Cultural Heritage Bill 2020 being the primary legislation dealing with the protection of Aboriginal Cultural Heritage. It also supports the removal of unnecessary duplication in the environmental impact assessment ... process where there are legislative overlaps between the ... Bill and the EP Act.

The EPA also supported the amendment to the Environmental Protection Act 1986 for the removal of the constraints that currently restrict the Minister for Aboriginal Affairs from making decisions on Aboriginal cultural heritage issues during environmental issues. It stated —

To further express the primacy of a future Aboriginal Cultural Heritage Act in consideration of direct impacts, the EPA also proposes to amend and update its key policies and guidance that outline how the EPA considers Aboriginal cultural heritage issues.

This government has worked closely with all government stakeholders to ensure that there is a whole-of-government response and consistency across government agencies towards the better protection of Aboriginal cultural heritage, and we will certainly continue this work when the legislation is enacted.

The claims by Hon Neil Thomson that a new regulatory system will be imposed on landowners is not correct. I would like to address the concerns raised about the impacts the processes in the bill will have on all landholders with lots larger than 1 100 square metres. The 1972 act is silent on lot sizes. Under the 1972 act, any activity on any parcel of land that when undertaken alters, damages, destroys or conceals an Aboriginal site is an offence and as such would require a section 18 consent to lawfully proceed. There are no exempt activities in the 1972 act. Just because approvals for such activities have not been sought in the past does not excuse that approvals should have been sought. This lack of adherence to current regulatory requirements has resulted in large swathes of the state having been developed at the expense of Aboriginal people's cultural heritage without any due regard for that heritage or the impacts to the relevant communities.

Hon Steve Martin asked for the rationale for the lot size of 1 100 square metres. The 1 100 square metres is based on lot sizes that are currently exempted from bushfire planning requirements, and is well understood in the planning context. The rationale is that if lot sizes were to be smaller than 1 100 square metres, a house's footprint could not be easily moved to avoid an impact to Aboriginal cultural heritage or, likewise, to be bushfire safe. If we made the lot sizes any smaller, we would end up essentially sterilising people's land or making building a house prohibitively expensive if Aboriginal cultural heritage is in existence on that lot.

Hon Dr Steve Thomas: Which already happens under the Bush Fires Act.

Hon STEPHEN DAWSON: Yes. This lot size captures most of the metropolitan dwellings in already built-up areas. This bill is an improvement on the 1972 act as it makes it clear that any activities associated with residential development on lots smaller than 1 100 square metres will not require an approval to proceed as such activities are exempt activities. This bill will provide certainty around processes and decision-making by specifying activities that require approval should they harm Aboriginal cultural heritage and by including a due diligence process that outlines the pathway for evaluating whether an approval will be required. The due diligence process will consider existing land use and prior disturbance and will be subject to co-design with stakeholders. This co-design process will allow parties to contribute to the finalisation of the activity categories that will result in well-informed, consultative decisions regarding the constitution of the activity tables.

This new legislation, as a number of members have noted in their contributions, is about a balanced approach to Aboriginal heritage management and endeavours to reach agreement on avoiding or minimising harm to Aboriginal cultural heritage. The bill will allow for further exempt activities to be prescribed by regulations, which again will be the subject of co-design with traditional owners and other stakeholders, including landholders, pastoralists and local government authorities.

Concern was raised by Hon Tjorn Sibma and also the Leader of the Opposition about the appointment of inspectors. Hon Tjorn Sibma raised in particular Aboriginal inspectors and inspection powers, such as the right to stop vehicles. These same inspection powers are provided to inspectors appointed under numerous pieces of legislation in Western Australia, including the Biodiversity Conservation Act 2016, the Environmental Protection Act 1986 and the Heritage Act 2018. That legislation has come from both sides of politics. Under these other pieces of legislation, inspectors have the power to co-opt the assistance of any person in the state to assist in the performance of investigation powers. Why were these concerns raised about the appointment of Aboriginal inspectors? The appointment of Aboriginal inspectors will empower Aboriginal people who are on the ground to monitor compliance with the management of their heritage. We foresee Aboriginal rangers and members of local Aboriginal cultural heritage services taking up these roles. The government will oversee Aboriginal inspectors and will ensure that they have the necessary support and training to undertake this role. I remind members that the contested Aboriginal inspection powers and exemptions for lot sizes under 1 100 square metres were part of the consultation draft bill that has been available to the public since September last year.

Comments were made that this new framework will result in consultants hijacking the system. In contrast, this bill will empower Aboriginal people themselves to determine the importance of their heritage, rather than a government body asserting the significance of their heritage, as is the case under the current 1972 act. With this authority, traditional owners will be able to negotiate agreements with miners and other land users on how their cultural heritage will be managed. This approach significantly redefines the relationship between Aboriginal people, proponents and government with respect to Aboriginal cultural heritage management.

This bill further supports the pursuit of self-determination by traditional owners across the state through the designation of local Aboriginal cultural heritage services. LACHS will be able to charge a fee for service for services provided in connection with their functions. These fees must be reasonable and will need to be in accordance with a fee schedule endorsed by the Aboriginal Cultural Heritage Council. The appointment of LACHS to undertake a formal role in facilitating consultation and agreements on Aboriginal cultural heritage management plans in their area of designation will empower Aboriginal parties and strongly aligns with the government's recently released Aboriginal empowerment strategy and the Closing the Gap implementation plan. LACHS will provide a platform for local groups to engage in on-ground heritage management services, which should lead to economic opportunities and jobs that are not currently available in many regions of our state. Yes, consultants with specialist skills may be required from time to time, but it will be up to the LACHS to decide whether this service is required, and the LACHS will employ these consultants. It is hard not to wonder whether this is the reason that some groups such as native title representative bodies and some consultants oppose the bill. Finally, the power to make these decisions will be with the traditional owners and is not with intermediaries, which may explain why some groups are not so happy.

The bill represents a fundamental shift in the approach to Aboriginal cultural heritage management that will transform the heritage landscape and position local Aboriginal people at the heart and guts of the regime. The creation of the LACHS was a direct response to feedback received during consultation from Aboriginal people that decision-making should be decentralised and in the hands of local people with local knowledge. The government is committed to supporting Aboriginal organisations to build their capacity to become LACHS should they wish to do so, and to this end \$10 million has been allocated to help build capacity for these groups, long before the new law becomes operational. The bill will also allow for further funding to be provided to LACHS on top of the fees they may charge for services related to the performance of their functions.

We have heard from a number of honourable members that this bill will not prevent a scenario similar to the destruction of Juukan Gorge. That is simply not true. Juukan Gorge would not have happened had this bill been an act of Parliament at the time leading up to its destruction. Juukan Gorge was the result of flaws in the 1972 act, including not having legislative mechanisms in place to manage harm to an Aboriginal site once it is established it may have higher significance and the inability for the minister to intervene. If the bill had been in place at the time

of Juukan, an application to harm the site and a decision to approve the application could not and would not have been considered without full consideration and knowledge of the value of the heritage to the community. If the new laws had been in place, Aboriginal parties would not have been bound by gag clauses in private heritage agreements and would have been able to voice their objections or withhold consent for activities that might harm their heritage. The reforms we are debating today will mean that gag clauses will no longer be able to be used to silence the voices of Aboriginal people. If the new laws had been in place, local Aboriginal cultural heritage services would have been established across the state to coordinate consultation with local knowledge holders and would have ensured that Aboriginal people, as a collective, would have had an active role in negotiating the cultural heritage implications of new land use proposals before any proposed activities commenced. We know that Rio Tinto had four options for expanding its Brockman 4 mine site, but it told the traditional owners, the PKKP people, about only one option—to blow up the Juukan rock shelters. If the new laws had been in place, for the council to approve an Aboriginal cultural heritage management plan for an activity that may harm heritage, it would have needed to be satisfied that Aboriginal parties had given their informed consent to the agreement, including having been given full and proper disclosure of information by the proponent of the method and other feasible alternative methods for its proposed activities. The bill will enshrine the United Nations Declaration on the Rights of Indigenous Peoples' principles of free prior informed consent in its agreement-making process. "Informed consent" is defined in the bill as consent that is given without any coercion, intimidation or manipulation and includes full and proper disclosure by the proponent of the method and other feasible methods for the proposed activities.

Critics of the bill say that the destruction of Juukan Gorge would still have happened under this bill because the minister will have the final say and history has shown that ministers on both sides of politics have failed to protect Aboriginal heritage. I acknowledge the cynicism towards government, but I would like to point out that the minister's final authorisation on an Aboriginal cultural heritage management plan cannot be compared with the minister's approval of a section 18 consent under the 1972 act. They are completely different tools. The legal framework, the grounds for making a decision and the process for making a decision for a section 18 notice versus an Aboriginal cultural heritage management plan are simply not comparable. Decisions on Aboriginal cultural heritage management plans will not come to the minister for authorisation except as a last resort. Hon Dr Brad Pettitt claimed that a mining company could just hold out from coming to an agreement with the Aboriginal party so that the minister can decide. However, the bill does not make it easy for a proponent to seek the authorisation of the minister. As part of the authorisation process, the council will need to be satisfied that proponents have used their best endeavours to reach agreement before it can even come to the authorisation process. Ministerial decision-making will occur only when, despite best endeavours, parties cannot reach agreement and after the council has attempted to mediate an agreement between both parties. The council will be able to recommend authorisation of a plan to the minister only if the plan provides that the proposed activity is managed to avoid or minimise harm to heritage. The minister's decision to authorise a plan will be considered on the grounds of what is in the interests of the state, which is defined as including the social and economic benefits of Aboriginal people and the interests of future generations.

Currently, a section 18 consent is a blanket consent to destroy or impact Aboriginal cultural heritage. There is no requirement for the harm to heritage to be avoided or minimised. Unlike section 18 consents, the authorised ACH management plan will have a standard condition that new information about heritage needs to be reported to the council. This will allow for ministerial intervention in the form of stop activity orders and prohibition orders. As Hon Ben Wyatt, the former Minister for Aboriginal Affairs, has previously stated, had he had the tools available under this bill, he would have issued stop activity orders to prevent the destruction.

Hon Neil Thomson: Did he know about it?

Hon STEPHEN DAWSON: You will have to ask him, honourable member. Sorry.

The bill will also allow for the cancellation or suspension of an ACH management plan if the minister is no longer satisfied that the plan meets the requirements for a plan to be authorised. This may include that that plan no longer adequately provides for the activity to be managed in a way so as to avoid or minimise the risk of harm to Aboriginal cultural heritage. In direct contrast, the section 18 consent cannot be cancelled or suspended once issued. The authorisation of an ACH management plan may be subject to any other condition the minister considers appropriate to ensure the activity to which the plan relates is managed to avoid or minimise the risk of harm to Aboriginal cultural heritage. Further, when new information comes to light, the minister will also be able to impose a new condition or amend a condition to ensure the activity to be undertaken is managed to avoid or minimise the risk of harm to Aboriginal cultural heritage. I stress again: section 18 consent cannot be compared with a ministerial authorisation of an Aboriginal cultural heritage management plan.

Hon Dr Brad Pettitt quoted from an article from *The Conversation* that said —

... the developer can appeal to the state administrative tribunal over ministerial decisions they don't like. The Aboriginal custodians for that area will not have an equivalent right of appeal.

This is inaccurate and wrong. Under the bill, neither the proponent nor the Aboriginal parties will have a right of review to the State Administrative Tribunal for ministerial decisions to authorise an ACH management plan. I point

out that under the 1972 act, the right to SAT review for section 18 decisions is afforded to only the proponents. Unlike what Hon Dr Brad Pettitt said, SAT review avenues will be available for various decisions under the bill, both for the proponent and the Aboriginal party; for example, there will be a right of review to SAT for both the proponent and the Aboriginal party if the minister cancels an Aboriginal cultural heritage management plan that is agreed between both parties. There will be a right of review to SAT for proponents if the minister issues a stop activity order that stops the activity. There will be a right of review to SAT for Aboriginal parties if the minister cancels a prohibition order that was prohibiting an activity that was harming Aboriginal cultural heritage. Therefore, I think members need to stick to the facts and stay away from myths or untruths that are being perpetuated by some people whom I cannot be confident have read the final bill.

Unfortunately, although the Juukan tragedy received international attention, this is not the first time that a significant rock shelter site has been lawfully harmed due to decisions being made before its importance was known. The limited and archaic nature of the 1972 act means that we cannot be sure how many times in the past we have lost sites similar to Juukan without even being aware of it. Juukan is not the only significant incident of destruction of Aboriginal cultural heritage that has happened over the past decade. How would those events have unfolded if this bill had been an act of Parliament?

Hon Neil Thomson talked about his role in the former Department of Aboriginal Affairs when the Chaney decision came out. If this bill had been in place, we would not have seen the landmark Aboriginal heritage case in *Robinson v Fielding* in which Justice Chaney overturned the narrow definition of “sacred site” under the Aboriginal Heritage Act 1972, which the Aboriginal Cultural Material Committee had adopted on the advice of the former Department of Aboriginal Affairs to deregister a Port Hedland Aboriginal sacred site. The bill would have spared Aboriginal people the despair of seeing their sites being deregistered and not being afforded protection under the legislation. Under the act, the assessment is done by a statutory committee that does not mandate Aboriginal membership. Under the bill, it will be done by Aboriginal people themselves. This ineffective and inefficient assessment process is the cause of the backlog of 1 600 places to be assessed, as mentioned by Hon Peter Collier. This bill will ensure that there will no longer be a backlog. If Aboriginal heritage is important to Aboriginal people, it will be afforded protection under the legislation.

If this bill had been in place, we would not have seen the situation of proponents, whether it was through confusion, uncertainty or otherwise, shopping around for Aboriginal people to consult, resulting in disputes within communities and leading to the destruction of important Aboriginal cultural heritage by not including the right knowledge holders in discussions. We have seen this in a number of high-profile cases over the past few years. The bill will mandate consultation with Aboriginal people and make clear who needs to be consulted. Under this legislation, we will have longer time frames and stronger inspection powers to investigate potential breaches. I thank Hon Peter Collier for his contribution about penalties of days gone by. Under this legislation, we will have the highest penalties in the country to deter and punish those who harm heritage without authorisation. Importantly, the penalties for those offences will be able to be paid to Aboriginal people as compensation for harm to their heritage. That is something we put in place following the feedback from Aboriginal groups on the consultation bill.

If this bill had been in place a decade ago, we would have seen more Aboriginal cultural heritage of outstanding significance being protected through the declaration of protected areas and we would have been in a situation whereby Aboriginal people could have been granted tenure to look after those outstanding sites of significance. We know of groups of knowledge holders for protected areas who see the economic potential in opportunities for funding under the commonwealth Indigenous protected areas program or by undertaking tourism ventures, but who have not been able to do those things because under the 1972 act, they are not able to lawfully secure the necessary tenure. The 1972 act vests the exclusive right to occupation and use of protected areas with the Minister for Aboriginal Affairs, thereby triggering future act implications under the Native Title Act. This has resulted in no protected areas being declared since the Native Title Act was enacted. The bill addresses this by ensuring that protected areas declared under the new laws will no longer be vested with the minister. This will enable traditional owners to apply for more areas containing Aboriginal cultural heritage of outstanding significance to be made protected areas. A protected area will have the highest protection under the law, meaning that no activities that may harm that heritage, including exempt activities, will be able to be undertaken in the protected area. Furthermore, both houses of Parliament will be required to approve the repeal of a protected area or any amendment to reduce the size of a protected area.

No other reform initiative undertaken by the McGowan government has been subject to such extensive and transparent stakeholder consultation. There will always be critics of consultation. Consultation will never be perfect, given the diversity and extent of Western Australia, and I think Hon Peter Collier made that point. However, some of the loudest critics of the bill and the process have only recently chosen to be involved. They did not attend meetings or information sessions and ignored the many opportunities to put in submissions to inform government of their important views.

Although members have raised concerns about the 100-odd amendments made since the consultation draft of the bill, I ask: is this not evidence of thorough consultation, co-design and active listening? We released a consultation bill, we diligently combed through each submission in detail, we listened and we acted by drafting important

amendments. The Aboriginal Cultural Heritage Council will be made up of a majority of Aboriginal members rather than Aboriginal membership being preferred, as was in the consultation bill. Existing section 18 consents will be given an end date of 10 years unless they have been substantially commenced. This will allow and encourage transition to the new regime. Importantly, fines collected from harm offences will now go into an Aboriginal cultural heritage compensation fund rather than government coffers, so that compensation can be paid to Aboriginal custodians whose heritage has been harmed. Yet we face calls for more consultation—to scrap the bill and start again. This debate has gone on for too long. Every few years there has been a review of the 1972 act; some governments even managed to introduce a bill. But we know that for both sides of politics, all past attempts to reform the 1972 act have failed due to the lack of consensus from stakeholder groups and lack of government will.

There has been debate and commentary about which jurisdiction has the best Aboriginal cultural heritage legislation. Much has been said about the Northern Territory Aboriginal Sacred Sites Act 1989. That act has a limited context compared with the bill before us. Its application is confined to Aboriginal cultural heritage of a sacred nature rather than the far broader application under this bill. Under the NTASSA, proponents of activities that may harm Aboriginal cultural heritage are required, firstly, to approach the authority, which then arranges consultation with the relevant local Aboriginal organisations. Under this bill, the proponent will, in the first instance, engage directly with local Aboriginal people with knowledge of their heritage rather than through intermediaries. This not only is the respectful approach, but also encourages the building of ongoing relationships. The requirement for early engagement and consultation at the local level with the right Aboriginal people is a key principle of the bill and a direct outcome of the feedback from the early consultation that took place prior to drafting the bill. Under the NTASSA, the authority evaluates whether a place is considered to have heritage that can be protected by the legislation. Under this bill, no such evaluation will occur; if a place or object is considered by an Aboriginal person to be important, it will be protected under the legislation. The removal of such an evaluation process is a significant step in recognising that Aboriginal people are the primary custodians of that heritage.

Although the Northern Territory Aboriginal Sacred Sites Act includes provisions for agreement-making between parties, no standards or principles on free, prior and informed consent are enshrined in its agreement-making process and it has no provisions that disallow gag clauses in its agreements.

Concerns have also been raised about the penalties in the Northern Territory legislation for damaging a sacred site, as they are some of the lowest in the country. Under the NTASSA, the authority's decisions can be overruled on appeal to the minister. Although it has been pointed out that there may have been only four instances in the Northern Territory of a decision by the authority being overruled on appeal by the minister, the system in place is similar to what is proposed under the bill; that is, in effect, the minister will become the final arbiter only when agreement cannot be reached.

