Parliamentary Debates
(HANSARD)

FORTY-FIRST PARLIAMENT
FIRST SESSION
2022

LEGISLATIVE COUNCIL

Wednesday, 16 November 2022

Legislative Council

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THE PRESIDENT (Hon Alanna Clohesy) took the chair at 1.00 pm, read prayers and acknowledged country.

PAPERS TABLED

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

STATE ENERGY SYSTEM

Notice of Motion

Hon Dr Steve Thomas (Leader of the Opposition) gave notice that at the next sitting of the house he would move —

That this house notes —

(a) the risk of power outages in the state's energy system over this and future summers;

(b) the government's admission that it will likely need to import coal to Collie to generate electricity;

(c) the government's plan for energy transition announced in a media release on 14 June 2022, which highlights —

(i) the inability of the government to detail how the proposed new energy system would maintain baseload energy;

(ii) the inability of the government to detail how the proposed new system would provide adequate storage of energy; and

(iii) the hopes of the government that the private sector will somehow come up with solutions to all these issues in the next few years,

and calls on the government to deliver a fully detailed and costed plan for energy transition without unknowns and guesswork.

IRON ORE ROYALTIES

Notice of Motion

Hon Dr Steve Thomas (Leader of the Opposition) gave notice that at the next sitting of the house he would move —

That this house notes —

(a) the correction of the iron ore price over the last year;

(b) the impending correction of iron ore royalties to be received by the government;

(c) the failure of the government to use the massive incomes it received in the 2019–22 boom to improve the services delivered to the Western Australian community; and

(d) the widespread crises being experienced by people at the end of the biggest fiscal boom in this state's history.

COMMITTEE REPORTS — CONSIDERATION

Committee

The Deputy Chair of Committees (Hon Peter Foster) in the chair.

Standing Committee on Public Administration — Thirty-seventh Report —
Delivery of ambulance services in Western Australia: Critical condition — Motion

Resumed from 26 October on the following motion moved by Hon Pierre Yang —

That the report be noted.

Hon MARTIN ALDRIDGE: I rise to continue the remarks that I commenced ever so briefly on the last occasion that we considered this report. Quite an extensive body of work was undertaken by the Standing Committee on Public Administration resulting in its thirty-seventh report, *Delivery of ambulance services in Western Australia: Critical condition. I* think it is difficult to do justice to a report of this size and significance in a 10-minute block. It is fortunate that we will have a number of other opportunities across coming sitting weeks to consider this report and aspects of it more fully and methodologically, but we may need to extend the time allowed for consideration to fully consider not only the matters in the report, but also what is quite an extensive government response to its recommendations.

I made a submission to the Standing Committee on Public Administration on 20 July 2020 that, in effect, asked the committee to consider conducting a broader inquiry into our health system more generally, because, as the deputy chair would be aware, only a few months earlier on 15 March 2020, the Minister for Emergency Services, and I think a day later the Minister for Health, declared a state of emergency under the Emergency Management Act and the Public Health Act of Western Australia. I thought it was timely, particularly given what was unfolding on the east coast of Australia, and also how Parliaments in other jurisdictions were acting either by way of royal commission, by special inquiry or, indeed, by select or standing committee inquiries into the COVID-19 situation and response at that time. I thought this was an opportunity for the standing committee to consider the broader issue and probably the more pressing issue at this time, which was the COVID-19 pandemic.

Obviously, history shows that the Standing Committee on Public Administration did not change course and continued with its inquiry, resulting in the thirty-seventh report, which is before the chamber today in consideration of committee reports. Many public submissions were made to the inquiry. I had the opportunity to review some of the submissions posted on the committee's webpage, and saw that a number of the issues canvassed in the report were outlined extensively and some more briefly.

I will provide some initial remarks. In my view, St John Ambulance provides an excellent service to Western Australians, and has a long and proud history of doing so. Western Australia is a difficult jurisdiction. We often hear from government and government bureaucrats that it is difficult to deliver health services in WA. Our geography, the distribution of our population and the remoteness of many our communities all present challenges in delivering services generally but health services more particularly. Certainly, the delivery of ambulance services in Western Australia is no different. The majority of ambulance services outside Perth are delivered almost entirely by volunteers. That is probably no different from many other fire and emergency service functions. Services are largely delivered with the support of career staff, but the operational aspects are done almost exclusively by volunteers; therefore, we cannot have this debate without having a conversation about the importance of volunteers. It is not just about recognising their contributions, but also having a conversation about how we have supported and continue to support and maintain the strength of a volunteering model in the delivery of services.

The report outlines a number of issues. If members want to spend only a brief period considering the committee's report, quite a useful table that provides a jurisdictional snapshot can be found at pages 159 to 161. From this table, members will see that Western Australia makes the lowest government contribution to the delivery of ambulance services, at 49 per cent, and has the highest patient transport fee collection. It is also interesting to compare bad debts. It is well known—in fact, it was outlined in the country ambulance strategy—that the proportion of bad debts in regional and country areas is twice that in metropolitan areas. A table found on page 113 shows that for the financial year 2016–17, bad debt in the metropolitan area was $6.60 per capita and in country areas it was $14 per capita. We could probably have a long discussion about just this aspect of the report. In effect, the burden of bad debt is falling to volunteers and volunteer sub-centres. I think government could immediately and quite cheaply act to ensure that bad debts are underwritten. As members might be aware, it is often the most vulnerable people in our communities who may be unable to pay the high cost of ambulance transport. Members can see that quite neatly outlined at table 23 of the standing committee's report.

Along this vein, it is interesting to note that recommendation 2 of the committee's report is that all pensioner concession card holders receive free transport. That will improve people's eligibility for free ambulance transport in Western Australia.

A standout from this table, which has been known for some time, is that WA runs the cheapest ambulance service in the country. I do not think the government and members should be proud of that. We also have amongst the highest patient fees in the country. To my mind, those two factors combined point to the challenges we face with the funding model that has been provided over many years to St John Ambulance as the primary contractor for emergency ambulance services in Western Australia. The lack of funding certainty is one aspect of that. We have seen a number of contract extensions delivered.

I asked about the status of the St John Ambulance contract yesterday in question time. It was a very simple question to the government. I was told, deputy chair, perhaps unsurprisingly, to put my question on notice. It is really concerning that the government is unable to answer a simple question about the status of the contract with St John Ambulance in Western Australia. In the current environment, with pressure and demand on our health system and when the Legislative Council is today considering for the second time this report that refers to the delivery of ambulance services, the government is unable to provide an update on the status of negotiations or, indeed, the status of the contract with St John Ambulance. It is not acceptable to keep having contract extensions of one or two years. Indeed, St John advocates a contract period of 10 years. The Department of Health thinks five years is suitable. I cannot tell members today whether a contract with St John Ambulance is in place or it is an extension of the contract that has been in place for some time.

I look forward to another occasion on which we can continue to discuss many other aspects of this report. There are many areas for us to consider deeply—not just the report, but also the government's response—so we can hold the government accountable for its actions.

Hon COLIN de GRUSSA: I rise to contribute to the debate on the excellent thirty-seventh report of the Standing Committee on Public Administration. My colleague Hon Martin Aldridge made the very valid point in his contribution that it is very difficult to do such a significant report any form of justice in 10 minutes. A number of members will want to contribute to the debate on this report and assess the merits of some of the committee's recommendations and findings.

This is an extensive report and the committee underwent a very complex process, with a number of hearings and a lot of submissions received. Before I begin, as the chair of the committee, Hon Pierre Yang, said in his contribution during the last sitting week, I want to acknowledge the people who took the time to make submissions to the inquiry. Those submissions were incredibly important. Something like 123 written submissions were received and 32 hearings were held, of which a number were repeat hearings with various organisations, such as St John Ambulance, obviously. Each of those hearings was extensive and very interesting. The hearings also gave us the opportunity to ask a lot of questions. Of course, the more the committee heard, the more questions committee members had to ask. It was a lengthy and complex process that has resulted in what I think is a very good report. Even though this report is 190-odd pages, it could have been double that. With the amount of information that we received from submissions and heard during hearings, we could, indeed, have expanded the terms of reference if we had the time.

At the same time, I think we have done a very good job as a committee. I acknowledge my fellow committee members: Hon Pierre Yang, chair of the committee; Hon Darren West; Hon Wilson Tucker; and Hon Sandra Carr. Of course, the staff who provided the grunt work and research and really pulled this together must be acknowledged. They did a fantastic job. The work of advisory officer Ben King, committee clerk Jemma Grayson and research officer Amanda Gillingham was challenging and it took a long time to pull this together because of the complexity of some of the things we dealt with in this report. I acknowledge and thank them for their work. I also take this opportunity to thank all those who work in our ambulance service, be they paid or volunteer. We spoke with a number of volunteers and paid paramedics from around the state. They are fantastic people doing a job that most of us would probably not want to do and I acknowledge their work. In fact, during the course of this inquiry, I had to leave a couple of hearings to attend to a couple of my kids who had ended up in the back of an ambulance. They were handled brilliantly by the staff of St John, so my thanks go to them and I acknowledge all those people. Volunteers are a key part of the current ambulance delivery model in Western Australia. It is very difficult to contemplate an ambulance service in this state that does not have volunteers working in it. It would be very challenging with the geographical nature of our state—the sparse population and the population centred around the coastal south west—to imagine a service that could be provided without volunteers or without great expense to the state. Having said that, the primary focus should be on the provision of the service, not necessarily its dollar value, because looking purely at the economics of it would mean placing a value on each of those lives that are affected by the ambulance service, and I do not think that is something we could justify. I thank all those who made submissions to the inquiry and to the volunteers and paid members who contribute to our ambulance service.

In the brief time available to me, I could focus on a number of things in this report. It contains 48 recommendations and 74 findings. We could focus on any number of aspects in the time available. I want to turn to just a couple of those, particularly around coordination. One of the key issues I observed throughout this inquiry was the coordination piece of the puzzle—how to better coordinate what the ambulance service and Department of Health are doing to manage emergency departments and how to better transport people in and out of those places and, also, inter-hospital patient transfer. That was a key issue, particularly in regional areas when patients are often transported very long distances at relatively short notice at all hours of the day. That is most often done by volunteers. In some respects, that is a conundrum, because it raises money for the local sub-centres, so there is some desire for those jobs to be done. However, at the same time it is very difficult to continually ask volunteers to do that and still be available to respond to emergencies when they occur in those communities. It was clear from a number of the hearings that although that is important for those local sub-centres, it is also a very challenging job to do because it takes them out of their community and, in many instances, it appeared that it was not well coordinated. In some instances, staff at the sub-centre would get a call to say they had a transfer to do. They would complete that transfer and arrive at the other end, but there would not be a bed available. There did not seem to be coordination between the dispatching hospital and receiving hospital and the ambulance service. That is one example of that coordination piece of the puzzle that really needs to be focused on, right down to the taking of calls in the first instance, the data available from emergency centres and the alternative pathways available, and how that is coordinated overall.

From a departmental and, I guess, a St John point of view, the focus has been on managing the contract and the performance against that contract. Of course, it has to do that, but there is a bigger piece of the puzzle in coordinating how the service not just is running against its contractual obligations, but also integrates with the health department. Some may argue that that would be done better by a government-run service. I do not agree with that. I think there are plenty of examples around the country of ambulance services that are in public hands that have the same sorts of issues. We need to put that aside and look at how we can better coordinate services such as the patient transfer piece of the puzzle and the operation of the ambulance service to get people in and out of hospital in the timeliest and most efficient manner. That means we need a centralised oversight of coordination with multiple inputs from the ambulance service, health department and various hospitals, as well as those ambulance services that, in the

metropolitan area at least, are moving other patients around. By other ambulance services I mean those that are not operated by St John—that is, other services that may move mental health patients or the inter-hospital patient transfer service. It is important that we focus on that coordination piece of the puzzle.

Hon WILSON TUCKER: I, too, rise to speak on the thirty-seventh report of the Standing Committee on Public Administration, *Delivery of ambulance services in Western Australia: Critical condition*. I am a member of the committee, which is chaired by the illustrious Hon Pierre Yang and comprises Hon Sandra Carr, Hon Colin de Grussa and Hon Darren West. As Hon Colin de Grussa said, a lot of the grunt work that was put into this report was done by our hardworking parliamentary staff, Jemma Grayson, Amanda Gillingham and Ben King. This report is a testament to what happens when members put down the political knives and come together in the spirit of bipartisanship to try to produce the best outcome possible for the Western Australian people. That is exactly what we saw with this report. It is extensive and it is hard to do it justice in the time we have. Forty-eight recommendations were put forward. The hard work that went into this report is reflected in the fact that 46 of the 48 recommendations were agreed to in principle or in full by the government, which is fantastic.

This report is fairly critical of St John Ambulance as an organisation and, certainly, the leadership of St John, but that is in no way reflective of the hard work of the paramedics and volunteers who work for St John at the coalface, dealing with a number of complicated issues, navigating a pandemic and navigating a hospital system and health system in crisis. They do incredibly difficult work in incredibly difficult circumstances and they should be commended. That is certainly true of the circumstances the volunteers in regional Western Australia face. The report contains a strong emphasis on regional Western Australia. As a member of the public administration committee, I was fortunate to travel to a number of regional towns and visit the sub-centres and meet the hardworking volunteers. I was constantly impressed by the professionalism and commitment of the volunteers and paramedics who work out there. WA has one of the highest rates of volunteerism in the world. We know that the fabric of the towns in regional Western Australia is really held together by the hard work of a lot of these people who wear multiple hats every day outside of their normal nine-to-five jobs. That is certainly reflected by the volunteers who dedicate their time and energy working for St John in those regional places.

There is a strong regional emphasis in this report because there are a number of unique challenges to delivering an ambulance service in regional Western Australia. We are a massive place and comparatively have a fairly small population. Delivering a quality ambulance service in some of these regional towns is not just a case of throwing money at the situation and hoping it will resolve itself. We have seen that we have a very tight labour market across a number of sectors at the moment. Trying to put paid paramedic positions into those towns is not just a case of allocating funds and then hoping people are available to fill those roles. We have seen some classic examples. I think all members here would be familiar with the barista position advertised in Broome for about $90 000. It is just not a case of throwing money at the situation. We really need to attract people into those towns so they can become embedded and part of the fabric. It takes a special person to want to go to those places and dedicate a lot of their time and effort to fulfil a role.

I just want to provide a bit of insight into the current delivery model for the ambulance service in regional WA. It is called a best endeavours model. In the metro area, the ambulance service is generally guaranteed. There are metrics around it based on the criticality and response times. In regional WA, it is called the best endeavours model. In a very large part, it relies on volunteers. When a 000 call comes in, it is routed to the St John call centre. It is then allocated to a call centre officer to take the call, determine where the call is from, and then try to find someone to respond to that call. As it relies on volunteers, those people might not be available when the call comes in; they might not be in the area or might have other commitments. If that is the case, a very small pool of people is being relied on. If they are not able to respond in the immediate area, the call is redirected out. That radius grows, and, as a result, the response time grows as well.

I think a lot of people understand that when they move to regional places, they cannot fully expect to have a response time that is comparative with that in the metro area. This report also highlights that just because someone lives in a regional town, that does not mean they should not expect the same level of transparency and accountability from their ambulance service. One of the recommendations that the committee made, which I am proud of, and is highlighted in the report is around the metrics and having response times available to the public in regional areas. Again, it might not be reflective of the response times in the metro area, but having those publicly available would allow people to make more informed choices about the place they live in and their expectations about how long they should wait for an ambulance service. I think that is a good first step. Hopefully, the court of public opinion will put more pressure on some of those times in those regional areas and we can expect some quicker response times.

With the time remaining, I would just like to highlight another area the committee arrived at a recommendation on that I am proud of: the ambulance service delivery in Indigenous communities. We heard some accounts of ambulance services not arriving in some of the remote communities; Bidyadanga was an example. Bidyadanga is the largest Indigenous community in Western Australia; we have about 200. We heard some accounts of ambulance services not arriving in Bidyadanga. Based on the current contract in place, St John is not obligated to provide ambulance services in those areas. The Royal Flying Doctor Service is an option, but obviously the cost-prohibitive

nature of dispatching an aircraft feeds into the level of inequality experienced by marginalised people. The report highlights that wrong and aims to rectify it through a recommendation to provide ambulance services to Bidyadanga, which is fantastic. It has also made a recommendation that the government look at a strategy around improving ambulance services to all Indigenous communities, which is also fantastic to see.

With the time remaining, I would just like to say it has been a privilege and honour to work on the committee. This is my first report. It has been really great to see what happens when the knives are put down and we try to produce the best outcome without the influence of our political parties. I think the parliamentary system of committees is a good one. It is very robust when people approach it with a spirit of trying to produce good outcomes for Western Australia. It has been a very rewarding experience to have been part of the creation of this report. It is a very extensive report, and the 10 minutes certainly does not do it justice. I will be looking for another opportunity in the future whereby we can really dig in and scrutinise this report at length.

Hon SANDRA CARR: I also rise to speak on the inquiry. I also had the privilege of being a member of the committee involved in conducting the inquiry, alongside our esteemed chair and captain, Hon Pierre Yang; our deputy chair and vice-captain, Hon Colin de Grussa; Hon Darren West; and Hon Wilson Tucker. It was a great team to be involved with in conducting the inquiry. We all fully appreciated the weight of the inquiry. I also note that it was particularly helpful to have so many regional members on that committee to cast a regional lens over the ambulance services that are delivered. Of course, the equity of access to ambulance services and the way they are delivered has been a point of concern for many people over the years.

I am not saying anything that anyone does not know: WA is a vast state. The population is spread out across the state. There are some considerable challenges in ensuring the equity of services across the state in places that are more thinly populated. Of course, this does not mean that we should not endeavour to ensure that there is equity of high-quality health and ambulance services for those people. That is obviously one of the problems that committee members found themselves having to contemplate and consider.

Before I go any further, I would just like to acknowledge the contributions of the committee staff, eagerly led by Ben King—as we said today, long live the King. I also acknowledge our research officer, Amanda Gillingham, who is an incredibly capable, steadying and calm voice in that context, as well as our committee clerk, Jemma Grayson, who also operated as a bit of a Whip as we conducted our regional tours. We looked at the different sub-centres across regional Western Australia to explore some of the issues they were dealing with on a daily basis. It provided me with the opportunity to reflect on our regional sub-centres and the work that our volunteers do.

It is always very difficult for someone to fully appreciate the work done by someone else until they step into the environment, engage in conversation and spend more time listening than they do talking.

As part of those regional visits, it was a very humbling experience to listen to the collegiality amongst those volunteers who are delivering ambulance services, and to see the degree of their commitment to and engagement with their community, the degree of knowledge they had and, in many cases, the cultural sensitivities those volunteers provided to the various groups within their communities. It was quite an eye-opener in that regard and it really drove home for all of us the sheer complexity of the services that those volunteers provide as part of their ambulance service volunteer work. A lot of work goes into operating and providing a regional sub-centre and that was something the inquiry had to reflect on and consider without undervaluing the work of those volunteers and without saying that someone else who is paid could do it better because they are doing and continue to do an outstanding job for the community.

The Country Women's Association is in the process of establishing a petition and writing to various members asking for consideration of removing or in some way subsidising the cost of ambulance services for regional people given the kinds of services they can expect and some of the complexities in delivering the services. I do not mention that to argue in either direction, because I feel that the inquiry has been delivered, 48 recommendations have been made, many of which have been accepted in principle or accepted entirely, and there is still much work to do. It is not a process that should be rushed. While the government is addressing these things it should tease out and try to deliver the very best service in a way that is considered and measured. Although it would be great to wave a magic wand over the top of this report and implement all those recommendations and solve all the issues faced, the report will require careful consideration. We are not the people on the ground directly involved in delivering those services and do not fully comprehend the nuances that need to be teased out and considered by the people who are best placed to understand them in order for us to refine policy procedures or implement the outcomes of the report. I commend the Country Women's Association for its ongoing commitment to our regional communities and the impact it has had over the years and the way it has reflected on matters and used its collective voice to lobby governments to make changes that improve community safety. I am thinking in particular of arguing for lines to be painted on regional roads. Perhaps that will seem like a bit of a no-brainer for people living in the metropolitan region. Everywhere they go, lines direct them to where they should be moving and the direction in which they should be moving. The CWA's advocacy in Western Australia has had a significant impact on road safety in our regions. I commend the Country Women's Association for its work and ongoing advocacy for community safety. One of the wonderful things that its members continue to do is reflect on and ask for either support or changes for not only itself, but also the whole community. The care it has offered since its very inception is definitely commendable.