I do not make these points about the NTASSA as a point of argument on who has the better or best legislation; I make them to highlight that the NT legislation works for the Northern Territory. The bill before members needs to be seen in the unique context and practical reality of the state of Western Australia, which is home to both some of the world's oldest known Aboriginal cultural heritage and some of the world's most significant natural resources. It also needs to be viewed in the context of the 1972 act, and the enormous steps the bill is taking to ensure there is a real and effective Aboriginal voice in decisions impacting Aboriginal cultural heritage.

I heard a land council CEO say, "Okay; we know the bill is better, but is it the best?" The question is: are we willing to lose what we know is much better and continue on with the 1972 act? I certainly am not. Those who reach for the impractical and the ideal, and use fear, divisiveness and other cheap tricks to win their argument, do not mind if we lose the solution in the process of argument and debate. The solution is a much better, modern, progressive piece of legislation that will better protect Aboriginal cultural heritage in Western Australia. The solution cannot be the status quo.

I encourage deep reflection by those who stood up in this chamber and stated that they will not support the most progressive bill on Aboriginal cultural heritage this nation has ever known. In the future, things will progress further, as they have today. That is exactly the point: if we are too afraid to take a step, we will never move forward. These new laws and this government will ensure we keep moving forward, for the good and for our shared future. These new laws will deliver monumental legislative reform and transform the way Aboriginal cultural heritage is valued and protected by the state.

When Yindjibarndi leader Michael Woodley said no to Fortescue Metals Group mining Yindjibarndi land, it led to a legal tussle that went on for 17 years. This exemplary and inspirational figure, a strong critic of big mining companies and someone who has been at the forefront of the conflict between Aboriginal heritage and development, says the new bill will put First Nations people at the forefront. I quote —

"It puts the prescribed bodies corporate in control," he said.

"That means developers must engage directly with the people who have the connections to country and the knowledge to undertake heritage surveys."

...

“First Nations peoples, with the government, hold a unique opportunity following this Bill when placing our cultural heritage at the centre of discussions, when it comes to improving the awareness of industry and developers, who want to impact our country ...

Mr Woodley also addressed the calls for a power of veto for Aboriginal people. I quote —

“We need to be clear, the burden of having final say comes with a lot of pressure and confrontation for all the wrong reasons,” he said.

“We also need to be realistic and practical in accepting the role of government.

“Governments have a responsibility for First Nations people, but they are not going to give up their powers to anyone when it comes to representing the public’s best interest.”

A balance needs to be achieved between ensuring the protection and management of Aboriginal cultural heritage and a resources industry that generates employment, opportunity and prosperity for thousands of Western Australians, including many Aboriginal Western Australians, as well as the prosperity of the state and nation as a whole. Ultimately, it is the role of government to balance potentially conflicting interests in the best interests of the state.

Hon Dr Brad Pettitt mentioned several times during his contribution that this bill is a missed opportunity. Over the years there have been missed opportunities by governments of both sides to reform the 1972 act. These missed opportunities have resulted in an outdated piece of legislation that both Aboriginal parties and industry agree is in desperate need of change. These missed opportunities have resulted in the continued loss of irreplaceable heritage and the disempowerment of Aboriginal people in decisions about their heritage. These missed opportunities led us to Juukan. If we allow the endless debate to continue, and if we hit the pause button, as suggested by the honourable member, it will be a missed opportunity. The honourable member quoted his federal Greens’ colleague Senator Cox, who said —

To their credit, this Government has been the one to end the appalling 1972 Act.

But what we have ended up with is business as usual.

I have to say that the reality for the Greens is that they get to say and promise anything, but they never have to balance anything; they can sleep well at night in the knowledge that they will not be in government and have to make these hard decisions. To those members of the Greens who insist on firing symbolic rhetoric in protest, I think they are permeating yet another missed opportunity; they are encouraging business as usual and the gross inadequacies of an outdated 49-year-old act to remain.

The McGowan government is a government that takes action. It will not persist with business as usual. It will not allow another missed opportunity. This government has listened to Aboriginal people, who have told us year after year that the 1972 act cannot continue. My departmental officers, some of the same advisers who are sitting at the back of this chamber, have travelled far and wide to consult with Aboriginal people over the past four years. They have heard and witnessed heartbreaking stories. They have heard firsthand from traditional owners, who have said to them, “Why have you come so late? Why did you not have this law sooner? Our heritage has already been destroyed. We have lost our heritage.” I say to those traditional owners: it took us a very long time to get here, but we are here now.

I think Hon Brad Pettitt was one of those who has said that there are no greater protections in this legislation than in the 1972 act, and that it may contain less. I say to those people that I regret that statement and think that people who say that are doing Western Australians a deep disservice. These bills will deliver historic reform that will empower Aboriginal people and put them at the heart of decision-making about the management and protection of their heritage.

I have a few other comments in relation to Hon Dr Steve Thomas’s questions. He asked a question around what will prevent everywhere in the state from being considered Aboriginal cultural heritage.

Hon Dr Steve Thomas: To be universal.

Hon STEPHEN DAWSON: Yes; he asked what will be the failsafe in the act. For Aboriginal cultural heritage to be added to the ACH directory, it will need to be supported by a knowledge holder for that heritage. Minimum recording standards will also need to be met before Aboriginal cultural heritage is added to the directory. The purpose of the minimum recording standards is to ensure that sufficient information on why the heritage is important and who it is important to is captured. A statutory body will no longer be responsible for determining whether Aboriginal cultural heritage is important to Aboriginal people. The council will provide oversight of local Aboriginal cultural heritage services and will be able to suspend or cancel a LACH service if it is not performing. In terms of the minimisation of harm, it will be similar to what happens now—for example, the salvage of material and Aboriginal monitors on the ground. In relation to the member’s question about transparency of the minister’s decisions, there will be full transparency around that. The minister will publish decisions and reasons for decisions. Of course, that could potentially be looked at via judicial review at some stage to see whether a minister’s decision aligns with the legislation that will hopefully pass this place.

Before I finish, I want to acknowledge the people who have worked on this for many, many years. I particularly want to acknowledge Cesar Rodriguez, Diana Ting, Wanjie Song, Jeff O'Halloran, Joe Aldis, Chuck Ellis, Anita Nation and Ben Harvey; my policy staff, Shaye Hayden, a proud Noongar man who has been my adviser for this year; and my chief of staff, Darren Forster.

This has been a long journey, but I have been here for only a part of it; I have been here for only eight months of the journey that started in 2018. As a number of honourable members correctly pointed out, the legislation is but a step in the journey, because, of course, if the bills pass this place, the regulation-making process will have to start. An incredible amount of work will go into that process. I have committed to a co-design process to have all players involved. I have committed to traditional owners and prescribed bodies corporates doing stuff on their land. My commitment to industry—be it the mining industry or the farming industry—is to ensure that they have sessions with stakeholders to enable them to have input into the regulations that will sit under this important legislation.

Honourable members, again, I thank you for your contributions. I am very grateful for the nice things that have been said by a number of honourable members about me personally. I do not see this as being legislation that I will be leading or responsible for in years to come, because as Hon Peter Collier pointed out, we all have a shelf life in this place, but hand on heart, I believe this is the most progressive legislation in the country. In my mind, I have placed the most right-wing minister in the role of Minister for Aboriginal Affairs, and I am confident that even if such a person were in this role, safeguards in the legislation before us will protect Aboriginal cultural heritage for years to come. This bill is a good bill, and I commend it to the house.

Question put and passed.

Bill (Aboriginal Cultural Heritage Bill 2021) read a second time.

ABORIGINAL CULTURAL HERITAGE AMENDMENT BILL 2021

Second Reading

Resumed from an earlier stage of the sitting.

Division

Question put and a division taken with the following result —

Ayes (24)

Hon Dan Caddy	Hon Sue Ellery	Hon Ayor Makur Chuot	Hon Matthew Swinbourn
Hon Sandra Carr	Hon Donna Faragher	Hon Steve Martin	Hon Dr Sally Talbot
Hon Peter Collier	Hon Nick Goiran	Hon Kyle McGinn	Hon Dr Steve Thomas
Hon Stephen Dawson	Hon Lorna Harper	Hon Stephen Pratt	Hon Neil Thomson
Hon Colin de Grussa	Hon Jackie Jarvis	Hon Martin Pritchard	Hon Darren West
Hon Kate Doust	Hon Alannah MacTiernan	Hon Tjorn Sibma	Hon Pierre Yang (<i>Teller</i>)

Noes (4)

Hon Dr Brad Pettitt	Hon Wilson Tucker	Hon Dr Brian Walker	Hon Sophia Moermond (<i>Teller</i>)
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Question thus passed.

Bill read a second time.

ABORIGINAL CULTURAL HERITAGE BILL 2021

Committee

The Deputy Chair of Committees (Hon Jackie Jarvis) in the chair; Hon Stephen Dawson (Minister for Aboriginal Affairs) in charge of the bill.

Clause 1: Short title —

The DEPUTY CHAIR (Hon Jackie Jarvis): Members, we will commence with the Aboriginal Cultural Heritage Bill 2021. Please note supplementary notice paper 56, issue 1.

Hon NEIL THOMSON: During the initial stages of discussion on clause 1, I would like to focus on the issue of consultation. We heard an explanation from the minister about the process of the green bill and the four or five years of consultation undertaken since the government's initial commitment. However, I think there is some significant flaw in that discussion, which leads to the target of my interrogation at this stage. The concern is not so much that a bill was not provided to the community in 2020. I think the issue here is the 2021 bill, which has 100 amendments—the complexity of it and the time to digest it. As I mentioned in my contribution to the second reading debate, there has been a level of contention across the community about this. My question in the first instance is: who has the government consulted with? The minister mentioned 380 submissions, and I do not expect the minister to list all 380, but I would like a much more fulsome explanation of the categories of who was consulted with.

Hon STEPHEN DAWSON: I just say at the outset that apparently I referred to my chief of staff as Hon Darren West. He is not my chief of staff and never will be, can I say! No disrespect to the honourable member, because he does a fine job in here as the hardest working farmer in the Parliament. My chief of staff is Darren Forster, and I want to thank Darren for his work. He has been involved in the briefings for many opposition members, so I think they probably picked that up.

I turn to who we have consulted with over time. We have had Aboriginal heritage workshops all over the state—the great southern, the Kimberley, the wheatbelt, the Pilbara, the goldfields, Esperance, Perth and Peel, the Gascoyne, and the midwest—essentially every region of the state. We have had sessions with the Yamatji Marlpa Aboriginal Corporation Indigenous land use agreement traditional owner negotiation team. We have had community workshops across the state—so, again, the great southern, the midwest, the Pilbara, the wheatbelt, the Kimberley, Perth and Peel, and the Gascoyne.

In the phase 3 process of the bill, we consulted the Western Australian Local Government Association, the Kariyarra Aboriginal Corporation, the Karlka Niyiyaparli Aboriginal Corporation, the Murujuga Aboriginal Corporation, the Yamatji Marlpa Aboriginal Corporation, the Chamber of Minerals and Energy of Western Australia, the Association of Mining and Exploration Companies, the Wintawari Guruma Aboriginal Corporation, the National Native Title Tribunal, the Kimberley Land Council, the Nyamba Buru Yawuru Aboriginal Corporation, Native Title Services Goldfields, the Amalgamated Prospectors and Leaseholders Association of Western Australia, Central Desert Native Title Services, the South West Aboriginal Land and Sea Council, the Pastoralists and Graziers Association, the Banjima Native Title Aboriginal Corporation, the Environmental Protection Authority board, Cement Concrete and Aggregates Australia, the Ngadju Native Title Aboriginal Corporation, the Yindjibarndi Aboriginal Corporation, the Yamatji Marlpa Aboriginal Corporation—again—and the Aboriginal Cultural Material Committee. We had WALGA meetings in the south metro zone, the Peel zone and the east metro zone. We consulted with the National Indigenous Australians Agency. Again, there were further consultations in WALGA zones—country, great eastern, Avon–Midland, northern country and the Gascoyne. There were further consultations in the metro area. We had WALGA in the Murchison, the Pilbara, the south west, Peel and the Kimberley.

After that we had the Chamber of Minerals and Energy, the National Native Title Tribunal; the Department of Mines, Industry Regulation and Safety; the Association of Mining and Exploration Companies; Central Desert Native Title Services—so Central Desert, again; the Aboriginal Legal Service; the Aboriginal Lands Trust; the Yindjibarndi Aboriginal Corporation; the Nyamba Buru Yawuru Aboriginal Corporation; the Shire of Broome; the National Native Title Tribunal; Rio Tinto; the Puutu Kunti Kurrama and Pinikura Aboriginal Corporation; the Robe River Kuruma Aboriginal Corporation; the Yamatji Marlpa Aboriginal Corporation; the Yindjibarndi Aboriginal Corporation; the Wintawari Guruma Aboriginal Corporation, again; the Department of Water and Environmental Regulation; Yamatji Marlpa, again; the Aboriginal Advisory Council of WA; the Aboriginal Legal Service, again; the University of Western Australia; the Australian Association of Consulting Archaeologists; the Association of Mining and Exploration Companies, again; Fortescue Metals Group; BHP; and the Amalgamated Prospectors and Leaseholders Association, again.

We consulted with the State Administrative Tribunal; the South West Aboriginal Land and Sea Council, again; the Aboriginal Cultural Material Committee, again; the Chamber of Minerals and Energy, again; and the Anthropological Society of Western Australia. We consulted further with the State Administrative Tribunal; the Pastoralists and Graziers Association, again; and Main Roads Western Australia. We consulted with goldfields families. We consulted with the Western Australian Museum and select heritage professionals. We have done other groups a second time. We consulted again in August this year with 13 representative bodies and prescribed bodies corporate and three other organisations one day. The next day we had 14 representative bodies and PBCs and six other organisations. We addressed some on-country bush meetings. We consulted Horizon Power, Roy Hill, the Environmental Protection Authority, and the South West Aboriginal Land and Sea Council directors. We had on-country meetings in Carnarvon. We consulted with the Urban Development Institute of Australia and the Department of Mines, Industry Regulation and Safety. We have consulted, honourable member; we have consulted a lot.

Hon COLIN de GRUSSA: The minister referred to the phase 3 consultation process. I want to get this clear in my mind. Obviously, there have been various iterations of the bill over time. Was the phase 3 consultation process that the minister referred to for the bill that we have before us, which is 56-1? If it was not, when was this bill consulted on and was it consulted on as widely as the previous iterations?

Hon STEPHEN DAWSON: The member is correct that the stage 3 consultation process has been the most recent consultation process. A draft bill was put out in September last year. Following that, feedback was given to the state on the bill before us. As the member knows, the normal course of action for the government is to draft a bill that then goes to cabinet and then to Parliament. In this case, we put out a green bill for public comment. As a result of that public comment process, we made 100 changes to the bill before us now. We held sessions on 18 and 19 August this year, which we invited prescribed bodies corporate and organisations to attend. From memory, the Pastoralists and Graziers Association and other organisations, and representatives from the Chamber of Minerals and Energy and the Association of Mining and Exploration Companies, were all in the room and were given copies of the

amendments that were to be made to the bill. I could not present them with a bill because it had not been to cabinet, but we gave them the amendments. They had the draft bill and we told them that they were the changes that would be made to the draft bill. They had the draft bill and the changes but the amendments were not in the bill because the bill had not been to cabinet. We certainly consulted on the changes that were made.

Hon TJORN SIBMA: Looking forward, which happens to be the title of the last page of the briefing we received, when considering the implementation of the bill, I am interested to know, because this was mentioned at the briefing, about the overriding task force to comprise government, industry and Aboriginal groups that will drive this process. I want to know what the nomenclature will be of that overriding task force and what the membership of that group is likely to be.

Hon STEPHEN DAWSON: It will be called the Aboriginal Cultural Heritage Bill co-design task force. The member will now know what it is called when he asks me parliamentary questions about it in the future.

Hon Tjorn Sibma: Thank you. You have helped me out already.

Hon STEPHEN DAWSON: I know where the honourable member is going; that is fine.

The membership is likely to be an Aboriginal man and an Aboriginal woman, a representative of industry and a representative of government. It will be a small group of four people to lead where we are going. Sitting under that will be a lot more consultation. We have committed, for example, to hold consultation sessions on the land of the prescribed bodies corporate in regional and remote Western Australia. I have certainly committed to holding sessions with groups like the Western Australian Farmers Federation and the PGA. The task force will have an important overarching view of where we will go to from here and there will be layers underneath that group involving who we will talk to. I cannot remember whose contribution it was today—it might have been Hon Dr Steve Thomas, who is away on urgent parliamentary business—but we will need to bring the community along with us, including all the stakeholders. We have committed to holding sessions with the stakeholders about the things that are relevant to them.

Hon TJORN SIBMA: As a quick follow-up to that, the minister has identified that the tight four-person group will have an overarching coordination role. I assume that the industry referred to will be the mining industry, presumably from the production side of mining rather than the exploration side. Will there also be a role for the agricultural industry as an addition to that industry representation?

Hon STEPHEN DAWSON: The vast majority of the organisations that will have contact with the bill—certainly the vast majority of organisations that have to deal with section 18s now, which will not be there in the future—will be from the mining industry and the state government. Main Roads is one of the biggest proponents that access section 18s. They are two groups that have had, and certainly will have moving forward, the most interaction with this bill. They will be at that high level. There will be other advisory structures and other stakeholder events at the next level down, as we had in August this year when anybody who wanted to be there was at the session. We will have all-in sessions, but we are also committed to industry-specific sessions to feed into the process.

Hon PETER COLLIER: I raised this issue in my second reading contribution, but I do not think the minister addressed it in his response. I was complimentary about the consultation component. I do not have an issue with that. To be perfectly honest, I think the consultation was quite adequate, but with one glaring omission. Of course, that is pretty much irrelevant at the moment, and that was made clear during the consultation phase of this bill. The opposition was not consulted, and, although I appreciate that, I am disappointed because, quite frankly, an issue like this needs bipartisan support. We cannot have an issue as significant as Aboriginal heritage not having bipartisan support. Having said that, did the minister at any stage consult any of the other parties?