I turn to a couple of thoughts around some of the recommendations and I point out recommendation 17, which contemplates virtual medicine and some of the considerations of things that place considerable pressure on our hospital system. As we are all aware, there is no simple solution to the provision of ambulance services or things like ambulance ramping. Ambulance ramping is a complex issue. It is sometimes highly contextual or greatly influenced by the time and space in history in which we are operating. As we all are fully aware, we have—hopefully—emerged from what has been a very complex and difficult time for people's health across the state, the country and the globe.

The recommendation on virtual emergency medicine programs in Western Australia provides some really useful material to contemplate how it might operate along with the emergency care clinics that were committed to by the federal Labor government. Those kinds of centres can keep people from having to present at emergency departments. There are lots of opportunities in that area for us to contemplate how we might be able to remove some pressure from both hospitals and ambulance services. Reading recommendations 17 and 18 in conjunction offers a great opportunity to reflect on how we might achieve that. I look forward to the state and federal governments presenting ways to resolve some of those issues for our hospitals. I echo the sentiments of Hon Wilson Tucker when he spoke about providing for our constituents. Some of the key performance indicators or data around ambulance services dispatch times and times when ambulances did not reach regional people calling for an ambulance would be particularly helpful to inform the community. As Hon Wilson Tucker pointed out, it would also inform them to make a decision about where it is appropriate for them to be located.

Consideration of report postponed, pursuant to standing orders.

Standing Committee on Estimates and Financial Operations — Eighty-sixth Report — Consideration of the 2020–21 annual reports

Resumed from 14 June.

Motion

Hon PETER COLLIER: I move —

> That the report be noted.

I would like to make a few introductory comments on this report and leave it to members of the chamber to give their response. The Standing Committee on Estimates and Financial Operations is, without a shadow of a doubt, the hardest working committee in the Legislative Council. It is a very effective committee that performs its role in overseeing expected and actual spending from the consolidated account at both the estimates hearings and the annual report hearings. To start, I would like to recognise and thank most sincerely the other members of the committee: Hon Samantha Rowe, the deputy chair; Hon Jackie Jarvis; Hon Dr Brad Pettitt; and Hon Nick Goiran. We work very harmoniously together for a common good, and that is to ensure that the scrutiny of the budget papers and the annual reports is done forensically, openly, transparently and comprehensively. We are coming to the end of our two years and I think we have done a fairly good job. I would also like to acknowledge the hardworking staff who assist us in the process: Andrew Hawkes, Denise Wong and Margaret Liveris. They do an outstanding job.

This report deals with the annual reports of the various agencies. Due to the fact we had a late budget last year, in September, we had limited opportunity to assess the annual reports. We used as much time as we possibly could. We interacted with six agencies: the Department of Education; the Department of Health; the Department of Planning, Lands and Heritage; the North Metropolitan Health Services; the Auditor General; and the State Coroner. In most instances, they were most cooperative and effective. We had four hearings over six hours. Some non-committee members came to those hearings, which is relatively unusual in my time in this place, but it was good. We encourage that. We had some hearings today for the current round of annual reports and three non-committee members attended, so it is becoming more prevalent. I do not mind that at all. They are meant to be an avenue for scrutiny and all members are openly encouraged and welcome. There were 51 questions on notice. Some additional questions were provided so there was an avenue for every member of this chamber to be part of that scrutiny process. As I said, the annual report hearings are seen as an addition to the estimates hearings and provide an additional opportunity for scrutiny. Members might like to look at appendix 2, which shows all the topics that were covered in those various hearings. Members can see that it is quite comprehensive for each of the agencies. I will take members to the recommendations and the findings, most of which were the committee's suggestions on ways Treasury and the various agencies could not necessarily improve but perhaps streamline their processes. In each instance, the response has been positive.

One response was, dare I say it, a little disappointing. Members can find that in finding 1 —

> The State Coroner's decision not to provide evidence directly to the Committee delayed the Committee's examination of the Government's provision and delivery of coronial services.

We tried to be as accommodating as possible to the State Coroner in this instance and to provide a number of opportunities for the State Coroner to appear and to provide answers to the committee. That was not forthcoming.

I will take members to page 10 of the report, which states —

> **Non-provision of information by a judicial officer**
>
> 5.2 The Committee sought to meet with the State Coroner, as part of its consideration of the 2020–21 annual reports. The State Coroner produces a separate annual report under the *Coroners Act 1996*, with certain aspects of performance contained within the Department of Justice annual report. The Committee last met with a State Coroner in March 2012.

There was a precedent for it. It continues —

> 5.3 The State Coroner declined to attend a hearing and then provide answers to the Committee's written questions, citing a desire to preserve judicial independence. The Committee sought to reassure the State Coroner that its questions would not relate to judicial decision-making and would focus on the operations of the agency, such as staffing numbers and waiting times. The Committee was surprised and disappointed by the State Coroner's decisions. A copy of the correspondence between the Committee and the State Coroner is contained in Appendix 3.

I will take members to appendix 3 to point out that I do not think that we were being unreasonable in our requests to the State Coroner. Originally, the State Coroner agreed to appear before the committee. That was on 6 December 2021. On 10 March 2022, Margaret Liveris received a letter from the State Coroner, which stated —

> Dear Ms Liveris
>
> I refer to your email of 6 December 2021 advising that the Standing Committee on Estimates and Financial Operations resolved to invite the Office of the State Coroner for Western Australia in for the 2020–2021 Annual Report Hearings.
>
> I have reflected upon my acceptance of the Committee's invitation and determined to respectfully withdraw that acceptance, in order to preserve my judicial independence.
>
> …
>
> R V C Fogliani
> **State Coroner**

That was on 10 March 2022. It came as a bit of a surprise because the coroner had previously agreed to attend. As a committee, we then decided to write to the coroner to ask whether she would be willing to provide some written responses. I will read part of my response as chair on behalf of the committee to the coroner. Members will find this on page 21 of the report —

> Thank you for your letter dated 10 March 2022.
>
> The Standing Committee on Estimates and Financial Operations is disappointed that you will not be attending a hearing to discuss the activities and resourcing of the Coroners Court. As the Committee's staff endeavoured to assure your staff, the Committee is cognisant that you are a judicial officer and the importance of judicial independence from the Executive and the Parliament.
>
> The Committee understands that your Office is funded by the Department of Justice. However, as the head of this Office, the Committee believes your input would be useful in relation to issues such as staffing numbers and waiting times for coronial investigations. Accordingly, I attach a list of questions that are indicative of the types of questions you would have been asked at the hearing. I invite you to reconsider appearing before the Committee.

Our letter then concludes with a few administrative details. The coroner responded to that letter on 31 March 2022, stating —

> Thank you for your letter dated 24 March 2022.
>
> For the same reason as outlined in my letter dated 10 March 2022, I respectfully decline to provide a written answer to the questions under cover of your letter dated 24 March 2022. The reason is to preserve my judicial independence.
>
> I note some of the written questions under cover of your letter may be answered by other agencies and I also note that a copy of your letter has been sent to Hon John Quigley MLA, Attorney General.
>
> While it is not open for me to refer these questions to the Attorney General, the Committee may wish to raise the matters with the Attorney General direct.

The report goes on. Members will find the committee's letter to the Attorney General and another letter from the State Coroner contained within the report. We wrote to the Attorney General to see whether we could obtain some answers that we were going to provide to the coroner.

I will take members back to page 10, after we had written to the State Coroner and then to the Attorney General, which states —

> 5.4 Instead, the Committee sought the answers to its questions from the Attorney General. The Attorney General advised:
>
> > In accordance with section 27(1) of the *Coroners Act 1996* the State Coroner's Annual Report on the operation of the Office of the State Coroner is independent of the Department of Justice and the contents of the State Coroner's report is a matter for her consideration. The Department has however responded to all questions that relate to the administrative support that the Department provides to the State Coroner.

Basically, we did not get our answers. It continues —

> 5.5 The Attorney General was able to answer a majority of the questions that the Committee asked, but was not able to provide information on:
>
> - whether the court typically experiences delays in the investigations of external parties or whether the electronic receipt of documents from external parties has improved efficiency (Question 1c) & d))
> - how COVID-19 contributed to the reduction in the number of inquests finalised (Question 9)
> - how many times the Office prioritised matters in public health or safety (Question 10)

Members can go and look at the other areas for which we were not able to get information, because of a lack of information from either the coroner or the Attorney General.

Chair, I have about another minute. If members would not mind, could I finish my contribution? I am about to finish up, and then I will sit down. Is that okay?

The CHAIR: You still have time.

Hon PETER COLLIER: I mean after 10 minutes. All I am saying is that I am about to finish.

The CHAIR: You will have to seek the call again.

Hon PETER COLLIER: Thank you, chair, and thank you, members, for the indulgence.

Hon Jackie Jarvis: I am sure the same courtesy will be extended to us.

Hon PETER COLLIER: I am not sure about that.

For the benefit of completeness, we could not ascertain a few other areas —

> - whether the Office is involved in the preparation of biannual Department of Health progress reports for health-related coronial recommendations …
> - whether there has been any effort to ensure local Aboriginal community members are involved in cases that affect Aboriginal people …
> - how many of the of 122 notifications to the Therapeutic Goods Administration were associated with COVID 19 vaccines …
> - the 27 unnatural death of babies born alive after a failed abortion procedure …
> - the cost per case key efficiency indicator target …
>
> The Attorney General's answers may be accessed from the Committee website.
>
> 5.6 The Committee intends to pursue these matters at the upcoming 2022–23 Budget estimates hearings, when it will meet with the Department of Justice and the Office of the State Coroner.

That was not possible because, again, the coroner was not available. We basically got the hand, and that was a little disappointing. As chair, I found that disappointing, and I know it was disappointing for the committee. I am not casting aspersions about the State Coroner. We think that in this instance we made quite clear the information we wanted to access. It was not going to impede on the impartiality of the coroner, and we felt that it would have been worthwhile. The questions we were asking are most definitely of interest to not only the committee, but also the public, I would have thought.

That was an explanation for members of finding 1 of the committee, which is —

> The State Coroner's decision not to provide evidence directly to the Committee delayed the Committee's examination of the Government's provision and delivery of coronial services.

That is why we put that finding in. We would like to think that at some stage we will get the opportunity to have the coroner come in and be asked some questions. It is certainly not political at all. The whole point of the exercise is to dig down into some issues that are interesting and relevant to members of the committee. After all, the State Coroner provides an annual report.

Having said that, I will conclude my comments by once again thanking all members for contributing to the annual report procedures. We are right in the middle of the current round of annual reports and we will have more annual report hearings in February. If members have any interest in those annual report hearings, I strongly recommend that they let committee members or me know which agency hearing they would like to attend. We will certainly consider them as a committee. Members should use the opportunity to scrutinise government. Whether they are on the government or opposition benches, this is a unique opportunity for them to be actively involved in the scrutiny of government procedures.

Once again, I would like to thank the committee, the committee staff and all members for supporting the annual report hearings.

Hon JACKIE JARVIS: I thank Hon Peter Collier for his comments on the consideration of the eighty-sixth report of the Standing Committee on Estimates and Financial Operations. His one minute more turned into four minutes more, which does not bode well for someone in charge of an estimates committees that looks at numbers a lot! However, it reflects the collegial and professional nature of the members of the committee. I also want to speak on the eighty-sixth report of the Standing Committee on Estimates and Financial Operations. Even though we do not have much time today to go into this report, the notice paper makes significant time available for consideration of this report.

I want to take this opportunity to reflect on some of the recommendations in the report. As Hon Peter Collier said, this report reflects last year's annual report hearings. That was obviously my first year in the Parliament and my first year of involvement in this process. There was significant consultation with members, specifically members of the opposition and the crossbench, about which agencies should be called to attend those annual report hearings. Three of those agencies were the Department of Education, the Department of Health and the Department of Planning, Lands and Heritage. The North Metropolitan Health Service was also called. It is important to note that each individual health entity has its own annual report; therefore, a particular health service is called according to the accountable authority that releases the annual report. The Office of the Auditor General and the Office of the State Coroner were also called. It is worth noting that the Office of the State Coroner is separate from the State Coroner, who is a judicial officer. I will not dwell on that now. As I said, I want to go through the recommendations in order and provide a bit of explanation for those people who do not follow the proceedings of the estimates committee on a weekly basis, although why would they not!

The committee held hearings with each of those five agencies. We basically hold our annual report hearings on a week-by-week basis as part of our normal Wednesday morning committee meetings. Recommendation 1 relates to special purpose accounts. I think it is worth explaining to people what a special purpose account is, because I am not sure that everyone clearly understands the purpose of these accounts. A special purpose account is essentially a savings account that holds money for a particular special purpose. Special purpose accounts are established under section 10A of the Financial Management Act. They are transparent and reported on publicly, and have been used for many years by successive governments of all colours. If members are not sure of what I mean, there is a special purpose account for the new women's and babies' hospital that this government has announced. There are also special purpose accounts for the social housing investment fund, the digital capability fund, the climate action fund and the National Redress Scheme. These are examples of the types of special purpose accounts that have been established. They allow money for specific investments to be allocated by governments from their operating cash surpluses.

Yesterday, when some members of this place were out of the chamber on urgent parliamentary business while Hon Dr Steve Thomas was regaling us with stories about land tax, I mentioned that prior to having children, I worked in the finance industry for a couple of the big four banks. It was very common at that time that people's pay would go into one account and their savings would go into another account. That is certainly a practice that my parents instilled in me and it is also a practice that I have instilled in my children—we have our everyday money and we have our savings money. A special purpose account is essentially savings that have been set aside. They exist for that reason. I guess that the government's special purpose accounts are akin to not having to use a credit card or borrow money to fund things like hospitals, the National Redress Scheme or digital capability. That is the dummies guide to special purpose accounts.

Recommendation 1 of the committee in this report was —

> The Treasurer direct the Department of Treasury to advise accountable authorities that the Treasurer's prior approval is required to overdraw any agency special purpose account.

Members might say, "My God! What happened there?" The explanation was quite simple. The Minister for Education and Training appeared at the annual report hearings on behalf of the Department of Education. From memory, the reason this recommendation had to be made is that funding had been provided by the commonwealth for capital improvements to Moora Residential College. However, because that funding had not arrived by 30 June, money had to be paid out of the special purpose account to enable that work to be done. I believe the account was overdrawn by only a couple of days. Under normal circumstances, the Treasurer's approval would be required in order for that to happen, but in this case that was overlooked simply because the commonwealth's money had not yet hit the government's bank account. Anyone in this place who has ever run a small business, as I have for many,

many years, or a farm business—any type of business at all—would know that almost all small businesses operate with an overdraft. The reason is that sometimes people do not pay when they say they will, even if they are the commonwealth government.

I will read the explanation that was provided by Minister Ellery to a question from the committee that had been taken on notice. I am quoting from paragraph 4.3 at page 9 of the report —

> At the time, it had been anticipated that these funds would be received prior to the end of the financial year, —

The minister is referring to the $3.5 million of commonwealth funding for capital improvements to Moora Residential College. I am not fully across who was doing that work. I assume that a lot of regional subcontractors were involved, and obviously we want to make sure that people get paid. Minister Ellery went on to say —

> but the payment of the invoice was unexpectedly delayed. As a result, there was insufficient time for the Department of Education to seek prior approval from the Treasurer.

As I said, I do not remember the exact time, but it was a matter of days. The minister continued —

> The Department of Education continued to liaise with the Commonwealth agency throughout the process and the invoice was paid in July 2020.

Consideration of report adjourned, pursuant to standing orders.

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

WORKING WITH CHILDREN (CRIMINAL RECORD CHECKING) AMENDMENT BILL 2022

Second Reading

Resumed from 21 September.

HON NICK GOIRAN (South Metropolitan) [2.08 pm]: I rise as the shadow Minister for Child Protection and lead speaker for the opposition on the Working with Children (Criminal Record Checking) Amendment Bill 2022. The Western Australian working with children check scheme began some 16 years ago in 2006. It is an important screening strategy to safeguard children in this state. It is imperative that checks and balances are in place to protect our children from predators. Children are vulnerable and trusting. They need the whole community to create a web of accountability. Those who are in positions that involve interaction and working with children should be held to the highest standard.

The background to the bill that is presently before the house came in three forms—the royal commission's recommendations, the recommendations that arose from a statutory review, and a number of issues that have been identified by the Auditor General. As I understand it, the bill seeks to address 12 of the 19 recommendations made by the royal commission. It also seeks to address eight of the 23 statutory review recommendations. Again, I understand that, of the 23 statutory review recommendations, 15 require legislative change. Of that subset of 15, eight are being addressed by this bill. The bill also seeks to address issues that have been identified in successive reports by the Office of the Auditor General.

The government has also advised the opposition that the bill will contribute to what it has described as phase 1 of planned reform to the Working with Children (Criminal Record Checking) Act, framework and administration. We are told that phase 2 will seek more complex reforms, including the portability of offences. However, we have been advised by the government that this will be dependent on other states, territories and, of course, the commonwealth. Pleasingly, the aspiration is for nationally consistent protections and information gathering.

My concern is that noncompliance is more frequent than it should be. I want to draw to the attention of members a few examples. In fact, on 1 November, the Department of Communities issued a media release titled "Geraldton man convicted of working with children without a Working with Children Card". In that media release, the department said the following —

> The court heard that despite having previously held a Working with Children Card, the offender continued to carry on child-related work without renewing his card, despite requests from his employer to do so.

That is just one example. Although the media release from the department was light on detail, some further information was provided in an article in the *Midwest Times* of 1 November this year. The article states —

> The court was told despite having previously held a Working with Children card, Crudeli continued to carry on child-related work without renewing his card, despite requests from his employer Geraldton PCYC to do so.

So, a little extra information has been provided in terms of the name of the offender and the relevant employer. The article goes on to say —

> Last year, Crudeli was acquitted of two counts of sexual penetration without consent by a District Court jury after he fought allegations at trial that he sexually abused a 16-year-old girl in his home hot tub in 2020.

> It's understood Crudeli met his accuser at Geraldton PCYC, where he used to run boxing classes.
>
> The teenage girl claims she was sexually assaulted by Crudeli while they were in his hot tub with her friend, also 16.
>
> After initially denying to police that sexual penetration had taken place, Crudeli admitted it did on the witness stand, but argued it was with consent.

Notwithstanding his acquittal last year before a District Court jury, the matter has now resulted in a conviction courtesy of, as I understand it, an investigation undertaken by the Department of Communities. In fact, this man was found guilty of the offence following a two-day trial in the Geraldton Magistrates Court and was fined $500 and ordered to pay $8 000 in costs to the Department of Communities. To be clear, what he was found guilty of was not the matter that he was acquitted of before a District Court jury; it was for continuing to carry on child-related work without having renewed his working with children check card. That is an example in Western Australia in which I would say that noncompliance has evidently occurred.

Meanwhile, if I turn to the situation in Victoria, the Victorian Ombudsman has identified serious flaws in its working with children scheme. This is not necessarily a problem that is isolated to Western Australia. On 14 September 2022, the Victorian Ombudsman was reported as saying —

> … Working with Children Check Victoria, was unable to consider relevant and highly concerning police and child protection intelligence to assess Alexander Jones's suitability to work with children.
>
> In February 2021, Jones was convicted of sexually assaulting a child known as 'Zack'. After his conviction, the media reported that Jones had misused credentials provided by his former employer, Melbourne City Mission, to access sensitive information about children, including Zack.

In this particular report, the Ombudsman goes on to say —

> The allegations also did not prevent Jones from obtaining a Working with Children clearance, which permitted him to work with vulnerable children and young people. In Victoria, information provided in police record checks obtained by Working with Children Check Victoria is generally limited to criminal charges laid by police. Even if Working with Children Check Victoria had received information about the prior investigations into Jones, this could not have formed a basis to refuse his application for a clearance.

Such is the state of affairs in Victoria. This was a parliamentary report by the Victorian Ombudsman in September this year.

Meanwhile, returning to Western Australia, another example was reported by the *Mandurah Coastal Times* in an article titled "Dawesville man in key role at local sports club fined $14k for false working with children documents". The article from 30 August this year includes the following summary —

> A Dawesville man has been ordered to pay $14,000 after being found guilty of giving fake documents during a Working with Children check.

The examples that I have given are extremely alarming. They indicate that noncompliance is more frequent than it should be. Indeed, amendments to the system are clearly in order.

I will deal momentarily at this time with the issue of the timing of these reforms. I note that on 17 August this year, just shy of a couple of weeks prior to the Dawesville article, the minister issued a media release titled "Landmark changes to strengthen working with children law". Amongst other things, the minister authorised this statement —

> High priority reforms part of a staged approach to address key recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse

I question the use of the term "high priority". Let us keep in mind that the final report of the Royal Commission into Institutional Responses to Child Sexual Abuse was published in December 2017, almost five years ago. To give credit where credit is due, this matter that the Minister for Child Protection described as a high-priority reform is at least here, even though it has been five years since the final report came out. More than five years ago, her colleague the Attorney General, with the approval of the member for Rockingham, the Premier of Western Australia, indicated that the government would expedite reforms to address elder abuse in Western Australia, yet here we are on 16 November 2022, more than five and a half years later, and these things are nowhere to be seen. To give credit where credit is due, the Minister for Child Protection at least has a bill before the house. I question the use of the phrase "high priority", given that it has been five years since the final report of the Royal Commission into Institutional Responses to Child Sexual Abuse was produced; nevertheless, the bill is here now. I do not know whether the authors of the explanatory memorandum realised this when they drafted the introduction, but the explanatory memorandum that accompanies this bill includes this statement in the second paragraph —

> The WA Government in 2018 accepted or accepted in principle all recommendations of the Royal Commission relevant to WA and has annually restated its commitment to implementing these recommendations, to ensure a safer WA for all children and young people.

Can I just say to the authors of the explanatory memorandum that by stating and restating annually that the government is going to do something does not ensure a safer WA for all children and young people. What will ensure a safer WA for children and young people is actually doing something. As I said, to give credit where credit is due, we are at least here, five years later, addressing some of these reforms. Some issues were identified more than three years ago by the WA Office of the Auditor General in the *Working with children checks—Follow-up* report, dated October 2019.

It seems to me that there is something seriously wrong with the government's priorities when other legislation emerged and passed through both houses prior to the bill that is presently before the house. I remind members of the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021. Members may recall that that bill tampered with our electoral laws. Premier McGowan repeatedly said prior to the election that that was not on the agenda. Something that was apparently not on the agenda in March 2021 not only emerged onto the agenda, but also passed through both houses of Parliament in lightning fashion, whereas this matter, which the Minister for Child Protection has been obviously working hard on for the last five years and considers a high priority, is only now before us in November 2022. Let us also not forget the Metropolitan Region Scheme (Beeliar Wetlands) Bill 2021. New observers of parliamentary practice and language might be interested to know that this bill effectively made it more difficult to extend a road that the government had no intention of building. I invite the government to explain how that bill could have been considered a higher priority than the matter presently before us. As I said in my contribution to the second reading debate on that bill at the time, it was hardly a priority. Although the government was well within its rights to proceed with its course of action to not build the road, it certainly did not need to ram an urgent bill through Parliament to make it more difficult. I would describe those bills as being of questionable importance. Some members opposite will obviously disagree with that and say that they were of incredible importance, but, to me, they were of questionable importance. I would like to think that we could at least agree that they were not urgent, yet they were expedited and prioritised over important legislation that will protect the vulnerable in our society. Meanwhile, as the authors of the explanatory memorandum indicated, the government has been stating, and restating annually, its commitment to implementing these recommendations.

To be crystal clear, the tightening of the working with children check system is absolutely crucial to the protection of children in our state. I am pleased that this bill is now on the table before us, albeit it is only phase 1. I mentioned earlier that part of the trifecta of the genesis of this bill were the issues identified by the Office of the Auditor General, which has not only investigated, but also expressed concerns and made recommendations on the working with children check system on numerous occasions. The question I have for the Leader of the House, whom I think has carriage of this bill on behalf of the Minister for Child Protection, is: was the Office of the Auditor General consulted on the bill that is before us? One would think that that would be an important step for the government to take, given that the issues identified by the Office of the Auditor General form one of three parts of the genesis of the bill before us, the other ones being the royal commission recommendations and the statutory review recommendations. I note in particular that three years ago, an audit was undertaken by the nineteenth and current Auditor General, Caroline Spencer. I will quote from that follow-up report, in which the Auditor General said, in part, at page 7 —

> In 2018–19, Communities took an average of 211 days to issue negative notices to 105 applicants to whom it had not previously issued an interim negative notice.

I will pause from quoting the Auditor General's report to note that at that time, the 2018–19 financial year, it took, on average, 211 days before 105 Western Australians who had not previously been issued an interim negative notice were issued a negative notice. Of course, the question for those who are concerned about the safety and wellbeing of Western Australian children is: what were those 105 applicants doing during that, on average, period of 211 days? That is just under two-thirds of a year. For two-thirds of a year, 105 Western Australians who had not previously received an interim negative notice but who ultimately received a negative notice were working with children. What was particularly concerning was the Auditor General's finding on page 8 of the report —

> Fifty-three of these took over 200 days. These 53 people, who were found to be unsuitable to work with children, were allowed to work with children for a cumulative total of 14,192 days while their applications were assessed.

I pause from quoting the Auditor General's report to note that a subset of those 105 Western Australians, approximately half—specifically, 53 people—did not receive an interim negative notice. They did get a negative notice in the end, but it took over 200 days. In the meantime, those 53 people were allowed to work with children for a combined 14 192 days. It is no wonder that the Auditor General felt it was necessary to report this matter to Parliament.

Page 8 of the Auditor General's report states —

> This means 80% of people who ultimately received a negative notice were able to work with children while their application was assessed.

On average, it took 267 days per person. The Department of Communities had not implemented risk-based monitoring and enforcement, and still had little assurance on employer compliance. In fact, this investigation, or

audit, by the Office of the Auditor General found that the Department of Communities itself was not even compliant. According to the Auditor General in this 2019 report, internal information and reporting on the effectiveness of the working with children check was inadequate.

A year later, in July 2020, the Auditor General produced another report entitled *Working with children checks—Managing compliance*. This audit assessed whether the WA health system, the Department of Justice and the Department of Education were compliant with their working with children check obligations. It found that each entity had gaps in processes, errors in record keeping and shortcomings in performance monitoring. The gaps increased the risk that entities would not be able to ensure that everyone who needed a working with children card had one.

It is in that context that we have the bill before us, which the Minister for Child Protection has described as a high priority. We seem to have a major problem with compliance not only in the community but also within government. To the extent that the bill before us will improve that scheme, or regime, it is welcomed and supported by the opposition.

There are a number of key issues associated with the bill. The first issue is whether the bill's transitional provisions will shield some known offenders. I suspect that I will spend a little bit of time unpacking this issue during Committee of the Whole House. During the briefing the opposition received, a department representative indicated to us that existing working with children cardholders will not be impacted by the amendments to offence classifications whilst they continue to hold a valid working with children card or have a pending application unless they are newly charged or convicted of a class 1 or 2 offence or they have allowed their existing working with children card to expire, which will automatically trigger a reassessment.

Hon Sue Ellery: Honourable member, if you will take an interjection, that was actually flagged in the explanatory memorandum or the second reading speech. I cannot remember which, but there was a reference in one of those.

Hon NICK GOIRAN: That may well be the case, but it was certainly brought to our attention during the briefing pursuant to some questions asked. Opposition members were told that this currently involves seven individuals. It would be interesting to know whether that is still the case. It was certainly seven individuals at the time of the briefing. What is the justification for this bill, or this reform, shielding those seven individuals? Let us put to one side whether it is seven or another number for the purposes of the exercise; we were told it was seven, so let us run with that. If the government and the department know that these seven people have committed a class 1 or 2 offence, and if they were to apply under the new scheme, they would not be eligible for a working with children card, why would they not be automatically reassessed? We are very keen to hear a rational explanation from the government on that matter. As I said, the opposition will support this legislation. The reforms are welcomed. But unless persuaded otherwise, I am concerned that the bill will shield seven known offenders.

The second issue with the legislation is whether the McGowan government is prepared for enhanced information sharing. It is matter of public record that the government has a concerning history of data privacy breaches. Clause 29 of the bill before us will create a new section 34G in the act that sets out provisions for the disclosing of information for the purposes of inserting interim negative notices and negative notices on the Working with Children Checks National Referencing System. As I said, this government has a concerning history of data privacy breaches and, at times, an ambivalent approach to information access by public servants. This is evidenced and articulated by not only the opposition, but also the Office of the Auditor General's findings of ongoing limited communication around the use of personal information collected by government entities, including the SafeWA app, Transperth SmartRider and police G2G PASS border crossing data; and the Corruption and Crime Commission's report highlighting the Department of Transport's unlawful accessing of the transport executive and licensing information system.

The third key issue associated with the bill presently before us is whether the bill is skeletal in parts and will rely excessively on regulations. My view is that the bill will rely on regulations very heavily. Indeed, by my count, regulations will be introduced 49 times. I draw members' attention to clauses 6 and 7. There are a number of Henry VIII clauses in the bill. I note and thank the Standing Committee on Uniform Legislation and Statutes Review for its 139th report tabled yesterday.

I might pause at this moment to make this observation, particularly for any first-term members. It has been the ordinary custom and practice in this house that when a bill returns from a committee—in this case, the Standing Committee on Uniform Legislation and Statutes Review—it is not brought on for debate the next day. In fairness to the Leader of the House —

Hon Sue Ellery: Sorry, I missed that. Can you just repeat it?

Hon NICK GOIRAN: I was just saying that it has been the ordinary custom and practice of the house that when a bill returns from a committee, as this one did yesterday, it is not brought on for debate the next day. I was about to say that in fairness to the Leader of the House, we need business to do today and, as I understand it, this is the only bill that it is possible to debate presently. But I must say that it is most regrettable that an important reform like this, dealing with the matters that I have addressed, including whether we are shielding seven known offenders, is being rushed through. We need to make sure we get it right. We clearly have time this week. We have all of today

and tomorrow. I am sure that this will be the one occasion perhaps in the history of my service in Parliament with the honourable Leader of the House on which she might even be pleased that I take a little bit of time to scrutinise this legislation, given the paucity of other legislation to deal with until we return next week.

In all seriousness, I would not commend this approach of expecting members to digest standing committee reports overnight while Parliament is sitting and, I might add, dealing with four other bills as some form of precedent. For those of us who serve on committees, as I was this morning at a public hearing with the Department of Treasury, there was very little time to get completely across this bill. Nevertheless, my brief examination of the report indicates that it is one that is yet again worthwhile and deals in particular with these Henry VIII clauses. I assume that as a consequence of that report, the government has given notice of four amendments that have found their way onto the supplementary notice paper, which we will deal with when we get to clause 7.

The fourth issue with the bill before the house is to ponder whether the bill tries to partially raise the age of criminal responsibility by stealth. I draw to member's attention clause 7. The explanatory memorandum states —

> An offence will fall within the ambit of the subsection if the victim of the offence is a child who has reached 14 years of age and the age difference between the victim and the offender does not exceed 5 years. The condition applies to certain sexual offences involving children and child exploitation related offences.

In my view, this requires further examination. As I have said many times before in not only opposition, but also government, this is a classic example of it being regrettable that we invest the time of four honourable members of this house in considering bills in their capacity as members of the Standing Committee on Uniform Legislation and Statutes Review, yet we get them to do that task with blinkers on because we allow them to consider issues pertaining only to parliamentary sovereignty and the uniform nature of the legislation. But—shock, horror—should they come across some other material matter, they are not permitted, under their terms of reference, to draw them to the attention of the house. As I say, had this bill gone to the Standing Committee on Legislation rather than the Standing Committee on Uniform Legislation and Statutes Review, this type of matter could have been properly scrutinised; instead, we will need to do that in Committee of the Whole House, which is suboptimal.

I move to the fifth issue associated with the bill before us, and ask: what is the currency of the consultation, given the age of the recommendations that were the genesis of the bill? The statutory review of the act is one of three historical matters that gave rise to the bill before us. That review is 10 years old and the royal commission recommendations are from 2017, as I recall—some five years ago. However, if my memory serves me correctly, the royal commission issued an interim report specifically dealing with working with children checks in 2015, so we could say that those recommendations are seven years old. We have a piece of work that was done 10 years ago, and another that was done seven years ago, and the question is: how recently was consultation undertaken with key stakeholders to ensure that the bill that is before us now, in 2022, has kept pace with the passage of time?

The sixth matter I draw to members' attention as we consider and scrutinise this bill is to ask whether the bill's powers are consistent with other like statutes; specifically, I consider clause 29. Will the increased and additional powers to authorise officers be no greater than those already exercised by departmental officers, and will they be subject to the identical oversight framework?

The seventh and last key issue associated with the legislation is to pose the question of whether we are once again creating a messy web of compliance. The opposition was told at the briefing that a public education campaign had been budgeted for. That is very good. However, I pause now and consider for a moment the document *Child protection law and regulation in WA—An overview* published in August two years ago by Penrhos College, which states —

> The legal and regulatory framework for child protection and for child safe organisations in WA is made up of a complex web of laws, regulations and guidance notes.

At the end of the document it states further —

> In order to comply with the requirements of the National Principles for Child Safe Organisations, the Registration Standards and Registration Standards Guide, as well as each of the six separate pieces of legislation noted above, Penrhos College has established this Child Protection Program which sets out our work systems, practices, policies and procedures designed to not only ensure compliance, but also to develop a safe and supportive College environment with a child safe culture.

Penrhos is to be commended for this, but it needs to be said that not every school or organisation has the same means to establish that level of substantive separate child protection program. More to the point, does the Department of Communities, particularly the child protection agency, evaluate how to streamline requirements for the end user, or does it just keep heaping more and more of these compliance obligations on those agencies? It is a delicate balance between making sure that sufficient protections are in place and there are sufficient resources to ensure they are being enforced and adhered to, while also not creating a messy web of compliance. As I stated at the beginning of my speech, the working with children check scheme in Western Australia is an important screening strategy to safeguard children, but it is not the only strategy. Numerous recommendations were made by the Royal Commission into Institutional Responses to Child Sexual Abuse. One was to make sure that children increase their knowledge

of child sexual abuse and build practical skills to assist in strengthening self-protective skills and strategies. It is interesting that we dealt earlier this afternoon with the annual report hearings of the Standing Committee on Estimates and Financial Operations. That eighty-sixth report reported on the committee's considerations of the 2020–21 annual reports. One of the hearings was with the Department of Education on 31 March 2022, so it was this year that we considered that annual report. I recall it well, and perhaps the Leader of the House also recalls it well. I remember spending some time in that annual report hearing in a dialogue with the Minister for Education and Training about the protective behaviours program. The issue is not whether there is an aspiration, expectation or requirement for such a program to be undertaken, but to what extent the department audits that it is being done. As I understood the answers on that day in March this year, in effect, the response was that a survey was conducted. The point I endeavoured to make on that day in March was that I did not think a self-reporting survey was sufficient. If somebody is asked whether they are undertaking a protective behaviours program, for example, and they tick "yes", the department ought to audit that to be satisfied that it is occurring and that it is occurring in a manner consistent with the department's expectations. In fairness to the Leader of the House; Minister for Education and Training, she was at pains to explain on that day that the Department of Education does not mandate how that is done. That is accepted and in fact it is supported.

It is one thing not to mandate how it will be done, it is another thing to order audits whether it is actually being done to a satisfactory standard. I absolutely accept that each school and every parent will have a different view on how this ought to be tackled and how it ought to be communicated, and those matters should rest at the local level with the parents, at first instance, and with the local school. We do not need big government coming along and telling everybody that it can only be done one particular way, but we need government to ensure that the expectations we all have are being adhered to. I am not presently convinced that it is much more than a box ticking exercise. I intend to pursue that when we next have an opportunity to examine things with the Department of Education.

I also note, as I said, that the working with children check scheme is only one strategy in which to safeguard children in Western Australia. Another is the education of children so that they have their own knowledge of abuse and they build their practical skills. I also note that the former Commissioner for Children and Young People, who issued the *Independent review into the Department of Communities' policies and practices in the placement of children with harmful sexual behaviours in residential care settings*, tabled a report on 15 September last year. That report made nine recommendations. When I recently asked about this, this was the response that I received. On 1 September this year I asked the Leader of the House representing the Minister for Child Protection question without notice 802. I said —

> I refer to the Commissioner for Children and Young People's *Independent review into the Department of Communities' policies and practices in the placement of children with harmful sexual behaviours in residential care settings*, tabled on 15 September 2021.
>
> (1) Which of the nine recommendations have been implemented in full?
>
> (2) Which have been implemented in part?
>
> (3) Which have not been implemented to any degree?

As I said, I asked this on 1 September this year. What are we asking about? The nine recommendations from the Commissioner for Children and Young People from an examination into how the Department of Communities is housing children with harmful sexual behaviours. I will not relitigate the reasons why that particular inquiry was needed in the first place. But, one year later, a fortnight shy of a year after that, this is the response from the government —

> The McGowan government has accepted or accepted in principle all recommendations from the Commissioner for Children and Young People's *Independent review into the Department of Communities' policies and practices in the placement of children with harmful sexual behaviours in residential care settings*.

I pause there. I take no issue with that, not to say that governments must always accept every single recommendation. They must weigh all these things up and provide a response. In this instance, that is what the McGowan government has done; it has chosen to accept all or accept all in principle. Then it says —

> Recommendation 4(a) has been completed in full and work is progressing on all other recommendations.

There were nine recommendations, and a year after the recommendations were made the response back from government was that part of one of the recommendations has been completed in full and work is progressing on all the others. How does that sit with the comment by the Minister for Child Protection that these type of reforms, these type of matters, are high priority? We certainly know in this forty-first Parliament that when the McGowan government wants to act, it can act with lightning speed. No-one can move as fast as the McGowan government when it wants to do something. Through both houses of Parliament, quick as lightning law reform can occur. When it comes to the issue of child protection, for some reason, things move at a far slower pace. If that is to get it right, it is welcomed, but I am not sure that it is getting the priority that it really should be getting, a year after the former

Commissioner for Children and Young People issued one heck of a report, it has to be said. They did not hold back in this independent review into the department's policies and practices that a part of one of the nine recommendations has been completed in full.

I give notice to the department and the minister that I will continue to ask about the progress of those recommendations until such time that all nine recommendations have been implemented in full. Might I add a word of advice to the Minister for Child Protection? It would not be asking too much, in fact it would be a demonstration of goodwill that this is genuinely a high priority matter, if a ministerial statement was made from time to time updating the house on the progress of these recommendations, and not a ministerial statement that is hidden in the other place, but rather treat the Legislative Council with the respect that it deserves and ensure that a statement is made in this place as to the progress of these nine recommendations. That is not asking too much. It does not need to be made every sitting day. It does not need to be made every sitting week. It does not even need to be made every sitting block, but from time to time an authentic update on the progress of those nine recommendations would be welcomed and, might I add, if that were done, it would result in fewer questions from the shadow Minister for Child Protection.

Let us just hope that the acceptance of these recommendations from the Commissioner for Children and Young People does not take five years or more and that we are not having a debate in the next Parliament as to the progress of those recommendations, as is evidently appearing with regard to these matters presently before us, which, as I said, have the history and recommendations of the royal commission, the statutory review and the multiple issues that have been identified by the Auditor General.

With those remarks, I close by indicating that the opposition supports the bill before the house. A number of matters require examination in Committee of the Whole. There are some 53 clauses in this bill, and as I identified earlier, the government has now conceded that the bill before the house is not yet ready for full passage but requires some amendments, particularly with regard to clause 7. I look forward to examining those more closely, momentarily.

HON SUE ELLERY (South Metropolitan — Leader of the House) [2.57 pm] — in reply: I thank Hon Nick Goiran for his support of the Working with Children (Criminal Record Checking) Amendment Bill 2022 and I thank him for his contribution. I am going to respond to the issues that he raised and I will start by making some comments about the report on the bill from the Standing Committee on Uniform Legislation and Statutes Review. I want to thank the committee members for their timely and thorough consideration of the bill. I thought the report was thoughtful and made some very positive comments about the bill before us and why, in certain cases, the committee could see that any government might need to act quickly on some elements given what we are dealing with relates to the safety of children.