Hon STEPHEN DAWSON: I have not spoken to the other parties in the lead-up to the bill—since the bill went to cabinet and came to Parliament. I cannot comment for the previous minister. I am told that the previous minister had bipartisan support for the bill. My understanding is that there may well have been a conversation with the former Leader of the Opposition in the other place in the lead-up to the draft bill or around the draft bill going out for comment. However, in terms of the bill before us now and my part of the journey, I have consulted with a range of stakeholders, but it has been only since the bill went to Parliament that I have spoken to people.

The DEPUTY CHAIR: Members, I will go to Hon Peter Collier to finish his line of questioning and then I note that Hon Dr Brad Pettitt also has a question.

Hon PETER COLLIER: I am just on the same theme. Rather than deviate all over the place, I am trying to stick with the consultation component as the theme, if we can, to help the advisers and the minister.

The minister's answer is disappointing. Having said that—I am trying to be helpful, and I am from Her Majesty's loyal opposition so I am here to assist—I mentioned the next stage as we move forward, particularly the formulation of the regulations and the implementation of this bill in practice. That will be the proof of the pudding. We have to put out all the little bushfires about no consultation. Can I please have a comprehensive explanation—as comprehensive as the minister possibly can—of how he will definitely stop all those gaps in consultation in that process?

Hon Stephen Dawson: Yes, I thought I responded to that in my response, and to Hon Neil Thomson.

Hon PETER COLLIER: I have sat and listened to every word the minister said. Are there some workshops in January on that process?

Hon Stephen Dawson: I haven't got workshops. You ask your question and I will respond.

Hon PETER COLLIER: Okay. I have had another email just now about lack of consultation since that stage. Mind you, it is not as a result of the minister's speech, but from someone who has just come in late to the party. I am going to get these, and so are all of us, including the minister's crew. The government is going to be getting this. I would like to go out and say that I am really supportive of this bill and that there has been comprehensive consultation. As I said, consultation becomes clichéd after a while. It is said that there has been no consultation, but there has been. The minister has made that quite clear. I trust the minister. I am very mindful that there has been consultation; the minister does not have to convince me. However, as the minister knows, knowledge is power. I want something that says that although people might feel disaffected as a direct result of them feeling they were ignored during the formulation of the bill, in the pivotal component of the construction of the regulations, this is how they can contribute; this is how they can be part of the process. I want to be able to have that in my back pocket, so I cannot sit back and say, "Sneaky government, it doesn't consult; it is doing this by stealth." I want to be able to say, "I have to be honest: I think this is a good piece of legislation. Firstly, I think it will protect Aboriginal heritage; secondly, it will provide for a seamless decision-making process; and, thirdly, it will not stymie development, particularly in the mining sector. If you really want to be part of it, this is how you can become actively involved." As I said, if we can have that on the public record so I can use that as ammunition, it will be very helpful. I am not trying to stymie or elongate the debate; I genuinely want to know.

Hon STEPHEN DAWSON: I appreciate the timing and the member's participation in the debate thus far; I know where he is coming from. Perhaps I did not make it clear: I will give that regulatory co-designed task force my thoughts, which is what I suggested to Hon Tjorn Sibma, about how it should look, but it will be up to that task force to plot the course. I want it to have sessions. I will not dictate to that task force exactly how the process will work. I heard from some of the land councils in particular early on that they would have liked a co-design process from the very beginning. I will not comment on what has occurred over the past three years; I will comment on my time here and as the Minister for Aboriginal Affairs. I have committed to a co-design process going forward, but I will not give land councils their marching orders; I will suggest what they should do.

I turn to the session that the member received emails about in January. That is an organisation out in the community that wants to organise something to get players together and have a conversation. That is not a state-sanctioned thing. The state-sanctioned process will start with the appointment—hopefully very soon—of the people on the co-design task force. They will have a conversation about what the next 12 months in particular will look like. I am not telling them what to do. If the member wants to be involved in the process at any stage, I welcome his involvement.

Hon Peter Collier: I haven't been at this point. I'm not precious; don't get me wrong.

Hon STEPHEN DAWSON: Genuinely, if the member wants to be involved in the process or consultation going forward, I would welcome that. As a former minister, he has lots to give and lots of experience of some of the pitfalls in the area.

The reference group will design that co-design process. I will outline the elements. In fact, I have written to people to ask them to be involved and suggest that they might like to nominate to be on that co-design task force. I have suggested the types of things they will need to do, but I will leave it up to that task force. Its members will come back to me about a process that ensures that what we do is delivered in an inclusive and culturally appropriate way for Aboriginal people and takes into consideration the concerns of the various stakeholders who might have an interest in the bill.

Hon PETER COLLIER: I thank the minister for those comments; I appreciate his response. I hope what he just told me does not raise more issues than it resolves. As I said, I wish I had as much confidence in the task force as does the minister. I am not saying I do not, because we do not even know who the members of the task force will be at this stage. All I am saying is that we are giving that task force a massive responsibility. Even though we were on opposite sides of the chamber 10 minutes ago with the crossbench, it is obviously getting the same messages that I am getting, that Hon Neil Thomson is getting and that all our crew are getting: the single most significant criticism we are constantly getting relates to lack of consultation.

As I said, I will not go over everything I said before. Suffice to say, I am pleased that the minister will not sit there as a minister and direct the task force to follow a particular path. That would be entirely inappropriate.

Hon Stephen Dawson: I have to guide them.

Hon PETER COLLIER: Absolutely. As I said, I have been in the minister's seat; I know what it is like. When a minister says something, their views have to be taken into consideration. I am sure that the minister will say that it is really important that we do not leave anyone alienated, that we empower everyone in this process, particularly Aboriginal people, so when it comes down to it, the land councils in particular, which are very active in this space, cannot use that as an excuse to say that this is a bill for the mining industry or big industry.

If the task force does that and is as comprehensive in its information gathering as possible, this thing might just work. There is no need to respond to that. If the minister could do that with the task force on a nudge and a wink and let it know that he would like it to be as comprehensive as possible, that would help everyone.

Hon STEPHEN DAWSON: That will certainly be its marching orders. The bill before us will provide the legal framework and the foundation for the new heritage regime—so, the architecture. The regulations will put into practice how it will work. Some key things will need to be done by the task force. One of those is the Aboriginal cultural heritage management code. That will include the due diligence process that proponents will need to undertake to ensure that their activities do not harm Aboriginal cultural heritage. There will be an Aboriginal cultural heritage management plan template, which will include the minimum level of information processes that will be required to be included in the management plans. There will also be activity categories and time frames. They will be included in the regulations, and they will detail the different types of activities that occur in Western Australia and the level of authorisation required for each activity, as well as time frames for consultation and negotiation purposes. A lot of the regulations will be kind of run-of-the-mill stuff that various stakeholders will not have any interest in, but there will be some key ones. We know from correspondence that the member and I have both received, or that we have all received, that there are threshold issues that people will have a key view on. Those issues will be the most important for the task force to focus on.

Hon Dr BRAD PETTITT: I also have a few questions around the consultation process. The first follows on from Hon Colin de Grussa's question about who was consulted with. The minister responded with quite a comprehensive list. Is the minister able to tell me who on that list publicly supported the bill in its current form?

Hon STEPHEN DAWSON: I do not have a list, honourable member. The submissions that were received on the draft bill are all publicly available on the dplh.wa.gov.au website. In terms of who supported the whole bill, there are people like Michael Woodley from Yindjibarndi, who has a great deal of knowledge and experience in dealing with section 18 applications and has been very vocal on the bill and his support for it. Another person is Gail Reynolds-Adamson from Esperance Tjaltjraak Native Title Aboriginal Corporation, who has been supportive of the bill, and Rob Green from Kariyarra Aboriginal Corporation. These are some of the people who come to mind and whom I have spoken to who have said that time is long overdue for a new Aboriginal cultural heritage bill and that they are supportive of the bill before us. There are organisations that are happy with elements of the bill. There are other organisations that are happy with none of the bill. As the member pointed out, there are other people who say that this bill is no better than the 1972 piece of legislation, to which I took offence.

Hon Dr BRAD PETTITT: I have a couple of slightly related questions. I am interested to know whether there was any follow-up consultation with key stakeholders after the report of the Juukan Gorge inquiry was delivered to the federal Parliament.

Hon STEPHEN DAWSON: The consultation was ongoing, right up until the legislation went to Parliament a few weeks ago. We continued to consult up until a few weeks ago on the detail of the bill, and we are now continuing to have conversations about the next part, which is the regulation phase.

Hon Dr BRAD PETTITT: The minister has not answered my question. My question is around the specifics of the Juukan Gorge inquiry. Were there any specific consultations on the outcomes of that inquiry with the key stakeholders between that inquiry report coming down in the federal Parliament and this bill being put into the lower house?

Hon STEPHEN DAWSON: I make the point that the Juukan inquiry was an inquiry of the federal Parliament. The federal Parliament can look into whatever issue it wants, and it did that. Our understanding is that the bill before us certainly takes into consideration many of the recommendations that were made by the Juukan inquiry. Recommendation 3 included —

These minimum standards would be developed as part of a co-design process but consideration should be given to the inclusion of the following:

- a definition of cultural heritage recognising both tangible and intangible heritage

The bill before us includes an updated definition of “Aboriginal cultural heritage” and refers to “tangible and intangible heritage”. The recommendation continues —

- a process by which cultural heritage sites will be mapped, which includes a record of past destruction of cultural heritage sites (with adequate safeguards to protect secret information and ensure traditional owner control of their information on any database)

The bill before us establishes a new directory whereby Aboriginal people can put forward a record of their cultural heritage. There is a range of things. I certainly believe that the recommendations made by the committee in its Juukan inquiry line up with what is in the bill before us. That report went further and referred to what the commonwealth government should do and, obviously, that is in the commonwealth government's bailiwick. As Hon Peter Collier mentioned, it can do what it wants in response to the bill, but I am certainly happy that the bill lines up with the recommendations that have been made.

Hon Dr BRAD PETTITT: I will point out that, of course, the Juukan inquiry report has a specific section on Western Australian legislation. To say it is merely a federal report for the federal Parliament is misplaced, when it clearly had a specific section on WA legislation and what needs to happen here in WA. The committee made some very clear recommendations in the Juukan inquiry that have not made their way through to this legislation, including about the right of Aboriginal people to say no. My question is: were key stakeholders consulted and engaged with about the recommendations that are not reflected in the 2021 version of the bill; and, if not, why not?

Hon STEPHEN DAWSON: The federal government can make rules or laws about any issue it wants to. The Western Australian government retains the right to make rules about the stuff that we are responsible for. When the federal committee reported, it just so happened that various things lined up with the bill before us. The federal government has to respond to the federal committee's report. It is not my role as a state minister to respond to a federal parliamentary committee's report. We have a separation of powers. The federal Parliament can respond to and do whatever it wants. The bill before us was in progress before the events at Juukan Gorge and, as a result of Juukan, we have had some learnings and we have incorporated those learnings in the bill. I am confident that if this bill passes, we should not see another tragedy like Juukan happen again.

Hon NEIL THOMSON: To a certain degree, the minister has glossed over the level of support. I think it is important to be specific about the issue of support. I would like to start with land councils. The Kimberley Land Council has been particularly vocal on the steps of Parliament, as the minister knows, and we have seen correspondence from Anthony Watson, the chair, and other matters relating to this matter have been raised in the media. How does the minister explain the vehement resistance to this bill by groups like the Kimberley Land Council? It is all very well to say that we have the discussion here in this place and if no-one is happy, obviously, we have got somewhere in the middle. I find it quite stunning. From my reading, these people are obviously engaged in this process very closely. We have seen their reaction put forward in very strong terms. We have seen the disdain, I would say, of the government in not supporting the recommendation, even to at least referring it to the committee. How does the minister explain the opposition and resistance from the Kimberley Land Council?

Hon STEPHEN DAWSON: The Kimberley Land Council is welcome to have its view, as are other organisations. It is not for me to explain the council's concern. I have certainly not glossed over anything. I have received the same emails as the member has and Hon Peter Collier has. I have not glossed over the fact that there are people out there who are not happy with the bill, but I make the point again that governments of all persuasions have tried to update 49-year-old legislation for the past 30 years, and it got too hard for all of them. It got too hard because stakeholders were not onside, whatever side of the coin they were on.

I have a different view, in that I want to get legislation passed that rights the wrongs from the 1972 act. That is because I have to live with the 1972 act, and practically, on a daily basis, I have to make decisions under section 18 of that act—decisions that at times I find unpalatable and that I do not think a minister should have to make; it should not get to that. I want consultation to happen. I want transparency in the process. I am happy for the Kimberley Land Council, or anybody else, to have issues with the bill, but I will be able to sleep at night if this bill passes, because it will enable Aboriginal cultural heritage to be protected.

Some land councils and native title representative bodies are not happy because this bill changes their business model. Instead of native title rep bodies making decisions, this bill will change the power. It will put the power in prescribed bodies corporate or in local people at the grassroots. It changes from a high body up there to people on the ground who have local knowledge. Some groups are unhappy about that. At one stage some archaeologists commented that they were not happy with the bill. Instead of proponents going to archaeologists, as they currently do, and asking them to give them a hand to try to get a project through, the bill will require proponents to go to Aboriginal people, to the traditional owners of the land, and they will decide who they engage with. Rather than a traditional owner getting \$500 a day for working on a heritage survey, the power and the decision-making goes to Aboriginal people on the ground. Some people are not happy with an imbalance. Certainly, I am happy for the KLC to have a different view. Equally, over the last few months, I have had the opportunity to sit down with the KLC many times, and I said to KLC people that I want them involved in the next part of the process, which is the co-design of the regulations. I hope they will come onboard and participate in that.

Hon NEIL THOMSON: It is troubling. The minister implied that the land councils have a business model that will somehow be undermined by this process. I propose to go into this in a bit more detail on later clauses. The Kimberley is a very good example to start with. In my estimation, the Kimberley has 24 or even 26 PBCs—correct me, please, if I have that number wrong. The minister implied that under this bill each of those bodies will have first right of refusal to establish up as a local Aboriginal cultural heritage service. I find the minister's assertion stunning that somehow this will undermine the land council model. At the end of the day, I suggest that when all is said and done, the land councils will continue to play a critical role in coordinating the LACHS processes and will probably need to provide some sort of oversight, because we know the challenges for a lot of these prescribed bodies corporate to deliver services they are supposed to deliver. As I said, I will go into this in more detail later in the bill, but I would like the minister to comment on that if he could, please, because I find that assertion wrong. The Yamatji Marlpa Aboriginal Corporation has commented on this, and my assessment is that it does not support the bill. That was

certainly the case when I went to Yule River recently. The group that assembled there were very strongly opposed to what was being put forward, even though they had not been provided with the bill. Could the minister comment on that, please?

Hon STEPHEN DAWSON: Yule River is in Kariyarra country, and of course the Kariyarra Aboriginal Corporation has said it is in favour of this bill. I make that point. I will not comment on every group that has said it has an issue with this bill. I go back to the member's earlier comment. I certainly did not say that the KLC was upset because of its business model. I did not refer to the KLC; I said that I had heard that a number of native title rep bodies were unhappy because this will disrupt their business model. I also make the point that I have not had contact, and I do not think anybody else here has had contact, with prescribed bodies corporate to say that they are not happy with the legislation. They recognise that this will change the system—that it will give them the power with their hard-fought native title lands. Many have waited tens or —

Hon Dr Brad Pettitt interjected.

The DEPUTY CHAIR: Members, the minister has the call. You will have the opportunity to ask your question.

Hon STEPHEN DAWSON: The prescribed bodies corporate have not written to any of us in this place to say that they are not happy with the bill. They have not.

Hon Dr Brad Pettitt interjected.

Hon STEPHEN DAWSON: Hon Dr Brad Pettitt will have his chance in a second; I am on my feet.

The DEPUTY CHAIR: Minister, you have the call. I ask that you perhaps do not respond to interjections. Hon Dr Brad Pettitt can ask a question in due course.

Hon STEPHEN DAWSON: Thank you, deputy chair. I hope honourable members do not make unruly interjections. I will certainly try not to respond to any.

PBCs have not written to us to say that they are not happy with the bill. People who risk losing out under this bill have been vocal. That is not to say, though, that a native title representative body could not be a LACH service under this bill. It could be. It is not to say that a PBC or a LACH service will not get a native title rep body to do the whole of the work for it or, indeed, elements of the work. That will also be able to happen under this bill. Honourable member, yes, there are organisations out there that are not happy with the bill before us. That is their right. I am proceeding with this bill because it will right a wrong. It needs to happen. The honourable member can keep raising that whoever is not happy with it—I agree; I have had the same correspondence—but I am not going to enter into it. They are entitled to their opinion. I have a piece of legislation before the Parliament at the moment and I think it is good legislation, so I will keep proceeding with it.

Hon NEIL THOMSON: It is all very well for the minister to say that he has not had PBCs contact him to oppose the bill. I know how this works as well. The names I have seen attached to certain correspondence are of members of PBCs. On a matter of such importance, the land councils play a critical role, particularly in terms of the capacity to engage. I think this goes to the heart of the problem with consultation. How many PBCs have written to the minister in support of this bill?

Hon STEPHEN DAWSON: I do not propose to spend too much time on this, so I will not answer any more questions; I will move on. I have had conversations with representatives of PBCs who have said to me that they support this legislation. Some of them have appeared in the media to say that they support the legislation.

Hon NEIL THOMSON: Again, it is all very well for the minister to say that he is not going to have a conversation about it. There are in the order of 70 PBCs or determined native title bodies in Western Australia. Given the incredible role and responsibility in terms of the opt-in process to be a LACH service, I would have thought there would have been a systematic process to ascertain the views of those PBCs. The minister said that he will not enter into this discussion, but on the other hand, he said that he will not explain to me why he is getting a reaction from the land councils. That is having it both ways. Is he getting a strong position in support from the PBCs? The role of the opposition is to ascertain the level of support. It is a fair question. Given that the minister has not agreed for the bill to go to committee, I think it is only fair —

Hon Stephen Dawson: This is in committee now.

Hon NEIL THOMSON: To a standing committee, I should say. You did not agree to the bill going to a standing committee. That would have been the honourable thing to do.

Hon Stephen Dawson: Are you saying I am dishonourable, honourable member?

Hon NEIL THOMSON: No.

Hon Stephen Dawson: I would be very careful about casting aspersions. I would be careful with your words.

Hon NEIL THOMSON: I was not speaking about the minister personally; I said that it would have been honourable for the government to do that. The minister can get all worked up about it, but I want an answer in committee from the minister on how many of the 70-odd PBCs have actually written to him in support of this legislation.