The committee made a number of findings including that the bill's clause 2, in providing the commencement date on a date fixed by proclamation, erodes Parliament's sovereignty and lawmaking powers. I understand the committee's concerns about a lack of an express commencement date, but I reiterate the point that had been made in the debate in the other place that regulations will be required to be drafted and made prior to the commencement of these provisions. It is expected to take between three to six months to consult relevant government agencies, instruct Parliamentary Counsel and draft the amendment regulations with consideration of the Governor in Executive Council. Of course, regulations are a debatable instrument and will appear before us.

The Standing Committee on Uniform Legislation and Statutes Review's report also agreed with the statement made in the explanatory memorandum that proposed sections 6(3) and (4) are Henry VIII clauses. I welcome the committee's finding that proposed section 6(3) can be justified on the basis that protecting children's safety by identifying exemptions and preclusions requires a quick regulatory response.

The remainder of the committee's report was concerned with four Henry VIII clauses under clause 7 of the Working with Children (Criminal Record Checking) Amendment Bill 2022. Henry VIII clauses have been found by the Standing Committee on Uniform Legislation and Statutes Review and by this chamber since forever; I would like to say since Henry VIII himself was on the throne, but we have not been going that long! They have been identified as being problematic because they go to Parliament's sovereignty by enabling subordinate legislation or executive action to have the effect of amending a piece of legislation.

Proposed sections 7(1)(a) and 7(2)(a) include new regulation-making powers that allow for the prescription of conditions to be imposed on offences listed in schedules 1 and 2 of the legislation. I acknowledge the committee's concern about the express need for these regulation-making powers. I also acknowledge the committee's concern that proposed sections 7(1)(b) and 7(2)(b) are broader regulation-making powers than those in the current act, as they allow for the prescription of WA offences as class 1 and class 2, rather than just offences in other jurisdictions. I advise that the government has prepared for circulation on the supplementary notice paper a series of amendments linked to clause 7 to address the committee's concerns. Those proposed amendments to clause 7 will remove from the legislation the power to prescribe conditions for offences listed in either schedule 1 or 2 of the legislation, and the power to prescribe offences under a law of the state to be either a class 1 or class 2 offence under the legislation. Again, I welcome the findings of the committee and note that any regulations will be subject to scrutiny by the Standing Committee on Uniform Legislation and Statutes Review and to disallowance in the Parliament.

Hon Nick Goiran raised matters concerning the policy of the bill and compliance powers, and he referenced a case in Geraldton. The Working with Children (Criminal Record Checking) Amendment Bill 2022 will provide for significantly increased compliance powers to strengthen the ability to ensure compliance with the legislation. The contemporary compliance and investigation powers in the bill will reduce the time taken for an investigation to be completed by enabling the compelling of people to provide certain information; or, when appropriate, necessary and to the satisfaction of a magistrate, application for an execution of entry warrants on premises when the CEO is of the belief that evidence exists to establish that an offence has been committed. In introducing these powers, the bill will allow compliance and investigation actions to be undertaken for the better and quicker gathering of necessary evidence, using the available resources, leading to better protection of children. The provisions under part 3B will support officers who are designated as authorised officers with the use of powers under division 3 during a compliance check or investigation. The powers will be utilised only when required and when there is a lack of consent or willingness to comply by an employer or individual.

A question was asked about whether the Auditor General, having issued her report, was consulted on the provisions of the bill. By convention, the Auditor General does not comment on government policy; her role is to assess whether government policy has been effectively implemented, and she did that in the report. That was useful to government, and we have acted on the things she identified as needing attention. She was not consulted on the drafting of the bill or the final version of the bill, but as a normal courtesy, after the bill was read in to the Legislative Assembly on 8 September, she was provided with a courtesy letter and explanatory materials, and offered a briefing on the bill.

The honourable member asked a question about interim negative notices and the time it takes to finalise assessments when an interim negative notice has been issued. That is a significant issue, and this bill deals with it. One of the significant changes under the provisions of this bill is that the screening unit will be given the capacity to issue an interim negative notice once it is reasonably satisfied that it is warranted. That is distinct from the current system, under which a full investigation has to take place before an interim negative notice can be issued. That has posed some real issues because of not only the complexity of some of the charges or convictions, but also our reliance on information to be brought forward that could be outside our jurisdiction. At any point after an application is made, if the CEO is of the opinion that there is a reasonable likelihood that the circumstances will result in a negative notice being issued to the applicant, an interim negative notice can be issued. The assessment will remain ongoing and follow its natural course, including sourcing and considering all relevant information, sending a letter proposing to issue a negative notice and providing the applicant with 28 days to respond before a final decision is made.

Over the course of 2021–22, the time frame for the issuing of a negative notice without an interim negative notice was 96.9 days. For a negative notice with an interim negative notice, it was 18.1 days to the issuing of an interim negative notice, and 46.4 days from the issuing of an interim negative notice to a negative notice. The total average time for the issuing of a negative notice was 64.5 days.

The honourable member made reference to transitional provisions and individuals with a current working with children card who have a conviction for an offence, committed as an adult, that will be moved into schedule 1 as a result of the bill before us. There are seven such card holders. The amendments to the offence categorisation proposed by this bill will not be retrospective. The amendment schedules and the carve-out in proposed section 7 will not apply to anyone with a current working with children card while the transitional provisions apply to them. The new schedules and the amended section 7 will apply only if the transitional provisions cease to apply, and as a result of a relevant change to the criminal record, or the person allowing their card to lapse. At that point, the decision-maker will need to turn their mind to whether a carve-out under proposed section 7(3) is applicable to that person.

With regard to the seven individuals who already have a card and are covered by the bill's proposed transitional arrangements, a thorough and detailed assessment of the nature of the offences was completed by the screening unit at the time. Based on all the information properly before the decision-maker, a decision was made to issue those people with a working with children card. The transitional provisions will no longer apply to those seven if they have a new conviction or pending charge for a class 1 or class 2 offence recorded on their criminal record after the amendments commence, or if their card lapses and they reapply for a new card after the expiry of their old one.

With regard to provisions around information sharing and data safety as part of the national referencing system, the WA working with children screening unit is already "onboarded"—that is such a geek term!—to the national referencing system and is encompassing the information available on the system. The honourable member asked whether it is skeletal legislation. The Standing Committee on Uniform Legislation and Statutes Review took the view that it is not. The bill seeks to address a number of issues arising from the royal commission report, the national standards, reports from the Auditor General and the statutory review of the act. The release of successive key reviews and reports requiring legislative address means that the required reforms to the act are complex and far-reaching. The bill's provisions guide what can and cannot be done by the regulations. An amount of flexibility needs to be retained with regard to how the amendments will be administered, so there is reliance on regulations. This will also ensure that steps can be taken quickly for child protective purposes when this is necessary, and that is something that the committee commented on.

In respect of the rationale for the provisions that are carved out in proposed section 7(3), and why those provisions are necessary, the bill will move all sexual offences against a child, including child pornography-related offences, into schedule 1. If an applicant for a working with children card has a conviction for such an offence that was committed as an adult, an automatic negative notice will be issued. This categorisation will not afford discretion in a scenario in which a person may have a conviction for such an offence in circumstances in which both parties are of a similar age cohort and both parties have made a conscious decision to engage in sexual behaviour. For example, an 18-year-old might have engaged in sexual intercourse with their 15-year-old girlfriend or boyfriend, with no evidence that threats or involved were involved. The house has considered similar scenarios in other pieces of not dissimilar legislation. Under the Western Australian criminal law, the 18-year-old could be charged with a child sex offence, because a child is required to be over the age of 16 before consent to sex can be given. Although any behaviour of a sexualised nature directed towards children warrants a close analysis of potential risk of harm, the behaviour in the example I have just given does not automatically suggest that the offender is an unacceptable risk to children. A need has therefore been identified for the decision-maker to be given discretion to consider the particular circumstances of such scenarios. That is the rationale behind proposed section 7(3). It will provide the discretion that is required in such scenarios. A carve-out is required for those sexual offences against children that are otherwise proposed to be class 1 offences. If the carve-out is met, the offence will be in class 2.

The member asked why a child victim must be aged over the age of 14. I think the expression used by the honourable member was: are we trying to increase the age of criminal responsibility by stealth? The Premier has already put on the record our position on the age of 14. The intention of the carve-out is to allow for the retention of discretion about whether a negative notice should be issued when a sexual offence that would otherwise be a class 1 offence was committed but involved two young people of a similar age cohort. The age difference of five years was adopted as a logical limitation on what could reasonably be considered to be a similar age cohort. The decision to limit the carve-out to offences committed against children aged 14 and over was made in consideration of potential national consistency. Although Western Australia has a number of sexual offences that refer to a child being under the age of 13, that is not the case for all jurisdictions. A number of other jurisdictions define sexual offences by the victim being under the age of 14. A jurisdiction that has defined sexual offences in that way could not reasonably consider a sexual offence committed against a 13-year-old as anything other than requiring an automatic negative notice. Although the Western Australian working with children scheme is independent from any binding national framework, the adoption of a carve-out that included child victims aged 13 could cause significant issues at a later point if any steps were taken towards having other jurisdictions recognise working with children decisions that are made in Western Australia.

The honourable member also asked a question about consultation. The bill was subject to recent and extensive collaboration with the key government agencies that will be impacted by its information gathering and sharing and other administrative provisions. Successive drafts of the bill were released for comment between October 2021 and July 2022, and the provisions of the bill were adjusted to reflect that consultation. The relevant government agencies that were provided with copies of the bill for comment were the Commissioner for Children and Young People; the Department of Education; the Department of Health; the Department of Justice; the Department of Local Government, Sport and Cultural Industries; the Department of Mines, Industry Regulation and Safety; the Department of the Premier and Cabinet; the Department of Treasury; the Director of Public Prosecutions; the Ombudsman of Western Australia; the State Administrative Tribunal; the State Solicitor's Office; the Teacher Registration Board of Western Australia; and the WA Police Force.

Other government agencies that may be impacted by the bill purely in their capacity as large employers of persons in child-related work were not consulted. That is because the paramount consideration of the act is the best interests of children. Any impact on individual employers, or any individual person, in fact, must be considered subservient to that. The intention of the act is to prevent a person from engaging in, or removing a person, from child-related work when there is an unacceptable risk that the person may harm children.

In terms of non-government stakeholders, it is worth remembering the context of where this bill has come from. That includes all the public debate, discussion and consultation that occurred as a consequence of the Royal Commission into Institutional Responses to Child Sexual Abuse, the Auditor General's reports, which are public documents, and the statute review of the legislation. All those have captured those people who obviously have an interest in this particular legislation.

The government's phased approach to amending the act, and the proposed phase 1 reforms, was outlined in July—although I think I saw a note that said August—at a high level to key stakeholders who broadly represent people who will be required to comply with the act. Five briefing sessions were offered to 54 stakeholder entities. There were 41 attendees from 33 organisations across various peak bodies. Aboriginal stakeholders raised no objections to the proposals. They voiced support and welcomed the government's proposed broad and comprehensive education campaign in advance of the commencement of these changes.

It is worth considering that I have been around this chamber since the first bill came in in 2004. At every iteration and evolution of this framework of law, both sides of the house have done it in a staged and phased way. That is

because we are asking people to make significant changes to how they conduct their business or run their sporting organisation and those types of things. At every point since 2004, both sides of the house when in government have quite deliberately introduced changes to these laws in a staged and phased way.

Hon Nick Goiran: Was that the July or August consultation this year?

Hon SUE ELLERY: Yes.

Following the introduction of the bill, all of the 54 stakeholders who had been invited to the briefing sessions were sent a direct email notifying them of the introduction of the bill. That included links to the bill, the explanatory memorandum and the press release, attachments comprising an overview of bill, and a frequently-asked-questions document on the bill. An additional 114 non-government stakeholders identified as having a key role in assisting or advising persons and entities required to comply with the act across the categories of child-related work were also sent these explanatory materials and links by direct mail and invited to disseminate that information through their networks.

A broader proactive public education campaign was funded in the 2022–23 budget to occur following the passage of the bill and prior to the commencement of its substantive provisions. To ensure that all stakeholders properly understand the changes that will be made to the act, that will involve broad publicity, stakeholder communications and education sessions for regulated parties on the effect of the amendments to the act. The working with children screening unit will undertake that campaign with the general public and with persons and entities to be regulated under the amended act. The unit will offer a comprehensive suite of education and engagement opportunities. That will consist of a statewide delivery of workshops, regional road shows, online consultation opportunities, supporting resources, and checklists.

The member asked why there was no detailed public consultation process on the bill. I have already talked about the context of the bill. The member asked what consultation is occurring with other jurisdictions to progress the working with children card report recommendations, which have been deferred to future reforms. All states and territories and the commonwealth continue to collaborate to progress them.

In early 2020, a working with children interjurisdictional working group was superseded by an information-sharing working group formed under the *National strategy to prevent and respond to child sexual abuse 2021–2030*, which is an initiative of the Australian state and territory governments. The information-sharing working group is tasked with enhancing national arrangements for sharing child safety and wellbeing information, including relevant recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse's *Working with children checks report*. A work plan to reduce the burden of overlapping regulation, which was endorsed by national cabinet in December 2021, includes an item to improve the national consistency of working with children checks to make children safer and reduce the regulatory impact on business. The information-sharing working group is developing an options paper for further national cabinet consideration. It will propose reforms that focus on promoting national consistency of working with children checks, consistent with the royal commission's recommendations and the national standards. Western Australian officials are focused on using that opportunity to progress the remaining royal commission recommendations that require national collaboration to inform their design.

There was another issue the honourable member raised.

Hon Nick Goiran: Will the bill's powers be consistent with other like statutes?

Hon SUE ELLERY: We might have to talk about that in Committee of the Whole, because I do not have a note on that. That is all I have, but we can explore anything that I have missed when we get to the committee stage.

I thank the honourable member again for his contribution, and I thank the opposition for its support. I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Jackie Jarvis) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

Clause 1: Short title —

The DEPUTY CHAIR (Hon Jackie Jarvis): I draw members' attention to supplementary notice paper 81–1.

Hon NICK GOIRAN: I thank the Leader of the House for the comprehensive reply to the second reading debate; her reply dealt with many of the issues raised.

As we commence the consideration of clause 1, to assist the timely passage of this Working with Children (Criminal Record Checking) Amendment Bill 2022, I will indicate two matters that I remain concerned about. The first is whether the transitional provisions will shield some known offenders, the seven individuals. We will unpack

that in due course. The other is whether the age of criminal responsibility will be lifted in some fashion by virtue of clause 7. I know a comprehensive attempt was made to respond to those two matters, and I am grateful for that, but I would like to explore them a little further. I remain concerned about those two points.

The rest of the matters appear to have been addressed sufficiently, with the exception of one that I mentioned in a brief interjection—whether the bill's powers will be consistent with other like statutes. I will take that up, but we can deal with it in clause 29, which sets out some of the increased and additional powers for authorised officers.

We now dive into clause 1. During the minister's second reading reply, she outlined a large number of people who were consulted and some type of forum that quite a number of people were invited to attend. I thank the minister for that. My main concern was whether the consultation was current, given the lengthy passage of time since some of these matters were first recommended. The minister indicated that consultation happened in July or August this year, so it is quite current.

My question on consultation is: was the Commissioner for Children and Young People consulted?

Hon SUE ELLERY: Yes. I think I read out her title in that list.

Hon NICK GOIRAN: Did the Commissioner for Children and Young People raise any concerns with any element of the bill?

Hon SUE ELLERY: No.

Hon NICK GOIRAN: Albeit that all stakeholders are important, the other significant stakeholder I would like to address is the Office of the Auditor General. The minister provided some explanation in her reply, particularly about what would be referred to as the ordinary custom and practice of government and, perhaps more to the point, the ordinary custom and practice of the Auditor General when commenting on these matters. Nevertheless, as part of its genesis, this bill has had multiple reports from the Office of the Auditor General. I think that it would be worthwhile for government to satisfy itself that the Auditor General does not have ongoing concerns, notwithstanding the government's efforts by virtue of this reform. For example, it would seem to be an inefficient use of everyone's resources if, in a few months' time or next year, we got another report from the Auditor General saying that she is not happy with what the executive is doing. I see merits in some form of consultation. The minister indicated that some form of courtesy correspondence had been offered and provided to brief the Auditor General. Has the government had any further substantive interactions with the Auditor General?

Hon SUE ELLERY: I will make a point about normal government practice, which I referred to in my answer. The job of the Auditor General is to look at a point in time and to look back. Have we got our finances in order? What she does in her performance audits is look at how the implementation has been made. It is consistent with her role that we do not consult her about what we intend to do for legislation going forward. Nevertheless, she was offered a briefing. Members of her office attended in September. They were asked whether they had any issues, and they did not raise any issues or express any concerns.

Hon NICK GOIRAN: Minister, thank you for that. There is nothing more that the executive government can do than that. I am just making an observation. The government cannot do more than —

Hon Sue Ellery: You're saying something nice?

Hon NICK GOIRAN: Well, yes.

Hon Sue Ellery: Nearly.

Hon NICK GOIRAN: I congratulate the government —

Hon Sue Ellery: Oh my God.

Hon NICK GOIRAN: — on consulting the Office of the Auditor General and, more to the point, transparently providing to the house further information on those consultations. If only this would happen when the Attorney General undertakes consultation with the judiciary! But we will see what happens. I know that the government feels that it has a lot of time on its hands at the moment, but we need to press on.

The Auditor General, in the 2019 report that I referred to in my speech in the second reading debate, indicated that it took, on average, 211 days to issue negative notices to some 105 applicants. The minister indicated in her reply to the second reading debate that this bill is intended to address some of those issues. In response to a recent question without notice—so recent that it was, in fact, yesterday—when I asked how many negative notices had been issued in the most recent financial year, the answer was 198. In terms of the longest number of days that someone was able to work with a child prior to receiving a negative notice, the answer was 174. It must be acknowledged that that is an improvement on where things were in 2018–19, when for 53 people it took over 200 days; whereas, in the most recent financial year, the longest period was 174 days.

What is our aspiration here? Where are we going with the reforms that are presently before us? The response that came back yesterday indicated that the proposed reforms seek to improve the timeliness of interim negative notices. Is there a KPI that we are trying to achieve here?

Hon SUE ELLERY: Honourable member, no; there is no KPI. What we are trying to balance here has to be appreciated. There has to be some opportunity for natural justice to take place, for facts to be checked and for someone to raise issues or provide information or make sure that the actual name, date of birth and all those things are correct. Therefore, we have to find that balance. Of course, primarily, the objective is the protection of children and to allow for due process and some natural justice to occur as part of that. From my point of view, on behalf of the government, we should be continually striving to reduce that number, but I do not think it will ever be possible to get to zero because the process itself requires accuracy.

Hon NICK GOIRAN: The minister said that it was a primary objective. In fact, the best interest of the child is a paramount consideration, as the minister indicated earlier. To have a situation in which somebody could work with a child for 174 days in the last financial year without having received a negative notice is not in the best interests of children. I agree with the minister that natural justice is required before someone is given a negative notice, but that is why we have a thing called interim negative notices. I accept that, as the minister indicated in her response in question time yesterday, the bill presently before us seeks to decouple the interim negative notice process from the negative notice process.

Is it intended that an interim negative notice will be issued at the same time as a letter to the applicant starting the natural justice process for the potential final negative notice? Will that happen concurrently?

Hon SUE ELLERY: As I am advised, the short answer is no. We are not proposing to decouple because there still needs to be some time to collect information. What will change in the act is the—what is the correct word that I should use?—lowering of the threshold to issue an interim notice so that it can be on a reasonable likelihood. What we should see as a result of that is more and quicker interim notices. Therefore, it addresses the issue that the honourable member raised, but we are not at the point right now of completely decoupling and doing the two things concurrently, if that assists the member.

Hon NICK GOIRAN: I must say that that response is a little confusing because only yesterday, in question time, the final portion of the minister's answer ends with —

> This would decouple the interim negative notice process from the negative notice process.