Hon STEPHEN DAWSON: The honourable member has been around politics and government for a long time, so he would know that people generally write to us only when they are unhappy. That is what we have seen. We have seen lots of correspondence, and I have quoted from them, from PBCs or leaders who have said that they support this legislation. Other PBCs, as I referred to earlier, have attended briefing sessions, including as late as August this year. They came along to us. They got the documents, they got the draft bill and they got the changes and they did not write to me afterwards to say that they were unhappy with the bill. That is the end of it.

Hon Neil Thomson: List a few more.

Hon STEPHEN DAWSON: No; I am not going to get into it. I have told the honourable member who has been consulted. He obviously has had people contact him who are not happy. That is fine. I have acknowledged that there are people who are not happy. I am not going to get into it any further.

The DEPUTY CHAIR: Members, there are a number of members seeking the call. Hon Wilson Tucker, were you still seeking the call? I call Hon Wilson Tucker, whom I had promised would go next.

Hon WILSON TUCKER: Thank you, deputy chair. My line of questioning has largely been answered by Hon Neil Thomson's and Hon Dr Brad Pettitt's questions about the feedback that the minister has been provided with by prescribed bodies corporate; therefore, I think I will take a slightly different tack. In his opening remarks, the minister mentioned that a number of PBCs are native title representatives and that land councils have been consulted about this bill. My question is: does the minister have a comprehensive list of all the PBCs, native title representatives and land councils in WA; and, of that list, who has been consulted as part of this bill?

Hon STEPHEN DAWSON: I do not have a list of the PBCs with me because PBCs are actually organisations established under the Native Title Act and really fall under the feds. But what this legislation does, for the first time, is to align us with the Native Title Act. In terms of whom we have consulted with, I have given those to the chamber, so they will be available in *Hansard*.

Hon TJORN SIBMA: Minister, I have a completely different area of focus. I think we risk getting stuck in a feedback loop, so to speak, when talking about consultation. Bearing in mind that we have reached agreement about when we may have dealt with the bill, I just want to refer to some elements that are right at the back end of the bill, in part 16, concerning the implications of the bill for other acts. My focus is more in the environmental portfolio domain, and, obviously, I acknowledge that you were the previous minister in that space. Now that we have a significant reform of the Aboriginal Heritage Act—I might put the question this way, as a question for government: is there a need to proceed with the Conservation and Land Management Amendment Bill, which seeks to insert the preservation of Aboriginal cultural heritage as a conservation purpose? Basically, I think that the need has been satisfied or will be satisfied with the passage of this far more expansive—and, I would say, superior—bill, in terms of its focus.

The second issue relates to some guidance notes that the Environmental Protection Authority uses when it assesses proposals for environmental approval. The EPA subjected a proposal to a social surrounds test, which I think was designed to complement or basically gap-fill the holes in the 1972 heritage act that we are attempting to remediate here. I am just trying to get a sense of whether those kinds of guidance notes that the EPA uses—the policy thrust of the CALM amendment bill, which is yet to come into this house—still need to be persevered with, or whether they now become, in essence, superfluous in the policy and regulatory sense.

Hon STEPHEN DAWSON: Thanks, honourable member. I might tackle the second question first. The member was away from the chamber on urgent parliamentary business when I gave the elements of my second reading speech in reply, but I am happy to go over it again. First of all, the EPA has been consulted throughout the review process and the development of the bill. In its submission to the consultation bill, the EPA said that for direct impacts it supports the bill being the primary legislation dealing with the protection of Aboriginal cultural heritage.

It also supports the removal of unnecessary duplication in the environmental impact assessment process where there are legislative overlaps between the bill and the Environmental Protection Act. The EPA also supports the amendment to the Environmental Protection Act 1986 for the removal of the constraints that currently restrict the Minister for Aboriginal Affairs from making decisions on Aboriginal cultural heritage during environmental issues. I think that answer addresses the member's second question.

To answer the member's first question, my advice is that the CALM act changes are for a different purpose. Clause 343 of this bill will amend the Conservation and Land Management Act by replacing references to the Aboriginal Heritage Act in sections 3, 4 and 5 of the CALM act with references to the proposed act, so it does amend elements of the act.

Hon Tjorn Sibma: Only with reference to—all right.

Hon STEPHEN DAWSON: Only with reference to this. My advisers tell me that elements of the CALM act are about re-vesting. The bill before us does not tackle that issue.

Hon NEIL THOMSON: It seems to me that the further north we go, the less support there is for this bill. That is my assessment. Look, I have no idea, because I have not been given satisfactory answers so far. I ask a simple question: would it be fair to say that there is broader support for this bill in the south west of the state than there is in the Kimberley, for example?

Hon STEPHEN DAWSON: No, I cannot even say that. I think there are elements of angst about this bill across the state; equally, there are elements of support for the bill across the state. At one stage, I heard second-hand that one group was saying, “This is too Noongar focused”, or something. This bill is not about Noongar people or Yamatji people or anybody; it is about the protection of Aboriginal cultural heritage, full stop. Certainly, from what I have heard, I do not think that the further north we get, the more concerns we hear about the bill. Some people have said that they are not happy with elements of the bill—for example, the minister retaining the right to have a final say if it gets to that; other people have strong views about what should go to the State Administrative Tribunal and what should not. They tend to be the main issues of concern that have been raised, and, for some, they are line-in-the-sand issues. While those provisions are in the bill, they will not support it. Some would begrudgingly say, “So much of this bill looks great, but these are threshold issues for us.” But these are the decisions that the government has made, and the decisions that we made are reflected in the bill before us.

Hon NEIL THOMSON: It is very hard to assess in the time frame that we have. I gave my position in my second reading contribution. If I were to sum up my assessment, it is that we have support from the mining sector.

Hon Stephen Dawson: Say that again; do we have support from the mining sector?

Hon NEIL THOMSON: I am summing up my assessment in response to the minister’s answer, because I want to follow up with another question. There seems to be broad support from the mining sector. In the minister’s list, there seems to be quite intensive consultation with the mining sector, and I am not disputing that. I said at the outset of my second reading contribution that this is not an easy task. I acknowledge that again: this is not an easy task. But as a member of the opposition, this troubles me. My colleague Hon Peter Collier was the former minister and also had to deal with this challenging issue. He knows more closely and intimately than I do the difficulties in trying to manage a bill in this place. It seems to me that the resistance is more determined in those areas where, say, mining might be a greater thing than in an agricultural area where a greater proportion of freehold land may exist. Again, I am not making a judgement on this position. I do not want to have words put into my mouth either, because the problem is I actually do not know. I have not been in the minister’s shoes through this process. We have been given very little information. We just see what we see in the media. We just get the emails. It has been very difficult to make a proper assessment of what is going on. But then we see an article in the *National Indigenous Times*. There have been many of those, and I am sure the minister has read many.

People have appealed to the United Nations. I understand that politics will be involved and people will make representation when they can, but this seems extraordinary. In September a group of prominent First Nations people, in a review of the bill in collaboration with the Environmental Defenders Office, made formal requests to a United Nations committee on the elimination of racial discrimination arguing that it was incompatible with Australia’s international obligations on racial discrimination. I am not making a judgement on this but the people named here—Mr Parker, Kado Muir, Anne Poelina, Clayton Lewis and Dr Hannah McGlade—note that the bill does not adequately address the structural and historical issues and inequalities, which, in the past, have underwritten the contemporary destruction of cultural heritage in WA.

I will not go on, but the fact is there seems to be very intensive opposition from those who live north of the twenty-sixth parallel. Please correct me if I am wrong. The minister named two prescribed bodies corporate, or members of PBCs, who the minister said in our discussion supported the legislation. I am not convinced that there is widespread support. I acknowledge all the difficulty and challenges in trying to get this bill through but I think this is why the opposition earlier sought to refer the bill to the Standing Committee on Legislation. Can the minister explain this level of intensity?

Hon STEPHEN DAWSON: Again, I cannot honourable member; I cannot second-guess what organisations are not happy with this bill. In relation to the twenty-sixth parallel, I make the point again: the Kariyarra, the traditional owners of the land around Port Hedland, are in favour of this. North of the twenty-sixth parallel, there is the Yindjibarndi Aboriginal Corporation or WMYAC—or Wirlu–Murra Yindjibarndi may be the correct name; anyway, by saying Yindjibarndi I am not being disrespectful, I do not have the name in front of me—but around Roebourne, for example, so big swathes of land in the Pilbara. Two organisations in the Pilbara have had years and years of dealing with section 18s. I am told there have been at least 1 500 section 18s over the last 30 years. In the Kimberley, there have been about 40 section 18s out of the 1 500. The vast majority of the section 18s are in the Pilbara. The organisations in the Pilbara have to deal with section 18s very, very frequently. They are the ones who have been most vocal in saying the legislation needs to change and the legislation before us is good legislation and the sooner it changes, the better.

Hon NEIL THOMSON: That is fascinating. To some extent it seems counterintuitive—I guess it depends on our perspective—that we have opposition from the Kimberley Land Corporation, which has not had to deal with too many section 18s, yet there is support from groups who have had to deal with section 18s. That may be a reason, but I guess we are trying to ascertain why there is opposition. I think the minister mentioned three distinct PBCs and north of the twenty-sixth parallel, who knows, I would have thought there were 35, maybe more. Certainly, as I say, those land councils as overarching groups do not seem to be supportive. I am not saying they control them but they are all distinct bodies within the groups. I acknowledge the complexity of the polity within the First Nations, as it should be.

I want to change tack slightly here. In relation to consultation, the minister gave a list of organisations that were contacted. I have received a letter dated 8 December from the WA Law Society. Was the Law Society consulted in this project?

Hon STEPHEN DAWSON: I am told yes it was, and it put in a submission as part of the process last year.

Hon NEIL THOMSON: Is the minister aware of the Law Society of Western Australia's recommendations in its most recent correspondence? Has the minister seen this correspondence?

Hon Stephen Dawson: Do you want to table it and I will have a look?

Hon NEIL THOMSON: It is the only copy I have and I would like to ask a few questions on it.

The DEPUTY CHAIR (Hon Jackie Jarvis): Member, are you seeking leave to table that document?

Hon NEIL THOMSON: I will come back to that. I do not expect the minister to respond to every matter raised in the letter, because there a number of recommendations. The minister can take some time to assess the letter to see whether he is aware of the general push of it, because I think a few comments are pertinent and maybe could be picked up later during the committee's consideration of the bill. I want to go through the letter.

The DEPUTY CHAIR: Member, for the benefit of *Hansard*, as we have referred to the letter a number of times, it might be worth seeking leave to table it.

Hon NEIL THOMSON: So, we will table it.

Hon Peter Collier: Why don't you sit down and I will table it.

Hon NEIL THOMSON: Okay.

Hon PETER COLLIER: I seek leave to table a letter from the Law Society of WA.

[Leave granted. See paper [982](#).]

Hon NEIL THOMSON: A number of issues are raised in the letter from the Law Society and we will be able to detail some of them when we consider further clauses of the bill, but I think the status of the local Aboriginal cultural heritage services is pertinent now. The Law Society raises the idea that the services will effectively be a statutory body and proposes a number of amendments to the roles of the minister and the government. Obviously, very good legal minds have been involved in the consideration of these matters and the society has probably received representations from its members. I am sure many members of the society practise their craft with either land councils or prescribed bodies corporate. Is the minister aware of these detailed recommendations?

Hon STEPHEN DAWSON: No, I was not aware of the letter until the member brought it to my attention today. I note that it is dated 8 December. I think Hon Peter Collier said that he received it today, 9 December. I have been at Parliament House but my office has not seen it yet.

I note that the Law Society acknowledges —

... the Government's consultation process in which it has engaged since 2018 in pursuit of the object of presenting to Parliament proposed legislation to better protect Aboriginal cultural heritage ... in the State of Western Australia.

That consultation process has resulted in a complex piece of proposed legislation, in the form of the *Aboriginal Cultural Heritage Bill 2021* (the Bill) with some significant improvements upon the current *Aboriginal Heritage Act 1972* ...

Significant improvements in the 2020 and 2021 versions of the *Aboriginal Cultural Heritage Bill*, compared to the Act include structured local Indigenous involvement, stop activity orders, prohibition orders and remediation orders, and the capacity to vary decisions if new information comes to light.

The letter goes on to say —

There have also been some significant improvements to the 2020 consultation draft of the Bill made in the Bill ...

It then lists a couple of things.

That is my first look at the first page of the letter. I thank the Law Society for bringing this information to my attention. I note that the Law Society suggests some amendments at particular clauses so I suggest that we leave the conversation about those particular clauses until we get to them. That way, because the letter has only come in, I can send my advisers away to look at the suggestions and we can deal with the issues when we get to the appropriate clause.

Hon NEIL THOMSON: I think that that is very reasonable. I appreciate that we will be able to examine them as we consider further clauses. But I think it highlights the problem that the 2021 bills were released into the public domain at lightning speed. There was a lack of respect shown to this house and the other house when these bills were thrown into the other place without waiting for the serious minds of the Law Society to put their thoughts forward about the latest draft. No doubt they were consulted on the 2020 bill. This highlights again the point that I have made throughout the debate. I am trying to grapple with this, too. We do not have the resources of the agencies or the

State Solicitor's Office; we are here with the minister attempting to create good legislation, something that will do exactly what the Law Society outlines—improve the 1972 Aboriginal Heritage Act. It would have been sensible and efficient to have had a gap between the release of the final bills and the consideration of the houses of Parliament by referring the bills to the Standing Committee on Legislation. Therefore, I take the minister's word that he will consider the Law Society's letter. Maybe the minister's people will come back with advice on the recommendations of the Law Society and we will see where the government stands on them, because some improvements can be made. It is never too late. We have time. No doubt we will have time next week to consider the further 352 clauses. No doubt, people out there who are watching and listening will be able to provide information through either the opposition or the government on any specific issue that could possibly save a lot of grief in the future.

I want to change tack, though, to the issue of consultation with that broad sector of 50 000 landowners in the peri-urban area who will be affected by the legislation. We do not know yet how they will be affected because we do not know how the regulations will pan out and what the expectations for due diligence will be. That will be covered under later clauses, but in terms of consultation, will the minister write to every landowner in Western Australia who owns 1 100 square metres or more of land asking them about their views on the regulations?

Hon STEPHEN DAWSON: No, I will not. As I indicated, we have a process to work through with the co-design task force on what the next phases of the process will look like. There will certainly be an opportunity for all stakeholders to have their say as part of that process.

Hon NEIL THOMSON: How is the minister going to inform those landowners about their new obligations?

Hon STEPHEN DAWSON: That will form part of the decision-making of the Aboriginal Cultural Heritage Council. Our intention is to work with peak bodies and organisations. They will advertise some of the meetings and events that will take place over the next 12 months at least. As with any legislation or regulation, people will get a chance to make comments when appropriate. Because it is appropriate in this case, as I indicated, we will consult with key stakeholders to make sure that the regulations that we end up landing on work for as many people as possible, noting, of course, that different organisations will have different views on and will want different things from the regulations. Different Aboriginal organisations may want different things out of the regulations based on where they live in the state and their potential interaction with the laws. At the end of the day, we will have to take all those things into consideration and make sure that we have the best regulations to help protect Aboriginal cultural heritage that the state can work with.

Hon NEIL THOMSON: It is true that different people have different expectations and want different things. There is no doubt about that. This is a complex piece of legislation.

Hon Stephen Dawson: It's a complex world, honourable member.

Hon NEIL THOMSON: It is a very complex world. I understand that, and our job is to unpack complexity and try to deal with it so that it is at least workable. Part of the problem for the 50 000 landowners is that many of them own less than five acres, to use the old term. We have been going back to imperial measurements in our discussion, so we are talking about quarter-acre or half-acre blocks—I am not sure—but it is 1 100 square metres. A lot of people are going to be affected who do not even know that they are going to be affected. I again flag for further debate in the detailed stages of each clause that there really has to be much more involvement of those people in respect of how this legislation is going to impact on them and how they will be equipped to deal with it. Perhaps local government will be involved. The minister talked about his engagement with the Western Australian Local Government Association; maybe local government will play a role.

The minister did not respond to the comment I made in my contribution to the second reading debate about how people interface with the approvals process. At the moment, if people want to build or dig something, it usually falls under the Building Act or the Environmental Protection Act. There is usually a known pathway for them to follow and to tick all the boxes. The minister knows that that in itself can be problematic, because people do not always know and can fall foul of those processes. This legislation should not create a situation in which people fall foul of new regulations and responsibilities because they do not know about them. The minister has said that he will not write to the 50 000 landowners. What will he do to reach out to those 50 000 landowners? I will put this in multiple parts, so the minister can answer my questions all together. There are plumbing or drainage contractors who are not part of Main Roads. We have talked about agencies, but I am talking about someone with a backhoe who does plumbing, for example. Electricians have to put cables in the ground across blocks that are larger than 1 100 square metres. How is the minister going to reach out to those people so that they at least know what their obligations are, let alone have a chance to have any input into this process?

Hon STEPHEN DAWSON: I make the point that there have been restrictions in place on land across the state since 1972. There are people out there now who may or may not know that those restrictions are in place, but they do exist and they are in law. People with landholdings of less than 1 100 square metres are exempt from this legislation, but for others the law is essentially the same and they will be affected by the legislation before us. The member mentioned concreters, and they have been involved in the process. They made a submission and they were consulted as part of the draft bill. My commitment is to make sure that as many organisations that need to know about this legislation, will know about it. We have worked with WALGA already, and I spoke about the various WALGA

zone meetings that included consultation as part of the journey to get to where we are. We remain committed to working with WALGA as we enter the next phase of the process. We want as many Western Australians as possible to know about this legislation. This is landmark legislation. As I said, this is the most progressive legislation of its kind in this country, and probably in the world. We will be singing from as high as possible to tell people about this legislation and to encourage them to participate, if they want to participate.

Hon NEIL THOMSON: I have heard that argument. It is a good argument to put, but I do not agree that it is a relevant argument. This bill will codify in a very prescriptive way a focus on ground disturbance, which is another matter I will raise at a later time. It will very strongly codify an approvals process that will require people to undertake or at least seek approval when they are in those tier 2 categories and beyond. I thank the minister. If the minister is going to make this well known, I hope that the debate of this place brings it to the fore and that people start to think that it is relevant to them. Maybe they will take note of what is going on and actually get involved. I hope that the regulation process is as broad as possible so the minister follows up on his “singing from the rafters” or whatever when developing the regulations, particularly those categories of activities. I want to move on and talk about funding, because it is a critical issue.