This is in the context of talking about the proposed amendments that are before us. Yesterday we were told that the proposed amendments are to decouple, but now the indication is not to decouple.

Hon SUE ELLERY: Honourable member, let us see whether this helps you, because I find myself in the same position as you.

This is the answer to the frequently asked question: what will this change mean in practice? Currently, the act requires that an interim negative notice can be issued only after the CEO has completed an assessment of all available information and formed the position that the person would pose an unacceptable risk of causing harm to children if they were to be committed to carry out child-related work. The person must be issued with a letter proposing to issue a negative notice and the subject of the assessment must be invited to make a submission. The bill proposes to allow the issue of an interim negative notice independently of a proposal to issue a negative notice at any stage of conducting the assessment or reassessment, if a decision is made that there is a reasonable likelihood that a negative notice will be issued to the person.

This will remove the current legislative impediment that a risk assessment of all the available information must be completed and a negative notice is proposed to be issued before an interim negative notice can be issued to the person. By allowing the issue of an interim negative notice independently of a proposal to issue a negative notice, the threshold for when an interim negative notice may be issued will be adjusted to better align with the royal commission's recommendation and the paramount consideration, which is—the point the member made—the best interests of the children.

Hon NICK GOIRAN: Thanks, minister. That helps because it indicates that the change will be twofold, so that is welcome. At the moment, when an interim negative notice is issued, is a letter sent to the applicant seeking their response as to why they should not receive a negative notice?

Hon SUE ELLERY: The act currently provides that an interim negative notice may only be issued together with a proposal to issue a negative notice and an invitation to the applicant to make a submission. What is before us now in the bill will allow the CEO to issue an interim negative notice at any point in the application process.

Hon NICK GOIRAN: That is clearly understood. Just for crystal clarity, the current process is that interim negative notices can be issued. However, as was indicated in question time yesterday, this can be done only after an initial assessment has been undertaken; let us call that part A. Part B is that a letter inviting a submission is sent to an applicant to whom a negative notice is proposed to be given. In other words, at the moment, those two things need to be done before an interim negative notice can be issued. My question is: does that happen concurrently? It might be a difference of a minute or a microsecond; the letter might be posted in the postbox and then, straight after that, the second one—the interim negative notice—might be sent. I do not mind. To me, that is concurrent.

Hon Sue Ellery: Yes.

Hon NICK GOIRAN: Is it done concurrently?

Hon Sue Ellery: By interjection, it is done together, honourable member; they are sent in the one envelope.

Hon NICK GOIRAN: Very good. Moving forward, that will not be necessary. However, will the practice continue to be that when an interim negative notice is issued, the applicant will be invited to make a submission?

Hon SUE ELLERY: No.

Hon NICK GOIRAN: The question of natural justice then kicks in. Why would that be the case? As the Leader of the House said earlier, we need to make sure that there is natural justice for this person. We will hit the pause button and say that they have an interim negative notice, but we will not be asking them for their opinion. Why will we not consult them at that time?

Hon SUE ELLERY: The policy point of this is to make sure that, with the administration and bureaucracy of this process, the perfect does not become the enemy of the good. We want to ensure that the safety of the child is paramount in our processes. The trade-off for that, quite unashamedly, is that the person who receives the interim notice will not, as a matter of mandate, have the opportunity to go through the whole of that submission process as to why a final proposal should or should not be made.

Hon NICK GOIRAN: Once an interim negative notice is issued, we will achieve the goal of making sure that, to the best extent possible, the working with children check system can ensure the safety of children, understanding that it is not a perfect system and it is not intended to be; it is only part of an overall system. Once an interim negative notice has been issued, the system will have done what it can. We would not be endangering children by issuing a letter to the applicant asking for a submission; we would just be starting the natural justice process. I appreciate that it is not mandated under the bill, but it is not clear to me why we would not do that as a matter of course and practice. Is there a reason for choosing not to do that?

Hon SUE ELLERY: The views of and any information that can be provided by the person who will be subject to an interim negative notice will be just part of what will need to be considered in making a final decision about whether to issue a negative notice. A whole lot of other information will need to be checked. Mandating an opportunity for them to provide their views about the interim notice will not necessarily influence the decision about whether to propose that a full negative notice should be issued. A pile of other information will have to be sourced from elsewhere. The policy for this bill has been written in this way in the interests of ensuring that we protect children from a potential risk from someone who has ticked one of the boxes.

Hon NICK GOIRAN: The thing that is curious is that I am not sure what will be lost. What disadvantage would occur if we asked the applicant for a submission at that time? I do not think anything would be lost. What might happen is that the applicant might draw to the attention of the department that it has made a mistake and the reasons that they should not have been issued an interim negative notice, and perhaps even request that it be withdrawn. That would be a good thing. Keep in mind that we have already established that this is the existing practice. At the moment, they are sent concurrently. I agree with the policy decision that it should not be mandatory. In fact, it specifically says at the moment that the interim negative notice can be sent only after the letter is sent to the applicant. I am glad that we are removing that particular barrier. Ordinarily, I would say that there might be an exceptional case, but I would have thought that we might as well continue to do that in the vast majority of circumstances. I do not see what will be lost. Is that a firm decision? Is that just going to be the practice that we will not do that, or is that still subject to further discussion, decision or consultation?

Hon SUE ELLERY: It is a firm policy decision based on the notion that in order to issue an interim notice in the first instance, an assessment will have been done of whatever information has been brought to the attention of the agency. It will not be a random process in which the agency does not like the look of someone so issues them with an interim notice; some assessment will have been done. As I said before, it is a shift to make sure that the perfect does not become the enemy of the good. Nothing will stop a person from contacting the agency and saying that they have received an interim notice and that they need to tell the agency something, but we will not invite them to do that as a matter of course or mandate that they be given that opportunity. This process will not begin with the issuing of an interim notice; some work will have been done before that.

Hon NICK GOIRAN: Let us say that in the opinion of the applicant at least an interim notice has been issued in error. What remedies will be available to the applicant in that situation? The Leader of the House mentioned that they could pick up the phone and speak to the department. Will a range of remedies be available to the applicant to ensure that an interim notice issued in error is retracted?

Hon SUE ELLERY: The current act provides that an interim negative notice is cancelled when either a working with children card or a negative notice is issued. That will not change, honourable member. If someone were to ring up or send an email to the department—or whatever—saying, "You've made a mistake here", inquiries would need to be made to clarify whether in fact an error had occurred. For example, if a person were to say that their criminal record did not include a particular conviction, inquiries would be made with the relevant agencies—police or whomever—to ensure that the correct criminal record was returned. As I said, there is no power under the act

now to cancel a negative notice without the issue of a working with children card or a negative notice, and there is no intention to change that. A final decision would need to be made to issue either a working with children card or a negative notice, meaning the decision-maker must assess all the information and materials to determine whether there is an unacceptable risk that the person could cause harm. Although there may be an error in the information relied upon to issue the interim negative order, there may still be a trigger for assessment and other information on which the CEO may still be satisfied that a negative notice be issued to the person.

Hon NICK GOIRAN: How long does the department have to make the final decision to give a negative notice or issue a card once an interim negative notice has been issued?

Hon SUE ELLERY: The short answer is no; there are no mandated time frames for processing applications and there is no intention for there to be. That is because it will literally depend on the particular circumstances on the criminal record, other history of the applicant as well as the complexity of the application in terms of the searches required to ensure that the applicant does not present as an unacceptable risk. It will also depend on how quickly information can be sourced from external stakeholders.

The annual report includes information about the screening unit's performance against key performance indicators. For example, in 2020–21, the screening unit met its target, with 98 per cent of cards issued within 30 days when the applicant has no criminal record. There is other information there.

Hon NICK GOIRAN: There being no time frame, a Western Australian could be left hanging indefinitely in the interim negative notice phase. Technically, that is possible. The Leader of the House mentioned that one remedy might be for that person to effectively complain—that is my choice of words—to the department. Will any other remedies be available to have an interim negative notice either removed or, alternatively, a substantive final decision made?

Hon SUE ELLERY: If the honourable member is asking whether it will be appealable or reviewable anywhere, the answer is no. Again, I make the point that we are striking a balance between the paramount objective, being the safety of children, and natural justice, leaning on the side of protecting children.

Hon NICK GOIRAN: The Leader of the House said "leaning", but then in this particular instance there would be no natural justice. At the moment, natural justice is guaranteed because when a person gets an interim negative notice, they will also get in the post a letter proposing to issue a negative notice and inviting a submission. This is being decoupled, to use the word used yesterday and today. I do not have a problem with that but it seems inappropriate, unfair, unreasonable and really over the top to have a situation in which a person with an interim negative notice on which no final decision has been made will have no remedy to get a final decision made. Remember, there is no danger to the safety of children in this situation because the person has an interim negative notice and they cannot work. They have identified an error and brought it to the attention of the department. The department says that it is not interested, or it might fail to even respond. It seems unfair, unreasonable and over the top for the person to have no other avenue available to them at that point. Will there be no avenues to the State Administrative Tribunal or the Supreme Court?

Hon SUE ELLERY: That is correct. The honourable member may characterise the two-step process we have been talking about as being over the top; that is not the position the government takes. The member can characterise it that way; the government says that erring on the side of protecting children is the best way to proceed. I cannot respond to the proposition that an agency would not respond. In my experience, agencies generally conduct themselves professionally, but I think the policy point needs to be made. I understand entirely what the honourable member is saying. He characterises it as over the top; I characterise it as the best way to err on the side of protecting children. Ultimately, the capacity to put forward information and challenge decisions occurs in the second part of the process, which is when a proposal to issue a negative notice commences.

Hon NICK GOIRAN: Will the bill remove the right to judicial review in the Supreme Court?

Hon SUE ELLERY: No.

Hon NICK GOIRAN: Therefore, a person could exercise that right as a remedy in the event that they were issued an interim negative notice.

Hon SUE ELLERY: Yes. I am advised that they could go there with regard to an interim negative notice.

Hon NICK GOIRAN: To complete this line of questioning, if a person receives an interim negative notice, they will have two remedies available to them. One is to issue what I have described as a complaint. What I mean by that is that they should communicate with the department, and have the department voluntarily reconsider its decision and give further information. If they are dissatisfied with that, they should apply to the Supreme Court.

Hon SUE ELLERY: Yes.

Hon NICK GOIRAN: It seems that one of the benefits of reforming interim negative notices is that we will see, as the Leader of the House described it, "more and quicker" interim negative notices. Does the Leader of the House have any data on the typical time frame from the issuing of a negative notice? We can then in due course verify whether we are doing them quicker or not.

Hon SUE ELLERY: I probably need to correct my language. I used shorthand to refer to "quicker". In reality, the process will start earlier, so the length and time will be influenced by that, but it will not necessarily be quicker. Can the member remind me of the numbers he was looking for?

Hon Nick Goiran: How quickly are interim negative notices being issued at the moment?

Hon SUE ELLERY: I am advised that the average time frame for the issuing of interim negative notices and negative notices is as follows: negative notice with an interim negative notice in 2019–20 was 34 days to the issuing of the interim negative notice, then 47.3 days from the interim negative notice to the negative notice. The total time for the issuing of the negative notice was 81.4 days. In 2020–21, negative notice with an interim negative notice was 18.2 days to the issuing of the interim negative notice, and 43.9 days from the interim negative notice to the negative notice, so the average time there was 62.1 days. In 2021–22, negative notice with an interim negative notice was 18.1 days to the issuing of the interim negative notice, then 46.4 days from the interim negative notice to the negative notice, so the total average time for the issuing in that year was 64.5 days.

Hon NICK GOIRAN: That is useful and interesting data. In the first year, 2019–20, on average the time it took to issue an interim negative notice was 34 days. We then see a significant reduction in the following two years when it is approximately 18 days in both circumstances. Does anything in particular explain that significant drop? It is a positive thing, but I am trying to understand why that would occur; maybe it is an issue of resourcing.

Hon SUE ELLERY: As a result of the Auditor General's report there was a change in some of the practices and I am advised that there was some additional resourcing as well.

Hon NICK GOIRAN: Speaking of resourcing, is it intended that any resourcing will accompany the bill?

Hon SUE ELLERY: A dollar figure is not being allocated to it. Government is certainly aware that additional funds will be required and it has directed, if you like, the agency to work with Treasury on what that should look like once the bill passes.

Hon NICK GOIRAN: There is an acknowledgement that extra resources will be required.

Hon SUE ELLERY: I will give the honourable member more information. An amount of $4.2 million has already been provided to support the early work that is required to implement the bill. Out of that, $2.4 million was allocated on design, development and rollout of new IT systems, but more money than that will be required. As I said, Communities and Treasury are working together on what that would look like.

Hon NICK GOIRAN: Is it intended that some of those resources be directed to those responsible for issuing interim negative notices, given the comment earlier that it is expected that we will see more of them?

Hon SUE ELLERY: I will put the caveat on this: the dollar amount and a precise model have not been locked down. It is anticipated that much of the additional funds that will be sought and allocated in due course will be on the assessment end, but some will be needed to lift capacity in compliance as well. However, it is anticipated that to address time lines, the bulk of those additional funds will be at the assessment end.

Hon NICK GOIRAN: That is taking me where I wanted to go; it is about the time lines. At the end of the day, the bill before us will not attract more applications. Western Australians will not say, "The Parliament has just passed this bill so I am definitely going to apply for a card." It will unashamedly make it more difficult for a cohort of Western Australians to access a card, but we do not expect more applications as such, so the resourcing that is going into the assessment process is primarily intended to address what we would probably both describe as the timeliness of the issuing of cards, notices and negative notices.

Hon SUE ELLERY: The member is quite right: we do not anticipate more people seeking a working with children card. The member probably has questions around prescribed conduct review findings. It is anticipated that there will be an increased number of assessments and reassessments because the eligibility to be captured by the provisions of a working with children check—the pool of potential inappropriate conduct—will be expanded, so we anticipate there would be more assessments and reassessments, and perhaps also an anticipated increase in the complexity of those assessments.

Hon NICK GOIRAN: This is probably a timely point, speaking of reassessments, to consider the seven Western Australians who currently hold a card who if they did not currently have a card, would be captured by this bill; however, at the end of the day they have one at the moment. As the minister indicated in her reply to the second reading debate, it is not the intention of government that these provisions apply retrospectively. I ask the minister to help me understand: why is it that we know that these seven Western Australians have committed a class 1 or class 2 offence and we as a community are not prepared, and the government is not prepared, to expressly reassess their eligibility for a card?

It seems to me that we have made a decision as a community that if people have committed a class 1 or class 2 offence, they may not necessarily automatically not get a card, but at the very least it will trigger an assessment, a review, and a process—and rightly so. If that is the case for every other Western Australian, why are we not doing that for those seven?

Hon SUE ELLERY: There are a couple of things here. First is the question of retrospectively applying something as a general principle—there is that.

Hon Nick Goiran: That is what we are leaning towards.

Hon SUE ELLERY: I know we are. When the original assessment was done, it was not just ticking the box, "Do you have that conviction?" Depending on the particular circumstance, a range of other factors are taken into account. The criminal record is the trigger, but it is not the only thing taken into account. Once that trigger is pulled, the decision-maker must consider any and all relevant information and is not confined to the circumstances of the applicant's criminal record.

A judgement was made given the assessment and the provisions that applied at the time that took into account historical convictions, spent convictions, non-conviction charges, information relating to disciplinary proceedings despite the outcome, uncharged allegations and disreputable conduct, submissions put forward by the applicant, child protection records, correctional service records, medical and psychological reports, counselling, and other treatment. That information is considered as a whole in addressing the ultimate question of whether there is an acceptable risk that the applicant may cause harm to children. It is not just what conviction applied to those at the time; a broader range of factors are taken into consideration and in this case it was that combination of factors that determined that we should go down the path we are going down now, that an assessment was done at the time that would have canvassed all those options and deemed the person did not pose an unacceptable risk to the child.

Hon NICK GOIRAN: I understand that an assessment was done and that is why a card was issued, and for a time, who knows, it might well be years, these seven Western Australians have been working with children. I understand that the assessment process will have included more than just the criminal record. Moving forward, if someone has committed what is referred to as a class 1 offence—correct me if I am wrong—it will be an automatic negative notice.

Hon Sue Ellery: Correct.

Hon NICK GOIRAN: There will be a very small range of exceptions, such as if the class 1 offence was committed when they were a child rather than as an adult or they managed to obtain a pardon or some other carve-out, it will not necessarily be automatic. Other than in those very limited circumstances, if someone has committed a class 1 offence, they are not getting a working with children check card in Western Australia and we make no apology for it. Have any of the seven committed a class 1 offence?

Hon SUE ELLERY: I think the heart of where the honourable member wants to go is this: at the time the offences that triggered them being considered were not class 1 offences.

Hon Nick Goiran: Yes, I accept that.

Hon SUE ELLERY: If this carve-out was not happening, they would be captured if they were to apply the day after this bill comes into effect. They would be captured because the classification of offence will move from schedule 2 to schedule 1. I understand the point that the honourable member is making about it that on its face, it is contradictory, or however I might characterise the member's comments.

Hon Nick Goiran: Inconsistent, perhaps.

Hon SUE ELLERY: I understand that, but it is a combination of things, such as the proposition about how to deal with retrospectivity and the assessment that was done at the time, which was about not just the class or the nature of the offence, but also all those other things—a combination of those things. That puts us in a position in which a decision has been made and this is how we are going to proceed.

Hon NICK GOIRAN: Let us park the seven for a moment. Let us deal with this first, and I am happy to take this by interjection. How long is a card valid for?

Hon Sue Ellery: Three years.

Hon NICK GOIRAN: If, during that three-year period, the department receives information that concerns it, is it able to use that information, notwithstanding the fact it issued a card to conduct some kind of reassessment?

Hon SUE ELLERY: Two things—currently, the only thing that triggers a reassessment is a new charge or a new conviction. It is not the case that it can be triggered by me ringing up saying, "I think that person's dodgy." It is triggered by a charge or conviction. Under the new legislation, in addition to a new charge, a new conviction and a range of other factors, there will be reportable conduct as well. If, as a result of it putting in place its reportable conduct provisions, an organisation finds something about one of its workers or volunteers, and they do something to offend those provisions, that can trigger a reassessment of the working with children card.

Hon Nick Goiran: Reportable conduct in that situation is considered to be something a little less than a conviction or a charge. It is serious?

Hon SUE ELLERY: Correct.

Hon NICK GOIRAN: The problem then, regarding the seven Western Australians who have got a card at least for part of the next three years, is that under the system we cannot use the old information. We do not want to wait; we do not want them to commit any further offences.

Back to the original question. Of the seven, has any one of them committed an offence that would be considered a class 1 offence once this bill passes?

Hon SUE ELLERY: The answer to the question, "Do they currently have a class 1 offence" is no. I made the point earlier that this legislation will move some offences that under the current act were class 2 into class 1. The member's question, "Have any of these seven committed a class 1 offence" —

Hon Nick Goiran: Once it has moved categories —

Hon SUE ELLERY: Correct. I am advised, no. Hang on; maybe I am not being advised that. We are back at what I said before, honourable member, so scrap what I just said.

Hon Nick Goiran: I don't think there's any deletion opportunities for *Hansard*!

Hon SUE ELLERY: No, but the member knows what I mean. Anyone reading this in future will think, "Goodness me, she's so eloquent in the way she describes this"!

Hon Nick Goiran: It always looks good in *Hansard*, anyway!

Hon SUE ELLERY: Yes, Hansard are fantastic—and I bet that will go in *Hansard*!

The point I was making before I distracted myself was that the convictions are moving from schedule 2 to schedule 1. Those seven people have committed offences that are currently in schedule 2, so we are back where we were a little while ago. The Working with Children (Criminal Record Checking) Amendment Bill 2022 will move those offences into schedule 1.

Hon NICK GOIRAN: Is that the case in respect of all seven of those applicants? To facilitate this moving forward, are we able to get a list of the offences that these seven people have been convicted of?

Hon SUE ELLERY: No, I cannot give the member that. I can tell him that one of the people may fall into the carve-out because the offence that they committed will remain under class 2.

Hon NICK GOIRAN: Can the offences of the seven individuals not be provided because they are not readily available, or is there just not a preparedness to provide them, even in a de-identified fashion, such as "person 1" through to "person 7"?

Hon SUE ELLERY: I am advised that we do not have that information here. To get it would require having to go back in manually and check all the information that is held on criminal convictions, and there is not a preparedness to do that in respect of the amount of time and resources it would take. Obviously some analysis was done to come up with the original number of seven, but to go back and pull all that out is not practical.

Hon NICK GOIRAN: I strenuously disagree with the department's view and government's view on that. I do not think picking up those seven files is asking too much. I actually think that this is an important matter. If I were the Minister for Child Protection, I would want to be personally satisfied that these seven people continue to have working with children checks. Regardless of what decisions have been made in the past, I would want to make sure of that and be briefed on it. That is why I am so troubled about this matter.

Proposed schedule 1 is found under clause 45; in fact, schedules 1 and 2 are to be found there. Schedule 1 runs from page 86 through to page 91. The first class 1 offence under schedule 1 is "Carnal knowledge of an animal", which is a particularly heinous crime. The final one, also heinous, is "Agreement for prostitution of child". A large number of class 1 offences are not being shifted; they are already class 1 offences and they are staying there. Can the Leader of the House identify for the chamber which of the offences found under clause 45 are what I would describe as new class 1 offences—that is, they are the ones we are referring to as being shifted from class 2 to class 1?

Hon SUE ELLERY: Rather than reading out a list, maybe I will table a document headed "Class 1 offences: Comparison between the *Working with Children (Criminal Record Checking) Act 2004* and the Working with Children (Criminal Record Checking) Amendment Bill 2022".

Hon NICK GOIRAN: That definitely would assist our progression of this matter, so if that could be provided at the next available opportunity, it would be appreciated.

Noting we have only a few minutes before we are interrupted for the taking of questions without notice, I have a couple of questions about the statutory review. The Leader of the House will recall that that is one of the three items that form the genesis of the bill before us. Recommendation 2(a) of the statutory review states —

> Consideration is given to prohibiting Negative Notice holders from accessing the parent-volunteer exemption only if adequate mechanisms to monitor compliance and strengthen the promotion of broad child safeguarding strategies can be identified.

What are these adequate mechanisms to monitor compliance and strengthen the promotion of broad child safeguarding strategies?

Hon SUE ELLERY: I might not get through all of this before we finish for question time, but I will give it my best shot.

With regard to mechanisms to monitor compliance, the bill proposes contemporary new powers for monitoring and investigating in proposed part 3B. Child safe standards were set out in the royal commission's 2017 final report and were then developed into the national principles for child safe organisations. The national principles provide a framework for all organisations to embed a child safe culture across their activities. Western Australia is currently focused on capacity building to assist organisations to embed those principles while options for legally requiring implementation are being developed. The Commissioner for Children and Young People promotes and supports the implementation of child safe principles and practices in organisations and has developed a range of child safe resources that align with the national principles. The department is working with other government agencies, the community services sector, peak bodies and other jurisdictions to drive the implementation of the national principles. The Department of the Premier and Cabinet is leading the policy work to develop an independent oversight system that includes the monitoring and enforcement of the national principles.

Committee interrupted, pursuant to standing orders.

[Continued on page 5392.]

QUESTIONS WITHOUT NOTICE

ALBANY HIGHWAY–MENANG DRIVE — INTERCHANGE

1122. Hon Dr STEVE THOMAS to the Leader of the House representing the Minister for Transport:

I refer to the approval given to Main Roads WA to construct the Albany ring-road.

(1) Was the stage 3a location proposal area at the Menang Drive and Albany Highway proposed graded interchange changed between 2019 and 2021?

(2) If yes to (1), what changes were made, and please provide maps of the proposal before and after the changes?

(3) Was the design for ramp 3 at the Menang Drive and Albany Highway proposed graded interchange changed between 2019 and 2021?

(4) If yes to (3), what changes were made, and please provide maps of the proposal before and after the changes?

Hon SUE ELLERY replied:

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

(1)–(4) Changes were made so that Menang Drive passes over the top of Albany Highway instead of underneath. This necessitated appropriate geometric realignments.

MURCHISON HYDROGEN RENEWABLES

1123. Hon Dr STEVE THOMAS to the parliamentary secretary representing the Minister for Mines and Petroleum:

I refer to the media release of 21 December 2021 from the Minister for Hydrogen Industry granting lead agency service status to the Murchison Hydrogen Renewables project on Murchison House station north of Geraldton.

(1) Is the land being sought by the proponents of the Murchison Hydrogen Renewables project on Murchison House station already under any claim or application by any other proponent for any other project?

(2) If yes to (1), what other proposals exist or have been sought?

(3) Does the location contain other mineral or resource deposits?

(4) Has the location been the focus of any action in the Warden's Court?

(5) Have any other proponents been excluded from developing a project on the location in order to give government priority to Murchison Hydrogen Renewables?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question. The following information has been provided to me by the Minister for Mines and Petroleum.

(1) Yes.

(2) In terms of the Mining Act 1978, there are four applications for exploration licences and one application for a mining lease located within the Murchison Hydrogen Renewables project area.

(3) Yes.

(4) Yes. Three of the applications for exploration licences and the application for a mining lease are subject to objections in the Warden's Court.

(5) No.

SVITZER AUSTRALIA — TUG OPERATORS

1124. Hon COLIN de GRUSSA to the Leader of the House representing the Minister for Ports:

I refer to the current proposal by Svitzer Australia to lock out its tug operators at the ports of Fremantle, Bunbury, Geraldton, Kwinana and Albany.

(1) When were each of the ports notified by Svitzer Australia of its proposal to lock out tug operators?

(2) What contingencies, if any, are in place at each of the ports to allow shipping movements to continue in the event of an extended lockout?

(3) Was Svitzer Australia appointed as operator at any Western Australian ports during the time when it was experiencing industrial action; and, if so, which ports and when?

(4) Why is the port of Esperance not affected by the lockout?

Hon SUE ELLERY replied:

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

(1) It was on 14 November 2022.

(2) The Fair Work Commission is currently considering the matter. Port authorities are considering what options are available to them within their port service licence agreements.

(3) Svitzer operates under a non-exclusive licence at Albany, Fremantle and Geraldton ports.

(4) Svitzer does not operate tug services at the port of Esperance.

OFFICE OF DIGITAL GOVERNMENT — CYBERSECURITY UNIT

1125. Hon TJORN SIBMA to the Minister for Innovation and ICT:

I refer to the resourcing of the government's cybersecurity capability and remarks made in the minister's media statement of 25 March 2022.

(1) How many staff comprise the Office of Digital Government's cybersecurity unit presently?

(2) How many staff will eventually comprise "the largest dedicated cyber security team in Western Australia"?

(3) When will the recruitment target be achieved?

Hon STEPHEN DAWSON replied:

(1) There are 39.

(2) There will be 43.

(3) The Office of Digital Government strives to have maximum staffing within the cybersecurity unit at all times and is actively recruiting in a very competitive labour market.

WAYNE VALENTA — RESOCIALISATION PROGRAM

1126. Hon NICK GOIRAN to the parliamentary secretary representing the Attorney General:

I refer to the response to my question without notice asked on 9 November 2021 in which the Attorney General acknowledged that he was aware of opposition to the recommendation that Wayne Valenta be approved for a resocialisation program, given his violent murder of Deborah Boyd after hiding under her 15-year-old daughter's bed for three hours.

(1) What decision did the Attorney General make?

(2) When was it made?

(3) Will the parliamentary secretary table the most recent briefing note or similar document that the Attorney General has received about Mr Valenta in either an unredacted or redacted form?

(4) If no to (3), will he undertake to comply with section 82 of the Financial Management Act 2006?

Hon MATTHEW SWINBOURN replied:

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

It is not possible to provide the member with a response within the time available and I ask that he place this question on notice.

HEALTH — CHILD HEALTH CHECKS PILOT

1127. Hon DONNA FARAGHER to the Leader of the House representing the Minister for Health:

I refer to the answer provided to question without notice 1110 asked yesterday and the statement —

> The Child and Adolescent Health Service is currently working through the operational recommendations relating to the evaluation of the child health checks pilot.

Will the minister list these operational recommendations?

Hon SUE ELLERY replied:

Honourable member, I do not appear to have an answer to that question in my file. The member will appreciate that I have been at the table, so I do not know whether one has just gone into the wrong spot.

Several members interjected.

The PRESIDENT: Order!

Hon SUE ELLERY: I am sure someone from my office is watching and if it comes in before the end of question time, I will provide it to the member.

Hon PETER COLLIER: President? That was pretty good. Thank you, President.

The PRESIDENT: Actually, member, I have not given you the call yet. I will when you stop laughing. Hon Peter Collier.

BANKSIA HILL DETENTION CENTRE — STAFF

1128. Hon PETER COLLIER to the parliamentary secretary representing the Minister for Corrective Services:

(1) What is the current allocated FTE staffing level at Banksia Hill Detention Centre?

(2) What is the actual FTE staffing level at Banksia Hill Detention Centre?

(3) How many staff have resigned from Banksia Hill Detention Centre in 2022?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question.

The Minister for Corrective Services advises that an answer to this question is unable to be prepared in the limited time available today. The minister will seek to provide an answer on 23 November 2022.

YOUTH DETENTION — RIP-PROOF VESTS AND GOWNS

1129. Hon Dr BRAD PETTITT to the parliamentary secretary representing the Minister for Corrective Services:

I refer to the use of rip-proof vests or gowns in youth detention.

(1) On how many occasions has a rip-proof vest or gown been used at Banksia Hill Detention Centre and unit 18 respectively this year?

(2) What is the longest amount of time a child or young person has been left wearing a rip-proof vest or gown at Banksia Hill Detention Centre and unit 18 respectively this year?

(3) What is the protocol that needs to be followed for the removal of a rip-proof vest or gown on a child or young person in youth detention?

Hon MATTHEW SWINBOURN replied:

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

(1) The reporting of the provision of rip-proof clothing to young people is not captured by the department.

(2) The reporting of the time a young person is provided rip-proof clothing is not captured by the department.

(3) Young people who present with non-suicidal self-injury or suicidal behaviour are managed in line with the department's at-risk management system for youth, or ARMS. All young people under ARMS remain in their regular clothing when possible. Only in exceptional and rare circumstances in which a young person cannot be prevented from engaging in suicidal behaviour may it prove necessary to provide them with tear-proof clothing. The method of suicidal behaviour is considered prior to determining the need for tear-proof clothing. To this end, tear-proof clothing is indicated only when a young person is attempting self-strangulation using materials such as that from clothing. Young people remain in tear-proof clothing only for the minimum period required, until they have stabilised. The decision to place a young person in tear-proof clothing needs to be with the authorisation of the superintendent. The decision to then place a young person back in regular clothing can be made only by the superintendent or the at-risk assessment group.

GOVERNMENT REGIONAL OFFICERS' HOUSING — BROOME

1130. Hon WILSON TUCKER to the Leader of the House representing the Minister for Housing:

Can the minister please provide updated figures for the current Government Regional Officers' Housing stock in Broome and the number of allocated and unallocated vacant GROH properties in Broome broken down by vacancy periods of three to six months, six to 12 months and 12-plus months?

Hon SUE ELLERY replied:

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

Government Regional Officers' Housing, or GROH, properties are provided to client agencies, which then determine the allocation of properties to their employees, not the Department of Communities. As at 31 October 2022, there were 413 GROH properties in Broome. Of these properties, 30 were vacant and allocated to client agencies, and two were unallocated. These two properties have since been allocated to a client agency. All vacant GROH properties in Broome have been vacant for less than three months. It is not uncommon that client agencies may have allocated vacant properties to enable them to recruit and deploy suitable employees, including health staff, teachers and police.

INDUSTRIAL HEMP

1131. Hon SOPHIA MOERMOND to the Minister for Agriculture and Food:

I refer to industrial hemp licences issued by the Department of Primary Industries and Regional Development.

(1) How many industrial hemp licences issued by DPIRD are current?

(2) How many of those licence holders are currently growing industrial hemp crops?

Hon DARREN WEST replied:

I thank the honourable member for some notice of the question. On behalf of the Minister for Agriculture and Food, I provide the following answer, which was accurate on Thursday, 27 October 2022 when this question was submitted.

(1) There are 69.

(2) In 2021–22, there were 26 licensees cultivating industrial hemp crops. It is very early in the 2022–23 season, and so far the Department of Primary Industries and Regional Development has received five notifications of planting.

POLICE — SPIT HOODS

1132. Hon Dr BRIAN WALKER to the minister representing the Minister for Police:

I refer the minister to the answer I received to my question without notice 1058, asked on 26 October 2022, regarding the continued use of spit hoods by the Western Australia Police Force, and I hope for some clarification.

(1) What alternatives have been ruled out as replacements for spit hoods in the Perth watch house, and why were they deemed inappropriate in each case?

(2) Is the minister aware that other Australian jurisdictions have accepted officer-worn personal protective equipment, specifically visors, as a practical and viable alternative; and, have visors been considered here; and, if visors are unviable here in Perth, what makes the Perth watch house different from watch houses in Adelaide, Brisbane and Darwin?

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 —

(1) As of 16 November 2022, no PPE alternatives have been ruled out or considered for replacement. At this time, the spit hood provides the most considered protection to both custodial officers and detainees, allowing the detainee to see and breathe freely through the material.

(2) Please refer to answer provided in (1).

EMERGENCY SERVICES — STATE RISK PROJECT

1133. Hon MARTIN ALDRIDGE to the Minister for Emergency Services:

I refer to Legislative Council question without notice 746 and question on notice 904 regarding the state risk report.

(1) On what date was the state risk report finalised?

(2) On what date was the minister provided a copy of the report?

(3) On what date was the State Emergency Management Committee provided a copy of the report?

(4) Will the minister please table the state risk report?

Hon STEPHEN DAWSON replied:

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

(1)–(4) The state risk report is still under consideration.

The PRESIDENT: I call Hon Brian Thomson.

Hon NEIL THOMSON: Hon Neil Thomson. Thank you, President.

The PRESIDENT: Sorry. I knew who I meant!

WESTERN AUSTRALIAN PLANNING COMMISSION — SUBCOMMITTEES

1134. Hon NEIL THOMSON to the Leader of the House representing the Minister for Planning:

I refer to question without notice 1117, asked yesterday, 15 November 2022, and to the Department of Planning, Lands and Heritage website, as of 15 November, listing the membership of the Capital City Planning Committee.

(1) How many times has this committee met in the calendar year 2022 to date?

(2) If this committee has been wound up, when did it last meet?

Hon SUE ELLERY replied:

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

(1)–(2) The committee last met in November 2021. The committee is next expected to meet in March 2023.

SOCIAL HOUSING — SHIRE OF DENMARK

1135. Hon Dr STEVE THOMAS to the Leader of the House representing the Minister for Housing:

(1) How many units of social housing exist in the Shire of Denmark in the following categories —

(a) one-bedroom units;

(b) two-bedroom units; and

(c) more than two-bedroom units?

(2) How many units in each of those categories are currently available to be rented?

(3) How many units in each of those categories are currently rented?

Hon SUE ELLERY replied:

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

(1) The social housing stock in the Shire of Denmark as at 31 October 2022 is in tabular form. I seek leave to have the response incorporated into *Hansard*.

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

Property Type	Total Social Housing Stock	Public Housing Occupied or other use	Public Housing Vacancies
One-bedroom	42	13	0
Two-bedroom	53	30	1
Three-bedroom+	41	37	1

*Total social housing stock includes community housing managed properties.

(2)–(3) Vacancy numbers are always a single-point-in-time number that fluctuates for a range of reasons. Properties may be awaiting acceptance of offers from applicants, undergoing minor maintenance repairs or refurbishment prior to new occupants moving in, or undergoing major refurbishment as part of a redevelopment. Vacancy information for community housing is unavailable as these properties are managed by external organisations.

CAGED EGG PRODUCTION

1136. Hon COLIN de GRUSSA to the Minister for Agriculture and Food:

I refer to the Australian Animal Welfare Standards and Guidelines for Poultry.

(1) What consultation has occurred with Western Australian egg producers on how the standards will be incorporated into the state government's proposed animal welfare legislation and regulations?

(2) Has an economic impact assessment on the effect of the standards, as proposed, on Western Australian egg producers been undertaken by the state government?

(3) If yes to (2), will the minister please table a copy of that assessment; and, if no to (2), when will an economic impact assessment be completed?

Hon DARREN WEST replied:

I thank the honourable member for some notice of the question. On behalf of the Minister for Agriculture and Food, I provide the following "egg-cellent" answer!

(1)–(3) National standards are incorporated into state animal welfare legislation as regulations. This was made possible by amendments in 2018 to the Animal Welfare Act 2002, and a number of national standards are now enshrined as regulations. Any regulations would be drafted in consultation with the industry. The

development of the proposed poultry standards followed an extensive process of stakeholder consultation over a seven-year period. The Department of Primary Industries and Regional Development has recently completed an assessment of the egg industry in Western Australia to determine the scale of industry impacts arising from the changes to the animal welfare arrangements proposed by the standards.

I am advised that of the 64 businesses producing eggs in Western Australia only five have caged egg laying hens, which makes up 26 per cent of the egg laying flock. Of those five businesses, two have indicated they already have a transition strategy away from cages; one is predominantly enriched cages; and, at most, only two have established new caged egg infrastructure since 2011.

The overwhelming majority of cages currently in operation will be well in excess of the 20-year life span specified under the existing state code of practice when the phase-out begins in 2032.

MANDURAH RAIL LINE — AUBIN GROVE–ELIZABETH QUAY CLOSURE

1137. Hon TJORN SIBMA to the Leader of the House representing the Minister for Transport:

I refer to the planned shutdown of the Aubin Grove to Elizabeth Quay section of the Mandurah line between 26 December and 3 January.

(1) What other shutdown periods were considered?

(2) How is the selected shutdown period the least disruptive of the other options?

Hon SUE ELLERY replied:

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

(1) For larger scale closures, periods of lower patronage on the train network are considered, such as public holidays and school holiday periods.

(2) The Christmas–New Year period remains the quietest for both train and road users. During this period more people are on leave from work and school, and university students are on holidays. Additionally, many businesses wind down or close. This period minimises the impact on the community.

CASE LOAD MANAGEMENT REPORTS

1138. Hon NICK GOIRAN to the Leader of the House representing the Minister for Child Protection:

I refer to the point-in-time case load management reporting that is run on the first Friday of every month.

(1) When was the minister first informed of the technical issue with the report to be run on 7 October?

(2) Who informed the minister?

(3) Was the minister informed in writing?

(4) If yes to (3), will the minister table that document?

Hon SUE ELLERY replied:

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

(1)–(4) The Department of Communities informed the minister via the response to parliamentary question without notice 917.

COMMUNITY CHILD HEALTH PROGRAM

1139. Hon DONNA FARAGHER to the Leader of the House representing the Minister for Health:

I refer to the Department of Health's community child health program.

In the 2021–22 financial year, how many eligible children in the Perth metropolitan area received a child health check by number and by percentage, across the following categories —

(a) zero to 14 days;

(b) eight weeks;

(c) four months;

(d) 12 months; and

(e) two years?

Hon SUE ELLERY replied:

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

(a)–(e) The Child and Adolescent Health Service continues to engage directly with families to encourage uptake of child health checks. The information requested is provided in tabular form.

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

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

Contact Type	Number of Children Receiving Child Health Check	Number of Eligible Children	% of Eligible Children Receiving Child Health Check
0-14 days	25,888	26,404	98%
8 weeks	23,778	26,555	90%
4 months	22,871	27,015	85%
12 months	11,506	26,581	43%
2 years	8,431	26,064	32%

POLICE — RECRUITMENT

1140. Hon PETER COLLIER to the minister representing the Minister for Police:

(1) How many complaints have been made against recruitment training staff in 2022 to date?

(2) How many of the complaints have been substantiated?

Hon STEPHEN DAWSON replied:

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

A response to these questions cannot be provided within the required time frame. The honourable member may wish to place these questions on notice.

HEALTH — PROGRAM TENDER PROCESS

1141. Hon Dr BRAD PETTITT to the Leader of the House representing the Minister for Health:

I refer the minister to the recent tender process entered into by the Department of Health for the family-based early intervention for childhood obesity program.

(1) How many tenders were received?

(2) Of that total, how many were from organisations based in Western Australia, and how many from interstate?