Hon Peter Collier interjected.

Hon NEIL THOMSON: Yes; please, go on.

Hon PETER COLLIER: I forgot to mention this when I asked my first questions. I understand there was some dissent in the various goldfields groups. That is what I have been told. I would be interested to know, firstly, what groups consultation was held with, and, secondly—I am just saying what I have heard—whether there was any dissent within the groups in the goldfields. If so, what was that centred around?

Hon STEPHEN DAWSON: Central Desert Native Title Services, which represents many of the prescribed body corporates in the goldfields, has been involved in an alliance with Yamatji Marlpa Aboriginal Corporation, the South West Aboriginal Land and Sea Council, and maybe one other organisation.

Hon Peter Collier: Goldfields?

Hon STEPHEN DAWSON: Native Title Services Goldfields and Central Desert Native Title Services look after the communities out there. Collectively, their general issues are related to the power of veto—a minister not having the final say—and the second issue related to wanting certain things to be able to be taken to the State Administrative Tribunal, particularly a minister’s final decision.

Hon Peter Collier: Which organisation?

Hon STEPHEN DAWSON: They both signed the same letter, because the letter came from the group. I am not aware of any other particular PBCs from the goldfields that have written to us. I think it has just been those native title representative bodies.

Hon PETER COLLIER: And the veto?

Hon STEPHEN DAWSON: The veto was one of those issues.

Hon NEIL THOMSON: Can I clarify that point, please. Did the South West Aboriginal Land and Sea Council support this bill?

Hon Stephen Dawson: Honourable member, I said that already.

Hon NEIL THOMSON: The minister has not. Has it supported it?

Hon Stephen Dawson: I said it has been vocal about elements of the bill.

Hon NEIL THOMSON: That was clarifying the point that I was unclear about. I have not yet come across one land council across Western Australia that supports the bill.

Hon Stephen Dawson: There are two land councils and the others are native title representative bodies that do not have land council in their name.

Hon NEIL THOMSON: On the issue of funding, \$10 million has been allocated for the establishment of these local Aboriginal cultural heritage services. How will that be allocated across 64 or more local Aboriginal cultural heritage services?

Hon STEPHEN DAWSON: First of all, we do not know how many LACHS there will be. That has not been worked out yet; it will be worked out later in the piece. That \$10 million is an amount in the budget. It is an in globo amount. It will help with capacity building, for example for LACHS. There has been no further dilution of what that would look like. It is a total amount of the budget at this stage to help start the process, noting, of course, that we are only starting the journey. We have the co-design of the regulatory process to do next. That will then determine what the next parts of the process look like. This is just to start us off.

Committee interrupted, pursuant to standing orders.

[Continued on page 6309.]

QUESTIONS WITHOUT NOTICE**GST DISTRIBUTION — IRON ORE PRICE****1139. Hon Dr STEVE THOMAS to the minister representing the Treasurer:**

I note the comments of the Prime Minister in *The West Australian* today that the GST arrangement between the commonwealth and the state that has resulted in billions of dollars of additional revenue pouring into Western Australia's coffers will not be reversed or changed.

- (1) Will the Treasurer now thank the Prime Minister for this reassurance and end his scare campaign on the threat of changes to the state's GST arrangements?
- (2) If no to (1), is this because the government is taking a position to support its federal Labor colleagues and candidates?
- (3) What is the current spot price of iron ore as measured by Treasury?
- (4) When will the 2021 mid-year financial projections statement be released?
- (5) Will the mid-year financial projections statement acknowledge that the support of the commonwealth and the mountains of cash coming from iron ore are the real reason for the massive surpluses enjoyed by the government?

Several members interjected.

The PRESIDENT: Has everybody got their little piece out now?

Hon MATTHEW SWINBOURN replied:

I provide the following answer on behalf of the minister representing the Treasurer.

- (1)–(2) The honourable member's New South Wales Liberal Party counterparts are leading the calls for Western Australia's share of the GST to be cut. Any push to cut WA's share of GST is unfair. This is especially unfair given how much our state has contributed to the eastern states as their communities and economies struggle to grapple with COVID-19 outbreaks. Western Australia has powered the nation's economy. For other states to then turn around in a coordinated campaign to reduce WA's fair share of GST is un-Australian.
- (3) It is \$US108.50 a tonne.
- (4)–(5) The *Government mid-year financial projections statement* must be released by 31 December each year.

AdBLUE — SUPPLY**1140. Hon Dr STEVE THOMAS to the Minister for Agriculture and Food:**

I refer to the critical impact on the Western Australian trucking network and by extension the WA agricultural supply chain of the shortage of the anti-pollutant AdBlue.

- (1) What engagement and or action has the government undertaken to secure a reliable, continuous supply of AdBlue to the Western Australian trucking and agriculture sectors?
- (2) What is the government's contingency plan for delivery supply chains to ensure supermarkets receive deliveries, including food, over the Christmas and new year period?
- (3) What certainty can the minister provide to the WA trucking and agriculture industries, WA supermarkets and the Western Australian public that a reliable and secure supply of AdBlue will be obtained?

Hon ALANNAH MacTIERNAN replied:

I thank the member for that extremely interesting question.

- (1)–(3) We have been watching what is going on. It is very interesting that elsewhere across the nation everyone has clearly put the federal government in the spotlight because this product is almost entirely imported into this country and China has recently put a trading halt on the importation of this product. Possibly it is something to do with the fantastic relationships that Scott Morrison has managed to generate. I do not know whether members opposite keep in touch with Minister Angus Taylor, but according to a statement he put out today, there is not really a problem. He says —

There are currently in excess of 15 million litres of AdBlue supplies on hand, which is equivalent to close to 5 weeks of the business-as-usual demand.

There are multiple shipments of refined urea currently on their way to Australia, which are estimated to provide over 2 weeks of additional supply ...

Clearly, there is a problem. We know there is a problem. It has been exacerbated in a way by the panic buying that has gone on, according to the reports. We are urging—I think everyone is urging—people to not go out and panic buy AdBlue; do not make this into another toilet paper saga! Angus Taylor appears

to believe that there are adequate supplies. I note that people in the trucking industry, in our dealings with them, have shown that they are pretty angry with the feds. They are certainly concerned that the feds sold 27 000 litres of the base manufacturing agent to help out South Koreans when the federal government was not being terribly open and opaque with the local industry, seemingly. Through the Department of Transport, we are working with the federal government. This is principally a federal government issue, but we are certainly monitoring what is happening here. I suggest that the member get on to Angus Taylor and raise these concerns with him.

The PRESIDENT: Thank you, minister. It is a good thing that we started question time a few minutes early. I would invite members to have regard to standing order 106 regarding concise and relevant answers.

STREAMLINE WA — LEGISLATION

1141. Hon TJORN SIBMA to the Leader of the House representing the Premier:

I refer to the Premier's media release dated 6 December 2018 titled "Streamline WA: Making it easier to do business in Western Australia" and the status of the streamlining bill that was promised on page 4 of the Streamline WA regulatory reforms PDF document. The link to that document is <https://www.wa.gov.au/system/files/2021-04/streamline-wa-regulatory-reforms.pdf>

- (1) Is the streamlining bill still a priority for the government; and, if so, when might the government introduce the bill?
- (2) If the government's approach is to compartmentalise the bill into other legislation, when might those bills be presented and what are they?
- (3) In answer to (1) and (2), who is responsible for the so-called streamlining legislation?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

- (1)–(2) On the advice of Parliamentary Counsel's Office, the legislative reforms will be delivered in stages. The Motor Vehicle Repairs and Dealers Legislation Amendment Bill 2021 and the Mining Amendment Bill 2021 are the first of these reforms and have been introduced into the Legislative Assembly.
- (3) It is the Minister for Commerce and the Minister for Mines and Petroleum respectively.

CORONAVIRUS — MANDATORY VACCINATIONS — CHILD PROTECTION

1142. Hon NICK GOIRAN to the parliamentary secretary representing the Minister for Child Protection:

I refer to an article in *The West Australian* of 7 December 2021 titled "COVID-19 vaccination in WA: Almost 2000 public servants face sack after refusing vaccination".

- (1) How many of the 1 939 unvaccinated workers are child protection workers?
- (2) What measures is the department putting in place to ensure that case loads do not exceed the recommended limit of 15, notwithstanding that some caseworkers are facing the sack?
- (3) How many caseworkers currently have a case load in excess of 15?

Hon KYLE McGINN replied:

On behalf of the parliamentary secretary, I thank the member for some notice of the question. The following answer has been provided by the Minister for Child Protection.

- (1)–(2) I have been advised that there is no impact to services and all workers captured by the direction are required to comply.
- (3) For the current reporting period, the number of caseworkers holding case loads over the recommended limit of 15, as per the monthly workload management report, was 81.

EARLY YEARS INITIATIVE

1143. Hon DONNA FARAGHER to the parliamentary secretary representing the Minister for Community Services:

I refer to the minister's press statement titled "Central Great Southern communities to join historic Early Years Initiative" released on 20 December 2018 that states, "The remaining three communities will be announced during 2019".

- (1) Can the minister advise whether the remaining communities selected to take part in the initiative have now been finalised?
- (2) If yes to (1), please provide a list of these communities and advise when they were endorsed to participate in the initiative?
- (3) If no to (1), why not, and when are they anticipated to be announced?

Hon KYLE McGINN replied:

On behalf of the parliamentary secretary, I thank the member for some notice of the question. The following answer has been provided by the Minister for Community Services.

- (1) Yes.
- (2)–(3) Bidyadanga was endorsed on 14 March 2019; Armadale west was endorsed on 13 June 2019; and the final site will be announced early next year.

CORONAVIRUS — VACCINATIONS — CORRECTIVE SERVICES

1144. Hon PETER COLLIER to the minister representing the Minister for Corrective Services:

- (1) How many prison officers in Western Australian prisons are currently unvaccinated?
- (2) How many staff—non-prison officers—in Western Australian prisons are currently unvaccinated?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided by the Minister for Corrective Services.

- (1) There are currently 67 prison officers who are yet to provide proof of vaccination.
- (2) There are currently 20 non-prison officers who are yet to provide proof of vaccination.

There are a number of prison staff on leave, or yet to be required to enter a prison facility, who have yet to show proof of vaccination. These are not counted in the aforementioned numbers.

GREENHOUSE GAS EMISSIONS

1145. Hon Dr BRAD PETTITT to the minister representing the Minister for Climate Action:

I refer to the government's recently released publication *Shaping Western Australia's low-carbon future: Developing sectoral emissions reduction strategies to transition the economy to net zero*.

- (1) Can the minister confirm 2005 sectoral emission levels will be used as the baseline year that sectoral emission reductions will be measured against; and, if not, what year will be used as the baseline?
- (2) In 2005, how many million tonnes of carbon dioxide equivalent were emitted in —
 - (a) stationary energy, excluding electricity generation;
 - (b) electricity generation;
 - (c) transport;
 - (d) fugitive emissions;
 - (e) agriculture;
 - (f) industrial processes;
 - (g) waste; and
 - (h) land use?
- (3) How many million tonnes of CO₂ equivalent were emitted in (2)(a)–(h) respectively in the latest year for which data is available?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The following answer is provided on behalf of the Minister for Climate Action.

- (1)–(3) State and territory greenhouse gas emission inventories are compiled by the commonwealth government as part of the national inventory reports and requirements under the United Nations Framework Convention on Climate Change. State and territory inventory reports from 2008 to 2019 are publicly available and information on emissions from all Australian states and territories in 2005 has been published. The most recent inventory year for which state and territory data is available is 2019.

HORIZON POWER — DISCONNECTIONS

1146. Hon WILSON TUCKER to the minister representing the Minister for Energy:

I thank the minister for the answer to question without notice 1137 that I asked on 8 December 2021 about Horizon Power disconnections since 30 June 2021 to date.

- (1) Of the disconnected customers per service region, can the minister please provide the figures for residential customer disconnections?

- (2) Does Horizon Power distinguish between disconnection for non-payment when a customer remains at the premises and a disconnection for non-payment when the customer has vacated the premises?
- (3) If yes to (2), please provide these figures per service region for commercial and residential customers.
- (4) How many Horizon Power customers are currently on a payment plan or similar arrangement? Please provide these figures for each region within Horizon Power's network.

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided by the Minister for Energy.

- (1) The table shows the number of residential customers disconnected by Horizon Power service region since 30 June 2021 to date. Of those disconnections, 93 per cent have been reconnected. I seek leave to have the table incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

Service Region	Residential Customer Disconnections
Kimberley	497
Pilbara	594
Gascoyne/Midwest	176
Goldfields/Esperance	150
Total:	1,417

- (2) Horizon Power is not able to distinguish between customers residing in the premises and those who have vacated. The enterprise has a very transient population. Customers often move out and do not advise Horizon Power.
- (3) Not applicable.
- (4) The table shows the figures for customers with payment arrangements by Horizon Power service region. I seek leave to have the second table incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

Service Region	Customers on Payment Plans
Kimberley	531
Pilbara	393
Gascoyne/Midwest	160
Goldfields/Esperance	132
Total:	1,216

KARRAKATTA CEMETERY — HEADSTONE REMOVAL

1147. Hon Dr BRIAN WALKER to the Leader of the House representing the Minister for Local Government:

I thank the minister for the answer he provided to my question on Karrakatta renewal practices asked and answered on 2 December 2021. I take this opportunity to draw his attention to an article in the *Post*, dated 6 November 2021, by Bonnie Christian entitled "Wrecked war grave saddens Beazley". With that additional background, I ask the minister: when the headstone marking the legally recognised, official war grave of any fallen soldier, let alone the grandfather of an ex-federal Labor leader and the Governor of this state, is removed and destroyed without reference to the family, is it not past time that the Metropolitan Cemeteries Board practices around renewal were halted while a proper investigation by an impartial body is conducted into the desirability of this dubious and, frankly, odious practice?

The PRESIDENT: Before I give the call to the Leader of the House, I take the opportunity to remind the honourable member of standing order 105 that requires questions to be concise.

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

The Metropolitan Cemeteries Board and the Office of Australian War Graves signed a memorandum of understanding in 2008 to specify the activities between the MCB and the OAWG in relation to the retention of World War I and World War II war graves and memorials in cemeteries controlled and managed by the MCB. Since the memorandum was signed, all official war grave monuments are retained in their original grave position and are not affected by renewal programs. Prior to 2008, transfer of war grave monuments was subject to approval by the OAWG. The process of cemetery renewal is subject to extensive consultation prior to any removal of monuments.

FIRE AND EMERGENCY SERVICES — PLANT AND EQUIPMENT TECHNICIANS

1148. Hon MARTIN ALDRIDGE to the Leader of the House representing the Minister for Emergency Services:

I refer to the article in *The West Australian* of 9 December titled “Bushfire season a worry as staff exit”.

- (1) How many technicians by FTE are employed in the plant and equipment portfolio within the Department of Fire and Emergency Services?
- (2) Of those identified in (1), how many technicians are presently available to be rostered?
- (3) What measures has DFES put in place to address the shortage of technicians throughout the high-threat fire period?
- (4) Is it still the state government’s position that the best way to attract and retain staff is to simply pay them more?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

- (1) Twelve technicians are employed.
- (2) Two are currently available to be rostered.
- (3)–(4) DFES has engaged external contractors experienced in repairing DFES fleet to supplement the on-call roster to meet the increased workload during the high fire season; undertaken and continues to run a recruitment campaign; and assessed the schedule of the high–fire season fleet being relocated from the state’s north to establish short-term replacement appliance availability.

DEVELOPMENTWA — LAND SUPPLY — KALGOORLIE

1149. Hon NEIL THOMSON to the minister representing the Minister for Lands:

I refer to the land supply challenges in our regional towns, specifically Kalgoorlie.

- (1) For DevelopmentWA only —
 - (a) how many individually titled lots are available for sale today;
 - (b) how many lots are under construction; and
 - (c) for lots listed in (a), what was the average cost of development per lot, and what is the average sale price?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for Lands has provided the following information.

- (1)
 - (a) one;
 - (b) DevelopmentWA is currently constructing 31 new residential lots at its GreenView estate in Kalgoorlie; and
 - (c) the average cost of development for lots currently under construction is \$345 000 per lot, including land acquisition, construction, landscaping, professional fees, sales et cetera, while the asking price for the lot currently for sale is \$262 000.

SIR CHARLES GAIRDNER HOSPITAL — WATER CONTAMINATION

1150. Hon STEVE MARTIN to the minister representing the Minister for Health:

I refer to my question without notice 1042 asked on 30 November, which refers to water contamination at Sir Charles Gairdner Hospital.

- (1) When was the minister’s office first made aware of issues associated with bacterial contamination at Sir Charles Gairdner Hospital?
- (2) When did the minister seek a briefing on this matter?
- (3) How many beds are currently still closed as a result of the bacterial contamination?
- (4) How many staff have been affected by substantiated or unsubstantiated cases of illness, and were any of these legionnaire’s disease?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. Notice of this question was given on Tuesday, 7 December, so the information is current as of that date. I am not sure whether it has changed.

- (1) On 25 November 2021, following the matter being raised during question time in the Legislative Assembly, information was sought from the North Metropolitan Health Service.

- (2) A briefing was provided to the minister on 26 November 2021.
 (3)–(4) Nil.

CORONAVIRUS — MANDATORY VACCINATION POLICY

1151. Hon Dr STEVE THOMAS to the minister representing the Minister for Health:

I refer to the government's mandatory vaccination plan, and the answer to question without notice 1072 confirming that the Department of Health is responsible for compliance.

- (1) Which members of the health department will have access to the vaccination records of private businesses and employers, and how many will have this power?
- (2) Will those members be visiting employers on site to determine compliance?
- (3) If yes to (2), what legal authority will they use to demand both entry and access to the information?
- (4) Will there be any widespread or statewide need for businesses to demonstrate compliance with the mandate to the Department of Health?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for some notice of the question. The following answer has been provided to me by the Minister for Health.