(3) Was any weighting given to local Western Australian–based tenders, on the basis that these would be of additional economic value to the state?

(4) For the period of the contract, how much money is the state government currently sending interstate to deliver that program across Western Australia?

Hon SUE ELLERY replied:

(l)–(4) Procurement for the family-based early intervention for child obesity program was conducted by the Department of Health through a competitive open-tender process in accordance with the Western Australian government's delivering community services in partnership policy. Although there is an intent to support Western Australian organisations, tender evaluation panels are also required to focus on value-for-money considerations. The nature of tenders received through a community services procurement process is that tenders remain strictly confidential and details of the offers received cannot be disclosed. Importantly, the successful respondent is contributing to local employment within Western Australia and engaging local suppliers to contribute to service delivery.

CORONAVIRUS — RESPONSE REVIEW

1142. Hon WILSON TUCKER to the Leader of the House representing the Premier:

I refer to a government media statement, published on 31 October, announcing "an independent review of WA's response and management of the COVID-19 pandemic". Can the Premier please confirm —

(a) who will undertake this review;

(b) what will the terms of reference be; and

(c) will this review include the amendments contained within the Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022?

Hon SUE ELLERY replied:

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

(a)–(c) The McGowan government will commission an independent review of Western Australia's response to and management of the COVID-19 pandemic. The independent review will ensure

preparedness for future pandemics by considering programs and structures that performed effectively and identifying any areas for continuous improvement. Further details of the review, including its terms of reference and membership, will be finalised before the end of the year.

HEALTH — PROGRAM TENDER PROCESS

1143. Hon Dr BRIAN WALKER to the Leader of the House representing the Minister for Health:

My question is very similarly worded to Hon Dr Brad Pettitt's. I refer the minister to the 2021 tender process entered into by the Department of Health for the whole of school healthy eating program.

(1) How many tenders were received?

(2) Of that total, how many were from organisations based in Western Australia, and how many from interstate?

(3) Was any weighting given to local Western Australia–based tenders, on the basis that these would be of additional economic value to the state?

(4) For the period of the contract, how much money is the government currently sending interstate to deliver this program across Western Australian schools?

Hon SUE ELLERY replied:

It is exactly the same question. People need to coordinate themselves a little bit when they make promises to people to ask questions.

I thank the honourable member for some notice of the question, and the answer is exactly the same one that I gave to the question asked in exactly the same terms by Hon Dr Brad Pettitt about five minutes ago.

(1)–(4) Procurement for the whole of school healthy eating program was conducted by the Department of Health through a competitive, open-tender process in accordance with the Western Australian government's delivering community services in partnership policy. Although there is an intent to support Western Australian organisations, tender evaluation panels are also required to focus on value-for-money considerations. The nature of tenders received through a community services procurement process is that tenders remain strictly confidential and details of the offers received cannot be disclosed. Importantly, the successful respondent is contributing to local employment within Western Australia and engaging local suppliers to contribute to service delivery.

EMERGENCY SERVICES — STAFF

1144. Hon MARTIN ALDRIDGE to the Minister for Emergency Services:

I refer to the job vacancies for Department of Fire and Emergency Services mechanical technicians and auto-electricians that were listed on the department's careers webpage on 2 and 3 February, respectively, and remain open for applications.

(1) For each role —

(a) What is the total number, by FTE, that DFES requires?

(b) What is the total number, by FTE, presently employed by DFES?

(2) Noting the state government is providing incentives of up to $17 000 to attract more teachers to harder-to-fill locations, will DFES also offer financial incentives to attract staff to these important roles?

Hon STEPHEN DAWSON replied:

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

(1)–(2) Currently, a team of five mechanical technicians and auto-electricians is directly employed at DFES. This team works in partnership with a network of contractors and suppliers that provides support across the state for DFES's fleet of appliances. DFES mechanical technicians and auto-electricians have an exciting career working on urban pumpers, light and heavy tankers, rescue and incident-control vehicles, and our logistic and aerial appliances.

There is a high demand for skilled labour across Western Australia and the nation. DFES is running an active recruitment campaign to attract another six of these highly skilled and valued workers. DFES currently pays an attraction and retention incentive, above the provisions contained in the relevant award and enterprise agreements. DFES also offers flexibility to join as a mechanical or auto-technician on a casual or part-time basis, in addition to full-time and regular employment.

I urge honourable members in this place to, if they know of anyone who wants to take one of these jobs, please let them know about them.

SOCIAL HOUSING — REGIONS

1145. Hon NEIL THOMSON to the Leader of the House representing the Minister for Housing:

(1) From March 1997 to the financial year ending 30 June 2022, how many new social houses, not including refurbishments of existing housing, have been constructed by the Housing Authority and Department of Communities in the following electoral regions —

(a) Kimberley;

(b) Pilbara;

(c) North West Central; and

(d) Kalgoorlie?

(2) For (a)–(d), listed against each electorate, how many of those were constructed in the financial year 2021–22?

(3) For the same period as (1), how many new spot-purchases have been made of existing houses for social housing for each region listed?

(4) For the same period as (2), how many new spot-purchases have been made for the purposes of social housing?

Hon STEPHEN DAWSON replied:

I answer on behalf of the Leader of the House. President, you would have noted that was a very detailed question. As a result, providing information is not possible in the time required, and I therefore ask the honourable member to place this question on notice.

FORESTRY — INDUSTRY SUPPORT

1146. Hon Dr STEVE THOMAS to the minister representing the Minister for Forestry:

I refer to the Minister for Forestry's media statement of 2 November 2022 announcing applications for a small business development and diversification program opened on 4 November 2022 and will close on 31 January 2023.

(1) What is the projected processing time frame from the lodgement of an application to the payment of a grant to the affected forestry-reliant businesses?

(2) Who determined the assessment weighting of 30 per cent for creating new or protecting existing jobs in the assessment criteria eligibility for funding, and how was this figure arrived at?

(3) What immediate financial support will the government provide to forestry-reliant businesses currently at breaking point and at direct risk of failing?

Hon DARREN WEST replied:

I thank the honourable member for some notice of the question. I provide the following answer on behalf of the Minister for Regional Development representing the Minister for Forestry.

(1) Payments will be made within approximately six to 12 weeks of the grants closing.

(2)–(3) The McGowan government is committed to ensuring a just transition for workers, businesses and communities that will be transitioning out of the native timber industry.

Since the announcement, the government has provided $80 million in funding for three support programs to support those affected. This includes $19.3 million to support workers, $26.9 million for businesses with current Forest Products Commission contracts and a $30 million industry and community development program.

The small business and development program is the first part of the $30 million industry and community development programs that were developed in consultation with the native forest transition group.

The assessment criteria were established by government and demonstrate the importance it places on maintaining jobs in the regions and ensuring money goes to those who have been most affected by the decision. The criteria include 40 per cent weighting to businesses that do not have a Forest Products Commission contract but can demonstrate an impact from the end of native logging, 30 per cent to creating new or protecting existing jobs, and 30 per cent for demonstrated alignment with the small business development program objectives designed by the native forest transition group.

TAYLOR STREET JETTY, ESPERANCE

1147. Hon COLIN de GRUSSA to the Leader of the House representing the Minister for Ports:

I refer to the Taylor Street jetty facility in Esperance, which is currently used by commercial tour operators and holds significant heritage and amenity value to the Esperance community.

(1) I understand that the Southern Ports Authority has decided to close the facility permanently. Is this correct?

(2) If the answer to (1) is yes, what community consultation was undertaken by the Southern Ports Authority prior to making its decision?

(3) If the answer to (1) is no, are there any plans to close the facility permanently?

Hon SUE ELLERY replied:

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

(1) No.

(2) Not applicable.

(3) The facility is coming to the end of its design life. The state government will work with local stakeholders to assess options for the future of this community facility.

AIRPORT RAIL LINE — FARE

1148. Hon TJORN SIBMA to the minister representing the Treasurer:

This is question 1144 from 26 October.

I refer to fare subsidisation on the Perth metropolitan rail service.

(1) Has any work been undertaken by Treasury since the state budget on calculating the level of subsidisation required to operate the passenger service on the Forrestfield–Airport Link?

(2) If so, what are these calculations?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. This answer was current as at 26 October.

(1) No.

(2) Not applicable.

CHILDREN IN CARE — WHEREABOUTS UNKNOWN

1149. Hon NICK GOIRAN to the minister representing the Minister for Police:

I refer to the answer to question without notice 1067 answered on 27 October 2022. Do WA police continue to search for a child in the care of the CEO of the Department of Communities when informed by the department that the child's status has changed from a placement type of missing person to "unknown—in contact"?

Hon STEPHEN DAWSON replied:

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 that the terms "missing child" and "unknown—in contact" are used by the Department of Communities and are not used by the WA Police Force. All absconders from the care of the Department of Child Protection and Family Services—that is an outdated name; it is the Department of Communities—will be classed as either high risk or low risk. If high risk, police will remain in regular contact with the department or Crisis Care after hours, which will conduct active inquiries to locate the child. Police resources are to be allocated as circumstances dictate. If low risk, the WA Police Force district operations supervisor, or the local supervisor or officer in charge, will be responsible for reviewing the risk assessment; however, no further police action is required. The department will be responsible for making further inquiries to locate the child. The WA Police Force does not need to physically sight absconders if the child returns unharmed, there are no allegations of criminality, and the child has been sighted by departmental staff. Investigative responsibility rests with the assigned responsible police district.

FIRE AND EMERGENCY SERVICES — MEDIA AND CORPORATE COMMUNICATIONS

1150. Hon MARTIN ALDRIDGE to the Minister for Emergency Services:

I refer to the Department of Fire and Emergency Services' media and corporate communications function.

(1) How many staff are engaged in that function?

(2) For each position identified in (1), can the minister please provide the position title and employment classification?

(3) For each position identified in (1), can the minister please detail those positions that are not permanently filled and the last date each position was filled?

Hon STEPHEN DAWSON replied:

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

(1)–(3) As per the answer provided to Legislative Council question on notice 924, each year the Public Sector Commission publishes a state of the Western Australian government sector workforce statistical bulletin. The bulletin provides a detailed breakdown of the government sector workforce, including occupational profiles by Australian and New Zealand Standard Classification of Occupations groups and occupational groups by entity. The bulletin for the 2021–22 financial year is expected to be published in November 2022.

ST JOHN AMBULANCE — SERVICE DELIVERY

Question without Notice 1093 — Answer

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.04 pm]: I would like to provide an answer to Hon Dr Steve Thomas's question without notice 1093, which I seek leave to have incorporated into *Hansard*.

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

I ask the Honourable Member to place their Question on Notice.

INSURANCE COMMISSION — OUT-OF-HOME CARE AND HOMELESSNESS COVER

Question on Notice 1022 — Correction of Answer

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.04 pm]: I have a correction to an answer given to question on notice 1022 asked by Hon Nick Goiran to me, the Leader of the House, representing the Minister for Community Services. I table the answer with the attached briefing notes, which were omitted from the answer provided yesterday. I apologise to the house for the error.

[See paper 1839.]

MINISTER FOR HOUSING — REGEN STRATEGIC — CONTACT
MINISTER FOR HOUSING — STAFF — GIFTS AND HOSPITALITY
LANDS — DEVELOPMENT COMMISSIONS

Questions on Notice 977, 996 and 1007 — Answer Advice

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.04 pm]: Pursuant to standing order 108(2), I wish to inform the house that the answers to questions on notice 977 and 996 asked by Hon Tjorn Sibma on 11 October to me representing the Minister for Housing; Lands; Homelessness; Local Government, and to question on notice 1007 asked by Hon Dr Steve Thomas on 12 October to me representing the Minister for Lands will be provided on 17 November 2022.

FIRE AND EMERGENCY SERVICES — 000 CALLS

Question without Notice 1116 — Answer

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [5.05 pm]: I would like to provide an answer to Hon Martin Aldridge's question without notice 1116 asked yesterday, which I seek leave to have incorporated into *Hansard*.

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

Answer

(1) 33,151 calls. This includes multiple calls for the same incident.

(2) 20 seconds.

(3) 93% of calls were answered within the target timeframe.

WESTERN POWER — SUPPLY ALLOCATION

Question without Notice 1094 — Answer

HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary) [5.05 pm]: I would like to provide an answer to Hon Dr Steve Thomas's question without notice 1094, and I seek leave for that answer to be incorporated into *Hansard*.

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

Answer

(1) Electrical contractor are required to ensure any works or modifications to a residential or commercial premise meet the requirements of the WA Service and Installation Requirements (WASIR) and relevant Australian Standards.

Information on the number of residential and commercial premises who have installed 32 amp main switch circuit breakers is held by the customers' electrical contractor. Electrical Contractors are not required to notify Western Power when minor works to existing properties are completed.

(2) There has been no reduction to the rural supply allocation for rural homes and business outside the trial area post February 2022 as a result of changes to the WA Service and installation requirements or the Embedded generation requirements

YOUTH DETENTION — SELECT COMMITTEE

Question without Notice 1103 — Answer

HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary) [5.05 pm]: I would like to provide an answer to Hon Dr Brian Walker's question without notice 1103, which I also seek leave to have incorporated into *Hansard*.

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

Answer

(1)–(3) No. The Premier and Minister for Corrective Services will be meeting with key stakeholders in youth justice to listen to them regarding practical solutions. They will include the Commissioner for Children and Young People, the Inspector of Custodial Services, and Fiona Stanley of the Telethon Kids Institute.

WORKING WITH CHILDREN (CRIMINAL RECORD CHECKING) AMENDMENT BILL 2022

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Dr Brian Walker) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

Clause 1: Short title —

Committee was interrupted after the clause had been partly considered.

Hon SUE ELLERY: I think I need to formally table a document that I referred to prior to the chamber going into question time. I understand that it has been circulated but I need to formally table it, so I do that now.

[See paper 1840.]

Hon NICK GOIRAN: This table is useful, but it perhaps hides the concern I had earlier. The Leader of the House will recall that one concern I have is about why we will allow the seven Western Australians who currently hold a working with children check card to continue to do so notwithstanding the passage of this bill and the fact that their offences, which were considered to be class 2 offences, will now be categorised as class 1 offences. Because of the lack of retrospectivity in this instance, they will be shielded and protected from the mandatory negative notice that would otherwise be issued in their case. The document that has been tabled helpfully sets out which of the offences are being shifted from, for example, class 2 to class 1. There are some other examples, including ones referred to as class 3 offences. If I take the very first example, with some degree of regret, it refers to carnal knowledge of an animal. Under the current Working with Children (Criminal Record Checking) Act 2004, this heinous offence is considered to be a class 2 offence. Thankfully, under the bill before us, it will be considered to be a class 1 offence. I imagine that there would be no dissent from any member that a person who has been convicted of carnal knowledge of an animal is entirely unsuited to be working with a child. Under the provisions of this bill, they will receive an automatic negative notice. I question why we would not apply that same standard to these seven people. Earlier I asked whether the opposition could be provided with a list of the offences committed by the seven people. From memory, the response was that it would require some time to manually review that information. Is the Leader of the House in a position to indicate, to satisfy the minds of members in the chamber at least, that none of the seven have transgressed section 181 of the Criminal Code?

Hon SUE ELLERY: I understand that the honourable member is going to work his way through the list, but as I have not had the opportunity to talk to the advisers because we had question time, can we park this line of questioning? I will check with the advisers whether I need to say anything different from what I have said before and I will see whether we can provide an answer that is more satisfactory. On the policy question, we might not agree, honourable member. I will check what I can provide. I suspect I will not be able to do that before we rise tonight, but I anticipate we will still be dealing with this bill tomorrow.

Hon NICK GOIRAN: That is an excellent suggestion by the Leader of the House. There is simply no prospect that we will complete the passage of this bill in the next hour and 10 minutes before we are interrupted for the taking of member's statements.

As I mentioned in my contribution to the second reading debate, this is a significant area of concern to me. I reiterate that the opposition supports the passage of the bill, but we remain concerned that these seven Western Australians will be shielded as a result of the transitional provisions. Although some explanation has been provided, I urge the government, as it considers this matter over the break, to either reconsider its position or at the very least for the Leader of the House to come back to the chamber tomorrow in a position to say that the minister understands the point being made but is nevertheless satisfied that there need not be any concern in the instance of each of these seven Western Australians. That is all we really want. We want somebody with authority to expressly turn their mind to these things. I would like to think that there would be no dispute if it were section 181 of the Criminal Code. I do not even understand why this person had a card approved in the first place, but it is, of course, just a hypothetical example, given the large list of matters. I thank the Leader of the House for taking that question on notice and we will resume that line of questioning tomorrow.

I return to the statutory review, which is one of the three elements that formed the genesis of the matter presently before us. Prior to the interruption for the taking of questions without notice, we were looking at recommendation 2 and in particular what are described as the "adequate mechanisms to monitor compliance". A response was provided. Recommendation 2(b) reads —

> Consideration is given to whether persons with reporting obligations under the Community Protection (Offender Reporting) Act 2004 should be precluded from accessing the parent volunteer exemption under the Act.

Will this bill give effect to recommendation 2(b)?

Hon SUE ELLERY: I am advised no.

Hon NICK GOIRAN: In which case, if somebody were to receive a negative notice, would they continue to be able to access the parent volunteer exemption?

Hon SUE ELLERY: I think the honourable member has put recommendations 2(a) and (b) together. My answer was on recommendation 2(b). Recommendation 2(a) relates to parent volunteers and 2(b) is around the Community Protection (Offender Reporting) Act.

Hon NICK GOIRAN: I thank the Leader of the House for that correction; that is quite right. Why are we not dealing with recommendation 2(b) at this time?

Hon SUE ELLERY: I am advised that some work still needs to be done in the Western Australia Police Force on the Community Protection (Offender Reporting) Act 2004. I am advised that we are not in a position to progress until that work has been done. I do not have police advisers here so I am not sure that I can tell the honourable member much more than that. That is what I understand is the case.

Hon NICK GOIRAN: Would the type of person who would be under a reporting obligation under the Community Protection (Offender Reporting) Act 2004 have committed a class 1 or 2 offence?

Hon SUE ELLERY: The advisers are looking at that now. I am not sure, with the advisers I have here now, that I will be able to answer that question, and I do not have the Community Protection (Offender Reporting) Act 2004 in my file. We will take that on notice. If we can give the honourable member an answer, we will do it tomorrow.

Hon NICK GOIRAN: It will be interesting to see the extent to which there is a divergence between people who have reporting obligations under the Community Protection (Offender Reporting) Act 2004 and those persons who will be captured under what will now be class 1 and 2 offences. One would hope that there is no divergence, that all those matters have been covered and there is no gap. In which case, certainly in the case of class 1 offences, moving forward people will automatically receive a negative notice. That said, irrespective of the outcome on those with reporting obligations, I understand it will be the case moving forward that negative notice holders will be able to access the parent volunteer exemption.

Hon SUE ELLERY: Clause 6 proposes to amend section 6 of the Working with Children (Criminal Checking) Act so that the regulations may qualify that a particular class of persons cannot access certain exemptions from child-related work provided for in that act or the regulations. Initially, it is intended to prohibit persons with a current interim negative notice or negative notice from accessing the child volunteer exemption in the act or the parent volunteer exemptions in the regulations. Additional classes of persons may be considered for additional prescription over time.

Hon NICK GOIRAN: We might pick that up further at clause 6. Members might recall that one of the concerns I raised in my contribution to the second reading debate was about the handling of data. Indeed, the Leader of the House might have said that it is already the case that WA has been onboarded to the national scheme. That is the working with children national referencing system. What work has been done to ensure that the provisions in this bill are consistent with the commonwealth Privacy Act 1998, which regulates how personal information is handled by an organisation? The Privacy Act includes 13 Australian privacy principles, setting out the standards, rights and obligations for the handling, holding, use, accessing and collection of personal information. I hasten to add that I am not suggesting that the government is captured by the commonwealth Privacy Act 1998. Nevertheless, I am asking to what extent the bill is consistent with it.

Hon SUE ELLERY: I am advised that no analysis has been done to compare or measure whether there is consistency.

Hon NICK GOIRAN: I will make an observation at this point in time that this goes to the heart of the concern that was raised in the second reading debate—that is, whether the McGowan government is prepared for enhanced information-sharing. It was helpful to hear from the minister during the reply to the second reading debate that Western Australia is already contributing to and engaging with the working with children national referencing system, but are we prepared for that, particularly with respect to the recent spate of data integrity breaches and the like? If no analysis on that has been done, I respectfully suggest that that piece of work still needs to occur so that the government is adequately prepared in the event of a data breach.