- (1) Each vaccination direction issued under the Public Health Act 2016 provides that an employer, owner, occupier or person apparently in charge of a workplace is to provide evidence of the employee's vaccination status when requested to do so by an emergency officer appointed under that act, and 59 people from the Department of Health have been appointed for this purpose.
- (2) Spot checks for compliance are carried out at the request of the Chief Health Officer.
- (3) Emergency officers are appointed under part 12, division 4, section 174(2) of the act. In respect of the vaccination directions, they are authorised to direct an employer to provide evidence of vaccination of each worker or provide proof of an exemption from vaccination provided by the Australian Immunisation Register or the Chief Health Officer.
- (4) If noncompliance is suspected, or as requested by the Chief Health Officer.

SHARKS — HAZARD MITIGATION

1152. Hon TJORN SIBMA to the parliamentary secretary representing the Minister for Fisheries:

- (1) How many shark monitoring receivers are operating presently in Western Australia, and where are these receivers located?
- (2) What is the approximate cost of these receivers in capital and recurrent terms?
- (3) Can the minister advise when the government will complete the upgrade to these receivers, as advised in his answer of 7 December?

Hon KYLE McGINN replied:

I thank the member for some notice of the question. The following answer has been provided by the Minister for Fisheries.

- (1) There are currently 34 shark monitoring receivers deployed between the Perth metropolitan area and Esperance.
- (2) The capital cost of a shark monitoring receiver will vary dependent on location and installation costs. The capital costs are between \$45 000 and \$75 000. The recurrent cost varies according to the number of detections within the receiver array. The approximate recurrent costs are between \$50 000 and \$55 000 each year.
- (3) The government has provided funding for these upgrades through to the 2022–23 financial year.

COMMUNITIES — INVESTIGABLE CHILD DEATHS

1153. Hon NICK GOIRAN to the parliamentary secretary representing the Minister for Child Protection:

I refer to the answers to additional questions asked during the 2021–22 budget estimates for the Department of Communities, advising that the actual spend on child protection assessments and investigations was \$88 143 000 for the 2020–21 financial year. How many notifications did the department receive in that period that met the criteria for an investigable child death?

Hon KYLE McGINN replied:

On behalf of the parliamentary secretary representing the Minister for Child Protection, I thank the member for some notice of the question. The following answer has been provided by the Minister for Child Protection.

The number of notifications is 40.

CARERS RECOGNITION ACT — REVIEW

1154. Hon DONNA FARAGHER to the parliamentary secretary representing the Minister for Community Services:

The parliamentary secretary is a busy boy today! I refer to the recently tabled *Review of the Carers Recognition Act 2004: Report to Parliament*.

- (1) Does the government support the review's findings, and will the minister commit to implementing all 12 recommendations contained within the report; and, if not, why not?
- (2) If yes, when is the implementation plan to develop response initiatives for these recommendations expected to be finalised?

Hon KYLE McGINN replied:

On behalf of the parliamentary secretary representing the Minister for Community Services, I thank the member for some notice of the question. The following answer has been provided by the Minister for Community Services.

- (1) Yes.
- (2) The *Review of the Carers Recognition Act 2004: Report to Parliament* was tabled on 24 November 2021. The Department of Communities has engaged in preliminary discussions with the Carers Advisory Council and Carers WA, and will work to implement the recommendations throughout 2022.

CORRECTIVE SERVICES — PRISON OFFICER VACANCIES

1155. Hon PETER COLLIER to the minister representing the Minister for Corrective Services:

- (1) How many prison officer vacancies exist at Casuarina Prison?
- (2) What is the total number of prison officer vacancies in Western Australian prisons?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided to me by the Minister for Corrective Services.

- (1) The following FTE is for Casuarina Prison as at 30 November 2021. The approved FTE is based on a prisoner population of 1 490. However, actual prisoner population on 9 December 2021 is 1 141, with the prison operating at 76 per cent capacity.

I seek leave to have the table incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

Casuarina

Rank	Approved FTE	Substantive FTE	Vacancies
Principal Officer	4	4	0
Senior Officer	79	78	-1
Prison Officer	421	400.5	-20.5
VSO	103	93.6	-9.4
Total	607	576.1	-30.9

- (2) The following FTE is for public prisons as at 30 November 2021. The approved FTE is based on a prisoner population of 6 552. However, the actual prisoner population on 9 December 2021 is 4 984, with the custodial estate operating at 76 per cent capacity.

I seek leave to have this table incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

Public Prisons

Rank	Approved FTE	Substantive FTE	Vacancies
Principal Officer	29	27	-2
Senior Officer	410	372	-38
Prison Officer	1920	1844.2	-75.8
VSO/Work camps	544.6	484.1	-60.5
Total	2903.6	2727.3	-176.3

Please note that the approved FTE refers to the number of officers contained in the staffing agreements for each facility. Approved FTE is based on the approved prison capacity. When facilities are running under their capacity,

the facility can operate with a lower level of staffing and the department holds these unrequired positions vacant. In the context of the current number of prisoners being managed—down 1 568 on approved capacity—the current substantive staffing levels are considered adequate.

POLICE — DOG THEFT

1156. Hon WILSON TUCKER to the minister representing the Minister for Police:

- (1) Does the Western Australia Police Force record incidents that relate to dog theft?
- (2) Do these records differentiate between the theft of a dog from an owner and an owner–breeder?
- (3) If yes to (1), please provide the total recorded incidents for each month from November 2019 to November 2021.
- (4) If yes to (2), please arrange the total recorded incidents in such a way to differentiate between owners and owner–breeders.

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of this question. The following information has been provided to me by the Minister for Police.

The Western Australia Police Force advises the following.

- (1) Yes.
- (2)–(4) This is a resource-intensive action, as a manual interrogation of police systems is required given the category for recording dog theft includes all animals, inclusive of domestic pets—breeds—and general livestock. For this reason, a response to this part of the question cannot be provided within the required time frame. The honourable member may wish to place the question on notice.

JUSTICES OF THE PEACE — COURT PROCEEDINGS

1157. Hon Dr BRIAN WALKER to the parliamentary secretary representing the Attorney General:

I refer the Attorney General to Tom Robinson’s article in today’s *Kalgoorlie Miner*, calling for the return of justices of the peace to the court bench, and citing strong Indigenous support for such a move. Acknowledging the sensitivities surrounding the Ward case, but in the strong belief that we should listen to Aboriginal elders on matters of importance to the Aboriginal community, will the Attorney General undertake to discuss this issue with the Chief Magistrate and others in an attempt to reach a compromise that might allow properly trained JPs to constitute a court under appropriate circumstances, as was previously the case?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question, and I provide the following response on behalf of the Attorney General.

The Chief Magistrate issued a practice direction directing that justices of the peace will no longer preside over court proceedings, effective 1 August 2020. This meant that only legally qualified magistrates would deal with all matters in the Magistrates Court of Western Australia. This decision addresses the key recommendations of the State Coroner in relation to the tragic death of the late Mr Ward and the related Standing Committee on Environment and Public Affairs report.

With the growing volume and legal complexity of criminal cases, including the increasing number of either-way offences being dealt with in the Magistrates Court, JPs were gradually stepping back from hearing such matters in recent years, prior to the practice direction being issued. The WA government has funded and appointed two additional magistrates. Together with the use of video link technology, this ensures the Magistrates Court continues to effectively respond to regional and remote community needs and to provide the full range of judicial services previously undertaken by JPs in their judicial capacity.

Magistrates are appointed after an extensive recruitment process. They are now required to have an understanding of the complex issue of family and domestic violence and a demonstrated level of Aboriginal cultural competency. There are currently two magistrates who are Aboriginal, one is located at South Hedland and one at Kalgoorlie. I would like to take this opportunity to thank and acknowledge JPs for the invaluable service they provide to the community.

RENEWABLE ENERGY — SECTION 91 LICENCES

1158. Hon NEIL THOMSON to the minister representing the Minister for Lands:

I refer to questions without notice 1041 and 1060 on the issuance of section 91 licences to Province Resources Ltd.

- (1) Did the minister consult with the pastoral industry concerning reserve 6084, which is held for the purpose of a resting place for travelling stock?
- (2) Noting the management order is held in favour of the Shire of Carnarvon, did the minister seek the shire’s approval and was that approval granted?
- (3) Have any other renewable energy proponents indicated an interest over the same areas of land listed in “Annexure B, land description of licence area”, either in writing or verbally to the minister or his representatives?

- (4) Will the minister consider offering other proponents the same rights under concurrent section 91 licences, or is the licence to Province Resources an exclusive licence?

Hon ALANNAH MacTIERNAN replied:

I hope this is not cash for questions! I thank the member for the question. The Minister for Lands has provided the following information.

- (1) No.
- (2) The Minister for Lands, via the Department of Planning, Lands and Heritage, consulted with the Shire of Carnarvon as part of the standard due diligence process.

Hon Neil Thomson: Approval?

Hon ALANNAH MacTIERNAN: He consulted with the Shire of Carnarvon as part of the standard due diligence process. The shire was supportive of the licence granted to Province Resources, and I can confirm that from my personal experience. They are highly supportive.

- (3) No.
- (4) Yes. The licence granted to Province Resources is non-exclusive. Further licence applications will be considered on merit and subject to the department's standard due diligence processes.

PORT HEDLAND VOLUNTARY BUYBACK SCHEME

Question without Notice 1131 — Answer Advice

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.02 pm]: I would like to provide an answer to Hon Colin de Grussa's question without notice 1131 asked on 8 December 2021.

I seek leave to have the response incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

Answer

- (1) (a) 128
(b) 94
- (2) The Hedland Maritime Initiative does not record information on when former owners purchased their property.
- (3) Four
- (4) No
- (5) As at 7 December 2021, no landowner has made such a claim.

CRIMINAL LAW (UNLAWFUL CONSORTING AND PROHIBITED INSIGNIA) BILL 2021

Question without Notice 1121 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Mental Health) [5.03 pm]: I now have an answer to Hon Nick Goiran's question without notice 1121 asked yesterday.

I thank the honourable member for some notice of the question. The following information has been provided to me by the Minister for Police. The Western Australia Police Force advises —

- (1)–(2) Declared drug trafficker information is provided to the Western Australia Police Force by the Department of Justice. The data is recorded in the incident management system; however, further time is required to validate the information due to the complex nature of extracting the data. For this reason, a response to the question cannot be provided within the required time frame. The honourable member may wish to place the question on notice.

DESALINATION PLANTS — ENERGY USE

Question without Notice 1097 — Answer Advice

HON ALANNAH MacTIERNAN (South West — Minister for Regional Development) [5.03 pm]: I would like to provide an answer to Hon Tjorn Sibma's question without notice 1097 asked on Tuesday, 7 December.

I seek leave to have the response incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

Answer

- (1) Perth Seawater Desalination Plant — 164,268 Megawatt hours
Southern Seawater Desalination Plant — 411,417 Megawatt hours
- (2) Southern Seawater Desalination Plant — 200,120 Megawatt hours
A dedicated wind energy contract for the Perth Seawater Desalination Plant concluded in 2016 during the period of the former Liberal National Government and was not renewed.
-

JOBS, TOURISM, SCIENCE AND INNOVATION — CREDIT CARD USE*Question without Notice 1120 — Answer Advice*

HON ALANNAH MacTIERNAN (South West — Minister for Regional Development) [5.04 pm]: I also have an answer to question without notice 1120 asked yesterday, 8 December.

I seek leave to have the response incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

Answer

I thank the Honourable Member for some notice of the question.

The Department of Jobs, Tourism, Science and Innovation advises:

- (1) There are three systems used by the Department for the detection of corporate credit card misuse:
- Self-declaration by credit cardholders;
 - Detection by line managers of credit cardholders; and
 - Detection by the Finance team within the Department.

In all instances, the employee credit card holders were required to declare the misuse in writing, on a standard declaration form, in accordance with Treasurer's Instructions and the Department's Credit Card Policy and Guidelines,

- (2) An average of 15 days elapsed from the date of accidental misuse to the date of detection.

ABORIGINAL CULTURAL HERITAGE BILL 2021*Committee*

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Steve Martin) in the chair; Hon Stephen Dawson (Minister for Aboriginal Affairs) in charge of the bill.

Clause 1: Short title —

Committee was interrupted after the clause had been partly considered.

Hon NEIL THOMSON: As intimated prior to question time, I would like to now shift from consultation, if other members have finished on that issue, to the issue of funding and more general matters, because I cannot ask about those matters specifically under other clauses. As I discussed in my contribution to the second reading debate, we know that significant effort is undertaken by the Department of Planning, Lands and Heritage in the area of Aboriginal cultural heritage management to support the Aboriginal Cultural Material Committee. My knowledge is a little outdated, so I hope for an update on that. As I discussed, it is some time since I was involved, and I was not involved directly in the heritage area; I was in the lands area.

Hon Stephen Dawson: Peripherally.

Hon NEIL THOMSON: That is right; I did a little on the specific issue that we discussed earlier around Port Hedland. My understanding is that about half the 140-odd FTE of the former Department of Aboriginal Affairs—I do not expect the minister to recall the numbers from then—were involved in the management of Aboriginal cultural heritage and provided secretariat support to the ACMC. It was a big part of that department; it was the major component. There were compliance and advisory services, and there were anthropologists who provided advice to the ACMC. I assume all those services went across to the Department of Planning, Lands and Heritage. As I said in my contribution to the second reading debate, I had heard from individuals who had taken redundancies at that time. My understanding, which the minister can clarify if he knows the information, is that some of those individuals are Aboriginal people and there was an issue about the culture of DPLH being different from the type of agency they were used to. This does relate to something else, by the way. I want to focus on what will become of that function, assuming there are 70 or so FTE still remaining in DPLH who are involved in providing support to the ACMC. I assume there will be some cost savings, because we seem to be effectively outsourcing the regulatory and assessment process to these other bodies—the local Aboriginal cultural heritage services and the Aboriginal Cultural Heritage Council. Will there be any cost savings to the government in the long term as a result of this bill?

Hon STEPHEN DAWSON: Honourable member, there may well be some savings in the long term. The intention, though, in the short to medium term is to ensure that there are more officers available to help the local Aboriginal cultural heritage services. There is also a plan, which is talked about, that we would have more officers in the regions—to be able to work as closely as possible to the prescribed bodies corporate.

In relation to the restructure, it happened in 2016, so you were probably on the corporate executive at that stage—were you?

Hon Neil Thomson: That was 2017.

Hon STEPHEN DAWSON: I am told it was 2016.

Hon Neil Thomson: No, it was 2017.

Hon STEPHEN DAWSON: My advice is the redundancies happened in 2017.

Hon Neil Thomson: It was after the election of the Labor government.

Hon STEPHEN DAWSON: It is not about savings. Maybe in the long term there might be some, but the intention is to have officers help people.

Hon NEIL THOMSON: We understand that the transition will require funding. We have been talking up the issue of this extra \$10 million. I assume that is what the minister referred to. Will the \$10 million fund officers in the Department of Planning, Lands and Heritage? I see your staff nodding furiously in disagreement.

Hon STEPHEN DAWSON: No. I probably said this before question time, but my brain is struggling, too. The \$10 million is an in-globo amount to help us roll out the legislation. It is to help with the capacity and building of LACHS. It is to help with the consultation part of the regulations, so that is what that is about. It is an amount in the budget that can be drawn down based on what is needed, but there is no intention at this stage to spend it on staff. No decisions like that have been made.

Hon NEIL THOMSON: What will happen in five years' time to the 70-odd FTEs currently in DPLH? What is the minister's vision for those positions under this new regulatory regime?

Hon STEPHEN DAWSON: Honourable member, I do not have the figure in front of me, so whether it is 70 or 50, I am not quite sure. But, certainly, there is no intention to reduce the number of staff at DPLH who deal with these issues.

Hon NEIL THOMSON: My understanding is that if the staff are still doing the same sorts of things that they were doing before, such as providing advice to the Aboriginal Cultural Material Committee, and there were both compliance officers and people who got out—no? Yes?

Hon Stephen Dawson: By way of interjection, it will all still be the same—all doing the same tasks.

Hon NEIL THOMSON: They will be doing the same sorts of things, such as some assessment of applications. A system is being managed and there are important global information system layers that go into our shared land information platform, or SLIP, across the Western Australian government. All these things are important. Therefore, what the minister is saying is that all those staff will continue to do what they are doing. I am just trying to find out because there seems to be a gap in this discussion. In terms of the assessment, we will have all these other staff coming into these independent bodies, providing advice about their approvals process, which is not section 18. I am just very interested to know what will happen to that architecture.

Hon STEPHEN DAWSON: Honourable—I cannot even say the word “honourable” at this stage of the afternoon. Honourable member, there are new tasks that will come into place as a result of this bill—for example, protected areas. A protected area has not been declared in Western Australia since 1994 because a protected area was deemed to be a future act, and so they have not been progressed. I will give the member one example. As a result of this legislation before us, a protected area would no longer be vested in the minister, and so it will not be a future act; therefore, there will be things like protected areas that staff could do work on. That is just one possible thing, but there are a range of other new issues associated with this legislation that will create work for staff. The member is correct: the Aboriginal Cultural Material Committee will not be there, but other work will need to be done, so I am confident that the staffing cohort will remain; they just might be doing different things.

Hon NEIL THOMSON: Will the Aboriginal Cultural Heritage Council still be supported by state government funding?

Hon STEPHEN DAWSON: Yes, the council will be funded by the state government.

Hon NEIL THOMSON: Has the team—whoever that is—that has prepared this bill undertaken a modelling exercise on the funding? I am just putting this a little bit on notice for the discussion we will have later on the LACHS; I assume we will be getting to that on Tuesday. Has a proper modelling exercise been undertaken on what will be the full cost of the new regulatory framework once it is in operation?

Hon STEPHEN DAWSON: No, it has not, honourable member. There have obviously been discussions with Treasury along the way, as agencies will talk to Treasury, and, obviously, as a result of an allocation in this year's budget, \$10 million has been set aside to help with the establishment of this process. There may well be a need to go back to Treasury again to seek further appropriations after we have gone through the regulation-making process and we know what has been created and what the systems and processes will be, but this is an amount to start us off.

Hon NEIL THOMSON: I predict that there will be a need for a lot more than the \$10 million, and I hope this is not some sort of exercise for outsourcing agricultural heritage management, because —

Hon Stephen Dawson: By way of interjection, it certainly isn't. This is not about outsourcing.

Hon NEIL THOMSON: It is not about outsourcing, so this is, in the minister's words, more about the government wanting to empower, I would assume. Is the government trying to save money here? The minister said earlier that there might be a saving. I would hope, for the purpose of *Hansard*, that this is not about saving consolidated funds on an ongoing basis, because my guess is that it will actually cost more for the state to properly oversee and manage the operating standards—we will no doubt discuss this in a lot more detail on Tuesday—that will apply to the, potentially, 60 or 70 LACHS. There might be 20 or 30; I do not know. We might still see some consolidation of

that. I hope that might be the case. I see the minister making a note, which is very good. I suppose my question in response is: can the minister reiterate that there is definitely not going to be a reduction in the ongoing consolidated funding spend of the Western Australian government in the Aboriginal cultural heritage area?

Hon STEPHEN DAWSON: No, there will not be any savings, honourable member. This is about finally dealing with managing Aboriginal heritage properly. It is not about saving money—not in the slightest. The member asked whether it might save money. It might save money in the future because this bill will streamline processes, as well. It will get rid of the section 18 process, so it may well save money in that regard, but the intention is to keep the staff, who will be doing different things. It is not about saving money; it is about doing the right thing. It is long overdue.

Hon NEIL THOMSON: I hope that is the case. Generally, I think that we underinvest in this area; we have underinvested for a very long time and the consequences of that underinvestment have been on display with the incident at Juukan Gorge. That example is constantly used; I tried to avoid using it gratuitously in my second reading contribution because I think it has sometimes been a bit of a lightning rod for all discussion around this bill. It is easy to say that, but I must say there are a number of unresolved matters in my mind, at least about the sequence of events that led to that. The minister was very quick to say that I should ask the previous minister about his knowledge of the state of Juukan Gorge prior to when the site was destroyed. Comments were made in the discussion about gag orders, for example, and why things could not occur. I think this goes a bit to the heart of the resourcing issue. It was 2017. I understand that the Department of Aboriginal Affairs existed as a standalone department until about May 2017. I know, because I was a member of that department and I found that I did not have a department to be in. That is of no concern because here we are. I was very happy to be relieved of that duty and do other things. However, I am not here to bang on about my personal circumstances. It is not about me; this is about investment by the state promising to create an independent advocate, which never occurred. Then, as part of the machinery-of-government reforms, we saw that function rolled into another department that happens to be a department that I worked for, the Department of Planning, Lands and Heritage. I know the cultures of those departments.

Hon Stephen Dawson: I need to report progress.

The DEPUTY CHAIR (Hon Steve Martin): It is my understanding, minister, that we are sitting, so there is no 5.20 pm cut-off.

Hon Stephen Dawson: No; there is at 5.20 pm, so I need to report progress.

The DEPUTY CHAIR: No, I believe a motion was moved earlier today.

Hon NEIL THOMSON: We achieved our goal.

Hon Stephen Dawson: Neil, can you sit down?

The DEPUTY CHAIR: Order! Members, I am seeking some advice if you do not mind. The member has the call and he will continue his remarks until he decides not to, and then you may do what you wish to do. Hon Neil Thomson, you have the call, or are you remaining seated? Minister, I am giving the call to Hon Neil Thomson.

Hon NEIL THOMSON: For the sake of completing this issue—I will not detain the house any longer than I need—I can say that the heritage component was rolled into an agency that had very little interest in Aboriginal cultural heritage because it was a very different kind of agency. My question to the minister is: does he acknowledge that that aspect was partly responsible for this outcome of Juukan Gorge?

Progress reported and leave granted to sit again, pursuant to standing orders.

CHRISTIAN KERR — TRIBUTE

Statement

HON SOPHIA MOERMOND (South West) [5.24 pm]: I was saddened to hear of the passing of journalist Christian Kerr last week. Although I did not know Christian personally, I knew him by reputation, and some members of the Legalise Cannabis WA Party had personal friendships with him, so I want to briefly pay tribute to him today.

Christian Kerr had an outstanding career as a journalist, commentator and political adviser in Australia for several decades. Christian was also well known for his trailblazing work on the political website Crikey and as a columnist for *The Australian*, and he served a stint as a senior adviser in the Howard government. Most recently, he worked with *The Spectator Australia*, which has published moving and funny tributes to him, including, in part, this from Terry Barnes —

A lover of the finer things of life and pop culture. Political tragic and ... gossip. A big and passionate heart in a sometimes-struggling body ... His infectious laugh. His ridiculing of the ridiculous, especially of politicians. His ability to see political discourse as a multi-faceted and pluralistic battle of ideas, and his relish for that battle.

...

He was not perfect—he did have eruptions of temper, which usually subsided as quickly as they came on—but he leaves behind a big hole in many lives.

That is beautifully said. Tributes for Christian have flowed on social and mainstream media, so best I let others speak. From his good friend activist Stephen Mayne —

... Christian Kerr—a creative and political genius who was the single most important Crikey columnist/editor during the first 8 years until he went to Canberra with The OZ in 2008. Had remarkable wit, contacts and insight, plus an admirable conscience. RIP my friend.

From journalist Louise Milligan —

Christian was flawed like us all but had a core of kindness & sensitivity masked with wit & political banter. He adored his kids. He cried the last time I spoke to him—out of decency & loyalty to a late friend.

From Marise Payne, Minister for Foreign Affairs —

I was a Young Liberal with Christian Kerr many years ago. A devastating wit, great talent, kind friend. Many of us will have special memories. Vale.

I pass on my condolences to the children he adored, Rupert and India, and to all his many friends around the country and here in Western Australia now mourning his loss.

Vale, Christian Kerr.

GERALDTON SUICIDE PREVENTION ACTION GROUP

Statement

HON SANDRA CARR (Agricultural) [5.27 pm]: I rise to make a quick statement. Earlier this month, I had the opportunity to open the Geraldton Suicide Prevention Action Group conference. Suicide prevention action groups are grassroots groups that work together to establish themselves in communities, with the common purpose of preventing suicide amongst vulnerable members of their community. The conference in Geraldton was organised by the Geraldton Suicide Prevention Action Group. It brought together the various groups from small communities throughout WA to help them build networks and skills to improve their work preventing suicide in communities. The Geraldton group was ably supported by the Wesley Network Group, which helped the groups to build their skills and capacity to work towards and deliver their goal of preventing suicide.

The conference was the first of its kind. It is a new initiative for the group. I participated in the conference for a while. It was very important because it helped the groups build support for each other in the work that they do. The groups spent a lot of time communicating with each other, which I suggest is part of their core function, demonstrating how important communication is in us understanding where people are at and ensuring that they stay safe in our community.

I would like to acknowledge the various communities that have suicide action prevention groups. I am talking about Wanneroo, Esperance, Collie, Carnarvon, Halls Creek, Derby, Merredin, Kojonup, Northcliffe and, of course, Geraldton. I would really like to thank all the volunteers who contribute their time and effort to keeping people in our community safe. I recognise that their grassroots action is very, very important in creating positive change in suicide prevention in communities.

In 2020, 3 139 people suicided, which is more than double the road toll. Seventy-five per cent of those were men; however, it should be noted that women are more likely to attempt suicide more times, so the issue is, broadly speaking, across all genders. These figures are, sadly, staying consistent. The highest risk group are men aged 20 to 54 years. Other high-risk groups include our Indigenous people. People living in rural and remote areas are twice as likely to die from suicide than people living in major cities and urban areas. Some other vulnerable groups include those in our LGBTQIA+ community and our culturally and linguistically diverse community.

The impact of suicide is widespread. It impacts all of our first responders, those in the community who are linked to the person who has taken their life, and also, of course, the family, friends and close colleagues of people whose lives have been taken due to suicide. It is important that we all work together to make sure that we prevent suicide. Before I thank some of the key organisers of that conference I want to mention that it is really important that we all consider ways in which we can work to prevent suicide. One way to do that is by undertaking a mental health first aid course. It is only a short course but is really important. I have done a couple of youth mental health first aid courses and a broad mental health first aid course. It provides people with excellent skills. No-one expects you to solve the problem, but it can help to identify the problem and be able to initiate conversations, and let you know how to refer on so you can help to keep people safe. It also provides skills to be less awkward or less resistant to having those conversations when identifying patterns that suggest that someone might be at risk.

At this time of the year—the festive season—people are more vulnerable; it can amplify for them some of their loneliness, issues that they are feeling or problems around family. It is really important that we initiate those conversations. I am going to mention the names of a couple of groups, but not their numbers, to remind people that they are out there. But, as I look around the room, I want to let my colleagues know that my team made the decision to include these numbers on the back of the new version of my business card because it is an easy way of connecting

people to that information without drawing attention to it. It means that if I am not comfortable to have a conversation with someone, I can hand them my business card and they can find the numbers there. They might even like to hand the card on to someone else. So I encourage members to perhaps think about doing something similar if they are comfortable with that.

I would like to mention that if you do notice someone struggling—obviously if it is a serious problem or someone has already harmed, you would need to call 000—they will have a card with the number of organisations like Lifeline, Beyond Blue, the Suicide Call Back Service, the mental health emergency response line and MensLine, to name a few. There are a lot of organisations out there. I am going to put their numbers on my Facebook page after this and I encourage members to do the same from time to time.

House adjourned at 5.32 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

HEALTH — STAFF — NURSES AND MIDWIVES

336. Hon Martin Aldridge to the minister representing the Minister for Health:

I refer to the media statement from 22 October 2021, titled *Major new advertising campaign to bolster health workforce*, which states “Western Australia’s current recruitment drive has already seen 1,000 new nurses and midwives join the WA Health system since January this year”, and I ask:

- (a) on 1 January 2021 how many, by FTE, nurses and midwives were employed in the Western Australian health system;
- (b) currently, how many, by FTE, nurses and midwives are employed by the Western Australian health system;
- (c) of the almost 1,000 nurses and midwives recruited since January, how many have been recruited:
 - (i) within Western Australia;
 - (ii) interstate; and
 - (iii) internationally; and
- (d) please provide a breakdown of the almost 1,000 nurses and midwives, by health service provider?

Hon Stephen Dawson replied:

I am advised:

- (a) Refer Legislative Assembly Question on Notice 36.
- (b) For the first quarter of the 2021–22 financial year 13,492 average FTE nurses and 1,155 average FTE midwives were employed by WA Health.
- (c)–(d) Provision of the information sought by the Member would require a significant amount of time, research and manual collection of data. As such it is not considered a reasonable or responsible use of Government resources to complete such as task. If the Member has a more specific inquiry I will endeavour to provide a reply.

BIODIVERSITY, CONSERVATION AND ATTRACTIONS — RECOVERY PLANS

365. Hon Tjorn Sibma to the minister representing the Minister for Environment:

I refer to the Department of Biodiversity, Conservation and Attractions management of 292 recovery plans for critically endangered and endangered taxa and ecological communities, and I ask, what level of recurrent funding is allocated to drafting, implementing and evaluating the success of these plans for each year of the forward estimates?

Hon Stephen Dawson replied:

Recovery Plans provide guidance on recovery actions to the Department of Biodiversity, Conservation and Attractions (DBCA) and other organisations. In DBCA many actions are taken across multiple species and locations, (e.g. feral animal control) therefore it is not possible to identify funding allocated to specific species or activities under recovery plans.

In 2020–21 approximately \$5.7 million was expended on development and implementation of approved biodiversity management programs, including recovery plans for threatened species and ecological communities as part of Service 6 – conserving habitats, species and ecological communities. It is anticipated that a similar level of expenditure will be incurred over the forward estimates.

CORONAVIRUS — VACCINATION PLAN — REGIONS

367. Hon Martin Aldridge to the minister representing the Minister for Health:

I refer to the media statement from 24 October 2021 titled “More COVID-19 vaccination clinics popping up across WA”, the Commonwealth’s Local Government Area and SA4 Geographic Area data released on 25 October 2021, and question without notice 817 asked on 14 October 2021 by Hon Colin de Grussa, and I ask:

- (a) given the most recent Commonwealth data identifies communities in the Goldfields, Pilbara and Kimberley as having some of the lowest vaccination rates in Australia, when will the State Government establish permanent community vaccination clinics in these regions;
- (b) noting the State Government’s \$5.8 billion budget surplus, what additional measures or incentives is the State Government considering to ensure regional communities have access to vaccinations in a timely manner; and

- (c) has the Commonwealth responded to WA Health's request for increased access to information about vaccination rates in remote communities, particularly those which are not identified in the SA4 data and, if so, please table the response?

Hon Stephen Dawson replied:

I am advised:

- (a) The WA Country Health Service has established fixed vaccination clinics to service the communities in the larger centres in these regions. These clinics have been operating since March 2021. Additionally, in reach and visiting vaccination clinics have been operating at smaller hospitals, health centres across inland towns and nursing posts in remote communities.
- (b) No incentives are currently being considered. WA Health and WA Police are utilising information from the Australian Immunisation Register to provide targeted information sessions to areas in need, followed up by vaccination clinics. Community leaders are consulted in providing targeted information sessions that dispel myths about vaccination.
- (c) Yes. The Commonwealth now provides WA Health with additional data on vaccination coverage in Western Australia's Aboriginal population by means of an 'Indigenous Vaccination Program SITREP' report. As this data is Commonwealth Government data, WA Health is not authorised to provide it.

POLICE — EMPLOYEE ASSISTANCE PROGRAM

368. Hon Peter Collier to the minister representing the Minister for Police:

I refer to the Employee Assistance Programme provided by the Western Australia Police Force, and I ask, will the Minister provide a list of service providers that are used for this service and, if not, why not?

Hon Stephen Dawson replied:

The Western Australian Police advise:

Converge International is the Western Australia Police Force's service provider for its Employee Assistance Program (EAP).

The EAP is available to all sworn and unsworn personnel and their families. The service provider will allocate an appropriate clinician according to individual circumstances. Noting, should the service user have an existing relationship with a psychologist, with the approval of the Director Human Resources or Chief Psychologist, the WA Police Force will authorise sessions to the same value as what would be payable under the contract. In addition, police officers may access a service provider of their choice in accordance with their Industrial Agreement.

In addition, internal psychological and welfare support services are also available and provided by the Western Australia Police Force's Health Welfare and Safety Division.

ENVIRONMENT — THREATENED AND EXTINCT SPECIES

369. Hon Dr Brad Pettitt to the minister representing the Minister for Environment:

Under the *Biodiversity Conservation Act 2016*, the Minister may by order list specially protected species, threatened species, extinct species, threatened ecological communities and collapsed ecological communities. The last notices published in the Government Gazette for threatened flora, specially protected fauna and threatened fauna was on 11 September 2018 under the Wildlife Conservation Act 1950, as listed on the Department of Biodiversity, Conservation and Attractions website. I ask the Minister to provide:

- (a) the dates that the Threatened Species Scientific Committee met in 2018, 2019, 2020 and 2021;
- (b) the dates that the Threatened Ecological Communities Scientific Committee met in 2018, 2019, 2020 and 2021;
- (c) the dates, between 1 January 2016 to 27 October 2021, that the Threatened Species Scientific Committee provided the Minister, or the Department, with advice on the listing of:
- (i) threatened species;
 - (ii) extinct species;
 - (iii) priority species; and
 - (iv) specially protected species; and
- (d) the dates, between 1 January 2016 and 27 October 2021, that the Threatened Ecological Communities Scientific Committee provided advice to the Minister, or the Department, on listing of:
- (i) threatened ecological communities; and
 - (ii) collapsed communities?

Hon Stephen Dawson replied:

- (a) The Threatened Species Scientific Committee met on
 10 April 2018
 17 July 2019
 In May–June 2020 the committee meeting was by email correspondence as a face-to-face meeting could not be held at the scheduled time due to the COVID-19 pandemic restrictions.
- (b) The Threatened Ecological Communities Scientific Committee met on
 13 February 2018
 20 November 2018
 14 May 2019
 3 December 2019
 24–25 March 2020
 25–26 June 2020
 17 December 2020
 10 June 2021
- (c) The Threatened Species Scientific Committee provided advice through the Department to the Minister, or to the Department on the following dates.
- (i) threatened species;
 21 December 2016
 18 December 2017
 10 July 2018
 16 August 2019
 8 August 2020
- (ii) extinct species;
 18 December 2017
 10 July 2018
 16 August 2019
 8 August 2020
- (iii) priority species;
 21 December 2016
 18 December 2017
- (iv) specially protected species
 21 December 2016
 18 December 2017
 10 July 2018
- (d) The Threatened Ecological Communities Scientific Committee has not considered formal nominations for assessment, so has not provided advice for the listing of threatened ecological communities under the Biodiversity Conservation Act to the Minister.

HEALTH — CT SCANNERS

370. Hon Martin Aldridge to the minister representing the Minister for Health:

I refer to Computed Tomography (CT) scanners owned and operated by the Department of Health and its area health services in Western Australia, and I ask:

- (a) in what locations are publicly owned and operated CT scanners operating;
 (b) of those identified in (a), will the Minister please list the slice capability of each machine;
 (c) what is the approximate cost for a new 64 and 128 slice CT scanner; and

- (d) given the 6 billion dollar surplus in 2020–21 has the Government funded any new CT scanners in the forward estimates?

Hon Stephen Dawson replied:

- (a)–(b) Refer to table below:

(a) Locations	(b) Slice Capability
Royal Perth Hospital	1 x 128 slice 2 x Current generation units with high end capacity and performance, not categorised by slices.
Sir Charles Gairdner Hospital	1 x 320 slice 1 x 256 slice 2 x 6 slice 2 x 16 slice 1 x 64 slice
Osborne Park Hospital	1 x 64 slice
Rockingham General Hospital	1 x 256 slice
Fiona Stanley Hospital	2 x 256 slice 2 x Dual Source/energy 128/256 slice
Fremantle Hospital	1 x 256 slice
Perth Children's Hospital	1 x 256 slice
Broome	1 x 64 slice
Kununurra	1 x 64 slice
Port Hedland	1 x 64 slice
Karratha	1 x 64 slice
Geraldton	1 x 64 slice
Carnarvon	1 x 16 slice (Replaced to 128 slice in Nov 2021)
Kalgoorlie	1 x 64 slice
Esperance	1 x 128 slice
Northam	1 x 64 slice
Narrogin	1 x 128 slice

- (c) Approximate costings range from \$600,000 (ex GST) for 64 slice, approximate costings range from \$450,000 to \$800,000 for 128 slice (ex GST).
- (d) Yes.

MERREDIN HEALTH SERVICE — MEDICAL IMAGING

371. Hon Martin Aldridge to the minister representing the Minister for Health:

I refer to the Merredin Hospital, and I ask:

- (a) for each month in 2021 to date, how many patient transfers were required for imaging purposes and to which hospital(s) were they transferred;
- (b) by each month in (a), how many patients were transferred for each of the following reasons:
- (i) computed tomography (CT) scans;
 - (ii) other radiology; and
 - (iii) other;
- (c) what are the current radiology capabilities at Merredin Hospital, by FTE; and
- (d) what WACHS hospitals are serviced by Merredin Hospital for their radiology needs?

Hon Stephen Dawson replied:

I am advised:

(a)

Month 2021	Total Number of Patients Transferred	Hospital Transferred
January	9	Northam
February	10	Northam
March	3	Northam
April	2	Narrogin
	5	Northam
May	10	Northam
June	5	Northam
July	4	Northam
August	6	Northam
September	8	Northam
October	4	Northam
November (1–9 November)	1	Northam

(b) (i)–(iii)

Month 2021	Transferred for CT Scans (i)	Other Radiology (ii)	Other (iii)
January	9	0	0
February	10	0	0
March	3	0	0
April	7	0	0
May	10	0	0
June	5	0	0
July	4	0	0
August	6	0	0
September	7	1	0
October	4	0	0
November (1–9 November)	0	0	1 Ultrasound

(c) One FTE for a radiographer and a visiting sonographer two days per week.

(d) Bruce Rock; Kellerberrin; Kununoppin; Narembeen and Southern Cross.

HEALTH — WORKFORCE — RECRUITMENT

372. Hon Martin Aldridge to the minister representing the Minister for Health:

I refer to the recruitment of overseas health professionals for the years 2018–19, 2019–20, 2020–21 and 2021–22, and I ask:

- (a) how many nurses arrived from overseas under contract or entering into a contract for at least three months:
- (i) of those nurses, how many still work in the Western Australian health system;
 - (ii) of those nurses, how many stayed longer than their initial contract;
 - (iii) for (i) and (ii), please identify the number of nurses by nation of origin;
 - (iv) for (i) and (ii), please identify the number of nurse–midwives; and
 - (v) did any of these nurses seek further qualifications in Western Australia:
 - (A) if known, please detail the number who sought further study;
- (b) how many doctors arrived from overseas under contract or entering into a contract for at least three months:
- (i) of those doctors, how many still work in the Western Australian health system;

- (ii) of those doctors, how many stayed longer than their initial contract;
- (iii) for (i) and (ii), please identify the number of doctors by nation of origin; and
- (iv) did any of these doctors seek further qualifications in Western Australia:
 - (A) if known, please detail the number who sought further study;
- (c) how many midwives arrived from overseas under contract or entering into a contract for at least three months:
 - (i) of those midwives, how many still work in the Western Australian health system;
 - (ii) of those midwives, how many stayed longer than their initial contract; and
 - (iii) for (i) and (ii), please identify the number of midwives by nation of origin;
- (d) how many allied health professionals (such as dentists, physiotherapists, etc.) arrived from overseas under contract or entering into a contract for at least three months:
 - (i) of those allied health professionals, how many still work in the Western Australian health system;
 - (ii) of those allied health professionals, how many stayed longer than their initial contract; and
 - (iii) for (i) and (ii), please identify the number of allied health professionals by nation of origin; and
- (e) for (a) – (d), what was the cost for each occupation?

Hon Stephen Dawson replied:

- (a)–(e) Provision of the information sought by the Member would require a significant amount of research which would divert WA Health staff away from their normal duties. If the Member has a specific inquiry I will endeavour to provide a reply.

PREMIER — COLLIE–PRESTON VISIT

373. Hon James Hayward to the Leader of the House representing the Premier:

I refer to the Premier's visit to the Collie Preston Electorate on 26 October 2021, and I ask:

- (a) on what date, at what time and by what means were the following local Members of Parliament notified of the Premier's visit:
 - (i) Hon James Hayward;
 - (ii) Hon Steve Thomas;
 - (iii) Hon Sophia Moermond;
 - (iv) Hon Jackie Jarvis;
 - (v) Hon Alannah MacTiernan; and
 - (vi) Hon Sally Talbot;
- (b) please provide an unredacted copy of the Premier's itinerary and travel arrangements for 26 October 2021;
- (c) please provide all briefing notes and advice provided to the Premier in relation to meetings, functions and other commitments undertaken by him on 26 October 2021; and
- (d) who accompanied the Premier during the visit and at each meeting, function or other commitment?

Hon Sue Ellery replied:

- (a)–(d) The Premier did not visit the Collie–Preston electorate on 26 October 2021.

EDUCATION — SCHOOL CHAPLAINS

374. Hon Wilson Tucker to the Minister for Education and Training:

I refer to statements in the media and elsewhere by the Minister, and I quote “There is no State Government requirement for school chaplains to be of faith.” In the Minister's previous response to a question on notice in September, the Minister stated that “Schools can choose one of three service providers that have an agreement with the Department of Education, or they have the option to purchase chaplaincy services from an alternative provider of their choice.”, and I ask:

- (a) can you please provide a list of chaplaincy service providers in Western Australia, other than the three listed on the Education Department website;
- (b) how many chaplains are employed in public schools this year through these alternative providers;
- (c) if a public school decides to purchase a chaplain through an alternative provider, can the school still access chaplaincy funding through the State Government and/or the National School Chaplaincy Program; and
- (d) how does the Education Department assist/enable public schools to recruit a chaplain who is not recruited on the basis of faith affiliation if they wish to do so?

Hon Sue Ellery replied:

- (a) The Department of Education does not maintain a list of all chaplaincy service providers in Western Australia.
- (b) The Department of Education only records information regarding chaplaincy service providers with which it has an agreement.
- (c) Yes.
- (d) Schools engage a chaplaincy service provider rather than recruiting chaplains directly. Schools have the option to undertake an independent procurement process to purchase chaplaincy services from a provider other than the three with which the Department has an agreement. Department staff are able to work with schools to develop appropriate contracting arrangements, if requested.

TREASURER — CORRESPONDENCE — FEDERAL GOVERNMENT

375. Hon Colin de Grussa to the minister representing the Treasurer:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Stephen Dawson replied:

- (a)–(b) Refer to Legislative Council Question on Notice 384.

MINISTER FOR STATE DEVELOPMENT, JOBS AND TRADE —
CORRESPONDENCE — FEDERAL GOVERNMENT**376. Hon Colin de Grussa to the minister representing the Minister for State Development, Jobs and Trade:**

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Alannah MacTiernan replied:

- (a)–(b) Please refer to Legislative Council Question on Notice 384.

MINISTER FOR EDUCATION AND TRAINING — CORRESPONDENCE — FEDERAL GOVERNMENT

377. Hon Colin de Grussa to the Minister for Education and Training:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Sue Ellery replied:

Please refer to Legislative Council Question on Notice 384.

MINISTER FOR FINANCE — CORRESPONDENCE — FEDERAL GOVERNMENT

378. Hon Colin de Grussa to the minister representing the Minister for Finance:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Stephen Dawson replied:

Please refer to LC QON 384.

MINISTER FOR LANDS — CORRESPONDENCE — FEDERAL GOVERNMENT

379. Hon Colin de Grussa to the minister representing the Minister for Lands:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Alannah MacTiernan replied:

Please refer to LC QON 384.

MINISTER FOR SPORT AND RECREATION — CORRESPONDENCE — FEDERAL GOVERNMENT

380. Hon Colin de Grussa to the Leader of the House representing the Minister for Sport and Recreation:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Sue Ellery replied:

Please refer to LC QON 384.

MINISTER FOR CITIZENSHIP AND MULTICULTURAL INTERESTS —
CORRESPONDENCE — FEDERAL GOVERNMENT

381. Hon Colin de Grussa to the parliamentary secretary representing the Minister for Citizenship and Multicultural Interests:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Samantha Rowe replied:

Please refer to LC QON 384.

MINISTER FOR COMMERCE — CORRESPONDENCE — FEDERAL GOVERNMENT

382. Hon Colin de Grussa to the minister representing the Minister for Commerce:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Alannah MacTiernan replied:

I refer the Honourable Member to Legislative Council Question on Notice 384.

MINISTER FOR EMERGENCY SERVICES — CORRESPONDENCE — FEDERAL GOVERNMENT

383. Hon Colin de Grussa to the Leader of the House representing the Minister for Emergency Services:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Sue Ellery replied:

Please refer to Legislative Council Question On Notice 384.

PREMIER — CORRESPONDENCE — FEDERAL GOVERNMENT

384. Hon Colin de Grussa to the Leader of the House representing the Premier; Minister for Public Sector Management; Federal–State Relations:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Sue Ellery replied:

The Premier and Ministers send and receive thousands of pieces of correspondence each year. Manually collecting this information would require considerable time and resources.

As such, it is not considered a reasonable or responsible use government resources to complete such a task.

If the Honourable Member has a more specific question, I will endeavour to answer it.

MINISTER FOR HEALTH — CORRESPONDENCE — FEDERAL GOVERNMENT

385. Hon Colin de Grussa to the minister representing the Deputy Premier; Minister for Health; Medical Research; Science:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Stephen Dawson replied:

(a)–(b) Please refer to Legislative Council Question on Notice 384.

MINISTER FOR MENTAL HEALTH — CORRESPONDENCE — FEDERAL GOVERNMENT

386. Hon Colin de Grussa to the Minister for Mental Health; Aboriginal Affairs; Industrial Relations:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Stephen Dawson replied:

Please refer to Legislative Council Question on Notice 384.

MINISTER FOR REGIONAL DEVELOPMENT — CORRESPONDENCE — FEDERAL GOVERNMENT

387. Hon Colin de Grussa to the Minister for Regional Development; Agriculture and Food; Hydrogen Industry:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Alannah MacTiernan replied:

Please refer to the answer provided for Legislative Council Question On Notice 384.

MINISTER FOR TOURISM — CORRESPONDENCE — FEDERAL GOVERNMENT

388. Hon Colin de Grussa to the Leader of the House representing the Minister for Tourism; Culture and the Arts; Heritage:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Sue Ellery replied:

(a)–(b) Please refer to Legislative Council question on notice 384.

ATTORNEY GENERAL — CORRESPONDENCE — FEDERAL GOVERNMENT

389. Hon Colin de Grussa to the parliamentary secretary representing the Attorney General; Minister for Electoral Affairs:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Matthew Swinbourn replied:

(a)–(b) I refer the Honourable Member to Legislative Council Question on Notice 384.

MINISTER FOR POLICE — CORRESPONDENCE — FEDERAL GOVERNMENT

390. Hon Colin de Grussa to the minister representing the Minister for Police; Road Safety:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and

- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Stephen Dawson replied:

I refer the Honourable Member to Legislative Council Question on Notice 384.

MINISTER FOR DEFENCE INDUSTRY — CORRESPONDENCE — FEDERAL GOVERNMENT

391. Hon Colin de Grussa to the minister representing the Minister for Defence Industry; Veterans Issues:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Alannah MacTiernan replied:

I refer the Honourable Member to Legislative Council Question on Notice 384.

MINISTER FOR MINES AND PETROLEUM — CORRESPONDENCE — FEDERAL GOVERNMENT

392. Hon Colin de Grussa to the minister representing the Minister for Mines and Petroleum; Energy; Corrective Services:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Alannah MacTiernan replied:

I refer the Honourable Member to Legislative Council Question on Notice 384.

MINISTER FOR TRANSPORT — CORRESPONDENCE — FEDERAL GOVERNMENT

393. Hon Colin de Grussa to the Leader of the House representing the Minister for Transport; Planning; Ports:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Sue Ellery replied:

Refer to Legislative Council Question on Notice 384.

MINISTER FOR CHILD PROTECTION — CORRESPONDENCE — FEDERAL GOVERNMENT

394. Hon Colin de Grussa to the parliamentary secretary representing the Minister for Child Protection; Women's Interests; Prevention of Family and Domestic Violence; Community Services:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Samantha Rowe replied:

I refer the Honourable Member to Legislative Assembly Question on Notice 384.

MINISTER FOR WATER — CORRESPONDENCE — FEDERAL GOVERNMENT

395. Hon Colin de Grussa to the minister representing the Minister for Water; Forestry; Youth:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Alannah MacTiernan replied:

I refer the Honourable Member to Legislative Council Question on Notice 384.

MINISTER FOR ENVIRONMENT — CORRESPONDENCE — FEDERAL GOVERNMENT

396. Hon Colin de Grussa to the minister representing the Minister for Environment; Climate Action:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Stephen Dawson replied:

I refer the Honourable Member to Legislative Council Question on Notice 384.

MINISTER FOR HOUSING — CORRESPONDENCE — FEDERAL GOVERNMENT

397. Hon Colin de Grussa to the Leader of the House representing the Minister for Housing; Local Government:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Sue Ellery replied:

I refer the Honourable Member to Legislative Council Question on Notice 384.

MINISTER FOR DISABILITY SERVICES — CORRESPONDENCE — FEDERAL GOVERNMENT

398. Hon Colin de Grussa to the parliamentary secretary representing the Minister for Disability Services; Fisheries; Innovation and ICT; Seniors and Ageing:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Kyle McGinn replied:

I refer the Honourable Member to Legislative Council Question on Notice 384.

MINISTER FOR RACING AND GAMING — CORRESPONDENCE — FEDERAL GOVERNMENT

399. Hon Colin de Grussa to the parliamentary secretary representing the Minister for Racing and Gaming; Small Business; Volunteering:

Between the dates 18 March 2021 and 29 October 2021, I ask:

- (a) how many pieces of official correspondence have you sent through your Ministerial office to Federal Ministers; and
- (b) for all correspondence in (a), please identify how many were sent in each of your ministerial capacities?

Hon Matthew Swinbourn replied:

Please refer to Legislative Council Question On Notice 384.

FISHERIES — LICENCES

400. Hon Colin de Grussa to the parliamentary secretary representing the Minister for Fisheries:

I refer to the managed fisheries licences in operation in Western Australian fisheries, and I ask the Minister to provide:

- (a) the number of managed fisheries licences issued for each managed fishery in Western Australia;
- (b) the number of managed fishery licences and entitlements issued for each managed fishery that have not been actively fished during a 12 month fishing season based on a licensing period of 12 months using the most recent period data available for each of the fisheries;
- (c) the number of managed fishing licences and entitlements issued for each managed fishery that have been actively fished during a 12 month fishing season based on a licensing period of 12 months using the most recent period data available for each of the fisheries;
- (d) the number of managed fishing licences and entitlements issued for each managed fishery that are transferred to another licence holder to be utilised by another fishing unit within a 12 month licensing period using the most recent period data available for each of the fisheries; and

- (e) the number of Western Australian registered active primary fishing units (vessels which have operated in a Western Australian fishery or multiple fisheries for six months or longer, including those that also fish in a Western Australian fishery and also in an interstate or commonwealth managed fishery) based on the same period used in providing answers to questions (a) to (d)?

Hon Kyle McGinn replied:

- (a)–(d) The information requested in (a) to (d) is complex and, in many cases, not readily available. There are 43 managed fisheries established under the *Fish Resources Management Act 1994* with over 1,000 individual managed fishery licences granted under these fisheries with over 1,200 licenced fishing vessels. In many cases several separate managed fishery licences may be held on the one fishing vessel.

It is not possible to ascribe precise usage levels for individual licences in managed fisheries where there is not a ‘unitised scheme’ of entitlement. Even for managed fisheries that operate with units of entitlement, the level of entitlement usage varies based on the individual business model of the licence holder. Entitlement can be fully utilised in fisheries such as the West Coast Rock Lobster Managed Fishery which has around 775,000 units of entitlement held against over 600 managed fishery licences. In other fisheries with lower Gross Value of Production, the utilisation of entitlement can vary significantly among years for a range of economic, sustainability and other reasons.

The critical component for management effectiveness is that the overall level of catch/effort is kept within an acceptable and sustainable range for each fishery. The Department of Primary Industries and Regional Development’s 2020–21 Annual Report includes Key Performance Indicator 6.4 which is the *Percentage of commercial and recreational fisheries where acceptable catches (or effort levels) are achieved*. The key effectiveness indicator for 2020–21 was 91 per cent which was above the target level of 90 per cent.

The assessments for each fishery are presented in Appendix 3 of the Annual Report: Breeding stock status, catch and effort ranges for Western Australia’s major commercial and recreational fisheries.

- (e) The question about which WA licenced vessels also operated in Commonwealth fisheries during the period needs to be directed to the Commonwealth.

EDUCATION — STAFF PLACEMENTS

401. Hon Donna Faragher to the Minister for Education and Training:

- (1) How many permanent staff, by headcount, in the Department of Education required placement as at 30 June 2021?
- (2) For those staff referenced in (1), will the Minister provide a breakdown across all categories, including teachers, education assistants, school support staff, administration and staff from central and regional offices?

Hon Sue Ellery replied:

- (1) 240
- (2)

Staff Category	Number
Teachers	155
School Administrators	17
Education Assistants	42
School Support Staff	15
Central and Regional Offices	11

PUBLIC SCHOOLS — TEACHERS

402. Hon Donna Faragher to the Minister for Education and Training:

Can the Minister provide a breakdown, by headcount and FTE, the total number of school teachers employed by the Department of Education in Western Australian government primary and secondary schools in the following years:

- (a) 2019;
- (b) 2020; and
- (c) 2021 to date?

Hon Sue Ellery replied:

(a)–(c)

Type of school	Headcount			Full-time equivalent		
	As at 31 October 2019	As at 29 October 2020	As at 28 October 2021	2019	2020	Year to date 2021 (28 October)
Primary	13,999	14,133	14,683	12,212.3	12,266.6	12,622.1
Secondary	8,289	8,510	8,854	7,877.3	8,064.3	8,316.0

Note:

- (a) The above table represents the teaching award staff employed at a school with the classification type as a primary school or a secondary school only. It does not include staff employed at other school classification types such as district high schools, Kindergarten – Year 12 schools and education support.
- (b) In line with the Human Resource Minimum Obligatory Information Requirements (HR MOIR) census methodology, headcount figures are calculated on permanent and fixed-term employees (excluding casual employees) and can fluctuate by pay period.
- (c) FTE is calculated on the average number of full-time equivalent employees (including permanent, fixed-term and casual employees) paid in the calendar year. The figures in 2019 and 2020 are based on a full calendar year. The 2021 figure is calculated from the first pay period in the calendar year up to the current pay period (28 October 2021).
- (d) Headcount and FTE figures are based on staff employed under the Teaching Award and include:
 principals and deputy principals,
 school psychologists based in schools, and
 staff in schools of the air and remote community schools.