Moving to the next line of questions, will children who are residing in care, for example, in a group home or in the care of an authorised foster carer, be subject to a working with children check once they turn 18 years of age in order to continue living with the other children?

Hon SUE ELLERY: I am advised that as a matter of policy that is currently required. As to whether it is mandated, that is part of the work to be considered in phase 2 of all the recommendations that drove this legislation.

Hon NICK GOIRAN: Nevertheless, it is the current practice and there is no obvious intention to change that practice. As the minister says, the mandating is a matter for phase 2.

Once the act commences, will it apply to persons who have made an application for a working with children check and their application is still pending?

Hon SUE ELLERY: I am advised that pending applications will be captured under the provisions that were in place at the time that they made their application. The change will not happen. It will be for those applications that are captured under the transitional provisions. Anyone making a new application will be dealt with under the new provisions.

Hon NICK GOIRAN: A question then is: why are we doing that? I think the minister indicated in her second reading speech that some work needed to be done on regulations and that might take three to six months. Let us say this bill passes this week, it seems that there will be a three to six-month window of opportunity for people to put in their applications who would otherwise not be eligible. For example, a person who has committed what will soon be described as a class 1 offence will be able to—I will use the word—sneak their application in during this three to six-month window. Why we allowing that to happen?

Hon SUE ELLERY: I think we come back to part of the argument that I have used before. This is what I am advised. A person with a pending application on commencement day will have applied on the expectation that the assessment would be conducted on the old offence categorisations. Criminal record checks are completed automatically for every applicant. This means that the CEO will already be aware of the person's criminal record before commencing a risk assessment. A risk assessment may be well advanced or even close to finalisation at the time of commencement day. An applicant may have even been sent a proposal to issue a negative notice already, giving them the 21 days to provide a submission. If the CEO is aware before commencement day that the applicant has a conviction for an offence that would result in an automatic negative notice after commencement, but not before, it would be unreasonable for the person's application to turn on whether the CEO is able to complete the assessment before commencement date.

None of the rules will change until commencement day. I do not know whether expecting the CEO to go back and apply a new set of rules before they become legal is practical. I hear the argument that the member is putting, but, as we have done at every point during the development of this public policy, we have to do this thing in stages and we have to understand that along the way we are making some trade-offs with the ultimate view of trying to get to a better policy position that keeps kids safe.

Hon NICK GOIRAN: At the moment are there some offences for which a person would automatically receive a negative notice if they applied for one of these cards?

Hon Sue Ellery: Yes, class 1 adult.

Hon NICK GOIRAN: It is class 1 adult; that is right. It is not a new concept that the department automatically issues a negative notice on certain offences.

Hon Sue Ellery: That is not disputed, honourable member.

Hon NICK GOIRAN: No. If it is any other type of offence, whether a card will be issued becomes discretionary on the part of the department or the CEO. In what circumstances is it intended that the CEO will issue a card to a person who has committed one of these class 2 offences and is shortly going to be reclassified as a class 1? I accept that the discretion will still be there, but I am seeking clarification on the intention of the government and the CEO with respect to the application of that discretion. I would like to think, unless there is a persuasive argument otherwise, that henceforth—in fact the CEO ought to know full well that this bill is going to pass. It is no secret to the opposition that this bill is one of the government's priorities to be passed before the house rises for the summer recess, so the CEO understands the state of politics in Western Australia and will know that. That is next year's calendar.

Hon Sue Ellery: You want 1 December.

Hon NICK GOIRAN: It is 1 December. The Leader of the House is counting down the days. By 1 December, this bill will pass. That being the case, we would expect a competent, experienced CEO to factor that into the equation when considering the exercise of discretion. Is that happening? Has there been any discussion about that? Can we provide any confidence to the chamber that if somebody tries to sneak in an application, having been convicted of carnal knowledge of an animal, they will not get a working with children card in Western Australia?

Hon SUE ELLERY: The honourable member would appreciate the decision-making I have set out for the chamber, the list of things that need to be taken into account, in addition to whatever the charge or conviction is. The person

has a conviction that is currently in schedule 2, but the CEO knows that when the bill passes and comes into effect, that conviction will be in schedule 1 and, once the new bill comes into effect, an automatic negative notice will be generated. However, it is still the case that the CEO will have to be able to defend the decision that was made at the time it was made under the rules that applied at that time in the event that the decision is appealed. The CEO must be able to defend that all the rules that were in place that applied at the time were properly applied. Having said that, the discretion that exists in the list of other elements that I read out earlier, the things that need to be taken into account, can be taken into account now and may well have the effect in some circumstances of a negative notice being issued in any event. The agency must in good faith apply the rules that were in place at the time the application was submitted and the decision was made.

Hon NICK GOIRAN: The minister makes a good point, and the last thing we want to do is create a point of appeal when the applicant who receives a negative notice appeals on the basis that the CEO gave weight to a prospective law that was not in place at the time. I absolutely accept that, but I struggle with the concept that some of these offences are presently listed as class 2 offences and that it is theoretically possible that a person could then receive a working with children card. That has obviously been the case for a period across multiple governments; I acknowledge that. However, it seems to me—this probably goes back to my original point—that we are making things unnecessarily complicated. If Parliament is of the bipartisan view, and the executive would need to agree with that, that people who commit the offences of carnal knowledge of an animal, facilitating sexual offence against a child outside of WA, involving a child in child exploitation, aggravated indecent assault, indecent assault, sexual offences against a child of or over 16 by a person in authority, procuring child exploitation material, distributing child exploitation material, possession of child exploitation material, sexual offences against a child of or over 13 and under 16, sexual servitude, sexual offences against an incapable person, child pornography—the list goes on and on—do not get a working with children card in Western Australia, why do we not say that and ensure that now, rather than leaving this loophole? We are creating extra work for the CEO and there will be possible grounds of appeal, whereas if we say that it is automatic and they do not get a card, that is what will happen. I am still struggling to understand why the policy decision was made to leave this window of opportunity open.

Hon SUE ELLERY: We are probably going to circle around a little here. I understand the point the honourable member makes. However, I said in my second reading speech, or at some point in this debate, that I have been here from the beginning of these laws.

Hon Nick Goiran: It might have even been your bill.

Hon SUE ELLERY: I do not think it would have been in 2004; I did not become a minister until 2007. I might have been the parliamentary secretary though—I cannot remember. At each point in the process we have taken an incremental step. I completely accept the point the member makes: on face value, no, they should not be working with children. I understand that completely. However, at each point we have made a decision to make these changes in incremental stages. At each stage we have moved more and more to the point of there being no question that child safety should come first. In the first round of debate people were not arguing that child safety should not be first, but people were outraged at the imposition that was being put on them by the first version of the legislation—that if they wanted to work with children, they needed to have a check. People were outraged by that. That argument will not be put now because the community has come to accept that and has seen far too much revealed to contemplate going back to a time when we did not talk about these things. I completely get the point the member makes and I understand that it is not neat; it is not done in the simplest, cleanest way. I understand that completely, but it is consistent with how governments of both sides have approached this. That is, we will do it incrementally; we will not undo the legal conventions that say that the rules that applied at the time can be changed before the new set of rules come in. We are not going to overturn those legal conventions. I know the member has a genuine interest in making sure that these things are done in a way that best protects children, but doing that in incremental stages and in a way that does not throw out the door the legal conventions is the way we have handled it so far. It has stood us in good stead. It is not just a tick the box of what is the conviction; all the other factors are able to be taken into account in how the assessment is made.

Hon NICK GOIRAN: I thank the minister for the spirit in which she is taking the questions. With regard to the seven individuals, at some point their card will expire because it is valid for three years. When the expiry occurs, they will need to apply for a renewal if they wish. Will the renewal process take place under the new law or under the existing law?

Hon SUE ELLERY: If they are covered by that transitional arrangement, depending entirely on the timing, they could be captured under the old laws.

Hon Nick Goiran: Does that mean if they apply for their renewal before this act becomes fully operational? Is that the window we are talking about, in the next three to six months, basically?

Hon SUE ELLERY: Interesting debate has been had at the table. I guess, in essence, it is part of what I have said before, but the answer to the question is that if one of those seven, for example, seeks to renew their card and their card was issued to them under the current arrangements, they will be able to continue to renew their card under the current arrangements each time they go to renew their card. To put that in context, the judgement we are making

now is that we want to add to schedule 1 some offences that back then our view was should not be an automatic tick box, but now our view as a society is that it should be an automatic tick box. The policy consideration was that of the 400 000-odd people who have a working with children card, there are seven—it would be better if there were zero—who have a conviction that previously was not considered automatic, though a whole bunch of other things were considered automatic, but now would be considered an automatic "no, you can't get a working with children check". If the honourable member thinks that is outrageous, I put it to the test so that someone in 2040 is still being judged by the standard back then.

Hon Nick Goiran: From 2004.

Hon SUE ELLERY: Correct. The policy thinking behind that is a couple of things: what I have already said about retrospectivity and what I have already said about the list of things taken into account. It is not just the conviction, it is a list of all those other things, and also that person has been working with children for that period and has not —

Hon Nick Goiran: No new offence.

Hon SUE ELLERY: Correct. And now, in fact, not only is it no new offence that they will be judged by, it is no reportable conduct. That will apply as well. Again, I find myself in a position in which I hear what the honourable member says at face value and I go, "Yes, that is outrageous", and I am testing it. I think, ultimately, we combine all those things: the fact that we do not turf out the legal conventions about how we cannot make a decision on a new set of rules until they come in et cetera and that we have to protect the decision-making in the event it is tested. When we combine all those things, that is where we land on the policy position.

Hon NICK GOIRAN: I thank the Leader of the House for taking the time to get to the bottom of it. We will not be able to take anything further. I accept the response that has been provided. I think the Leader of the House will appreciate that I am not enthusiastic or excited about it. I am not convinced, but that said, I am at least heartened by the fact that earlier the Leader of the House indicated that the government was going to take on notice that general issue with regard to those seven people, particularly what type of offences they have committed and possibly, even just considering this general issue, that it is a matter for the minister. We will see what happens tomorrow. I remain unconvinced. Perhaps tomorrow the, hopefully, low-level class 2 offences that these seven people have committed will be revealed to us and we will be able to reluctantly accept that that justifies them continuing to work in the system. Let us see what happens tomorrow.

Hon SUE ELLERY: Honourable member, before you move from that point, I just want to put some caveats around that. I have given an undertaking that I am going to see what is possible to achieve, but I also make this point: it is not just going to be a judgement about what has moved from schedule 2 to schedule 1, and whether or not that is acceptable, because the other thing that happened was that an assessment was made, and was able to be made, based on all the other factors that I have listed. Although someone who has committed offence X is currently in schedule 2 but will be moved to schedule 1, maybe after the examination of all those other things, it will be revealed that there were particular mitigating circumstances et cetera; we do not know. I want to put that caveat on it. Also, the undertaking I gave was to see what I could find; I cannot guarantee that I am going to be able to find anything.

Hon NICK GOIRAN: I accept that, and I accept that there is every possibility that we will resume tomorrow having progressed no further than we are now, but I am grateful that at least an effort will be made.

I do not have too many more questions on clause 1, but one is about the cohort of individuals who currently have a negative notice or an interim negative notice. Does anything materially change for them once the bill has been passed?

Hon SUE ELLERY: We have discussed interim negative notices before. If they put their application in under the current laws, they will be treated as though they remain under the current laws. In respect of negative notices, there will be no change if they are appealing or reviewing their decision. If they apply to cancel the negative notice, the assessment will be made under the new provisions, once they come in.

Hon NICK GOIRAN: It is a little curious that under the system we are able to say to a person who has a negative notice, "Look, if you want to have it cancelled, you're going to have to operate under the new regime." I take that to mean that it will be harder under the new regime for them to have their negative notice cancelled.

Hon Sue Ellery: Honourable member, yes, because of the range of offences. Two things, just by interjection: one, they have already made an assessment that they shouldn't get a working with children check. Secondly, offences have moved from schedule 2 to schedule 1, so if that was their issue before, it's under the new laws. It's harder for them.

Hon NICK GOIRAN: It has become harder for them, yet we do not take that approach to the seven individuals. I find it strange that there is almost a preparedness to be retrospective in one sense, but not completely. If they have a current negative notice, guess what? Life is going to become harder for them. I do not have a problem with that at all—far from it. But why is it going to become harder? Because we—the government and the Parliament—have decided that we are going to, in effect, apply these provisions retrospectively. That is not really technically correct, because it is still being applied prospectively, but the new law will apply to them. It may happen that they

have survived the process to date without having had a negative notice—maybe the department was under-resourced or they have been a bit slow in moving from an interim notice to a negative notice—in which case, they are in luck. That will be their good fortune, because they will be able to continue to apply under the existing regime. That is just strange. For my part, I hope that over the next three to six months, of the people who have applied and have one of these class 2 offences—which will soon be class 1 offences—as many as possible get a negative notice, quick smart, from the department. I hope there will be some expediting of these applications, because there is no way in the world that a person who has involved a child in child exploitation or has facilitated a sexual offence against a child outside WA should be able to work with a child, and I will not be convinced otherwise. Although I accept what the Leader of the House has said—that apparently, once upon a time, debate was held in this house to suggest that that would be okay—I find it astonishing.

The Leader of the House will be pleased to hear that I have one last question on clause 1: when is phase 2 expected to be implemented?

Hon SUE ELLERY: Some of that work has already started; I think I referenced that in my reply to the second reading debate. Some of it is contingent upon agreement and arrangements with other jurisdictions and with the commonwealth government. With regard to the formal processing of phase 2, it is expected that the work on what the consultation might look like will formally start next year. There is no proposed time line for that because, as I said before, it is interconnected. Some elements of it are reliant upon reaching agreement with the commonwealth government and other jurisdictions, so it might take a little time. Some of it has started already, but it is anticipated that the bulk of what might be described as phase 2 will start next year. I am also told that there might be phase 3 and phase 4 as well.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Section 4 amended —

Hon NICK GOIRAN: There is reference under clause 5 to class 3 offences. We discussed earlier that some of the current class 2 offences will soon become class 1 offences. Interestingly, in the document the Leader of the House provided earlier, there is a number of current class 3 offences that are also going to be made class 1 offences. Again, a number of them are quite heinous offences, and it is somewhat surprising to review the list and see things listed as class 3 that are soon going to be class 1. We can take as an example section 306(2) and (4) of the Criminal Code, amongst other things. Nevertheless, I accept—I think it is a positive thing—that some of these offences are being uplifted from class 3 or class 2 to class 1. Is anything being introduced into class 3?

Hon SUE ELLERY: No, but the explanation is that class 3 has always been deemed anything that is not class 1 or class 2.

Hon NICK GOIRAN: That is fair. Also in this clause, there is a definition of "conduct review authority". It means a person or body, or a person or body of a class, prescribed by the regulations for the purposes of this definition. Who is intended to be a conduct review authority?

Hon SUE ELLERY: The Teacher Registration Board of WA and the WA Ombudsman are currently intended to be prescribed as conduct review authorities.

Hon NICK GOIRAN: Can the minister explain why those two bodies are to be included as conduct review authorities?

Hon SUE ELLERY: I can start with the Teacher Registration Board because I know about that. It already receives complaints about conduct that is not necessarily to do with a conviction, so it already deals with that. For the Ombudsman —

Hon Nick Goiran: Is that because they have that new reportable conduct —

Hon SUE ELLERY: Yes, it is a result of the new reportable conduct legislation that was passed a little while ago.

Hon NICK GOIRAN: The conduct review authority, which at this stage will include the Ombudsman and the Teacher Registration Board, will make a conduct review finding or outcome. Curiously, a finding will be a finding of a kind prescribed by the regulations and an outcome will be an outcome of a kind prescribed by the regulations. What are intended to be conduct review findings and outcomes?

Hon SUE ELLERY: Only findings or outcomes that result from transparent processes, which are called procedural fairness and a right of review for the person the subject of the finding or outcome, are intended to be prescribed. If the member casts his mind back to the debate we had about reportable conduct, he will recall that it was about organisations having to put in place processes to deal with that. Some of the aspects that will be considered to assist in determining which bodies and which outcomes are appropriate for prescription include whether there are robust frameworks—they could be statutory frameworks for regulatory or licensing authorities—and appropriate decision-making processes or a reportable conduct scheme, and a formal process of investigation that captures natural justice principles; that is, prior to making the adverse decision, a person is advised of the grounds and the facts and is given the opportunity to make a submission. Other aspects that will be considered include an adverse

finding or outcome only following the completion of an investigation, and access to an external review or appeal process to review the decision. An example of an adverse outcome under the Teacher Registration Act 2012 to be prescribed is the suspension or cancellation of a teacher's registration. This may be a decision of a disciplinary committee or the State Administrative Tribunal.

What types of reportable conduct will be prescribed? The intention is to prescribe a finding of reportable conduct—that is, a sexual offence committed against, with or in the presence of a child; sexual misconduct committed against, with or in the presence of a child; or physical assault committed against, with or in the presence of a child. Consideration would also be given to any offences that might be prescribed as reportable conduct and to capturing those offences as a conduct review finding or outcome as appropriate. If it is helpful to the honourable member, I am further advised that Western Australia is taking an approach that is similar to that of New South Wales in relation to the relevant reportable conduct that can trigger an assessment under the working with children scheme.

Hon NICK GOIRAN: Is it the case that if conduct by a teacher meets the reportable conduct threshold, that will need to be brought to the attention of the Ombudsman?

Hon Sue Ellery: No. A teacher goes through the Teacher Registration Board.

Hon NICK GOIRAN: If there has been reportable conduct by a teacher, all reportable conduct needs to be brought to the attention of the Ombudsman. That being the case, why are we including the Teacher Registration Board as one of the conduct review authorities?

Hon SUE ELLERY: I am advised that it is possible to have different outcomes under the Teacher Registration Act from those under the reportable conduct scheme. In respect of what will be reported to the Ombudsman, it is intended to prescribe findings of reportable conduct based on those three things that I just read out, such as a sexual offence committed against, with or in the presence of a child. The findings will be from the Ombudsman and the outcomes will be from the Teacher Registration Board. The Teacher Registration Board has the process to deal with something that has been reported. Under a disciplinary committee, registration can be suspended. Under the State Administrative Tribunal, a person who is no longer a teacher can be disqualified from applying for registration. Under specific provisions of the Teacher Registration Act, an order can be made to suspend a teacher's registration or an order can be made to cancel registration. The findings will be from the Ombudsman and the outcomes will be from the Teacher Registration Board.

Hon NICK GOIRAN: In terms of the outcome of a matter dealt with by the Teacher Registration Board, might a teacher be suspended or have their registration cancelled for some type of conduct not involving a child?

Hon SUE ELLERY: I think I am probably the only one at this table who can answer that question.

Hon Nick Goiran: I don't know; maybe they've been found stealing.

Hon SUE ELLERY: Yes. There is a provision in the Teacher Registration Act; I cannot remember the words, but it goes to being not suitable to be a teacher, and it is kind of a catch-all that could incorporate all manner of things. I probably cannot provide the member with more advice on that now. I could seek to get some further advice if that is something the member wants to pursue, but I probably cannot get it at the table now.

Hon NICK GOIRAN: I am just trying to reconcile in my mind what gap has occurred here that would warrant the Teacher Registration Board of Western Australia being drawn in as a conduct review authority. If the intention is to be concerned about children, and we have teachers who, evidently, are working with children all the time and we have the Teacher Registration Board that may from time to time make some finding or determination that a person is no longer suitable, then I can understand that, if it were not for the reportable conduct scheme. As soon as it meets that threshold, it must be reported to the Ombudsman anyway. I am just trying to identify what the Ombudsman would not know about something that is child safety–related that only the Teacher Registration Board would know and would justify its inclusion.

Hon SUE ELLERY: There are a couple of things. First, the reportable conduct regime is relatively new, and we might find that there is a degree of overlap. We do not know; we will have to see what that is like. The other explanation, as I understand it, is that although everything is reportable to the Ombudsman, the TRB is already set up to do the investigations and examine the allegations and the detail of what is being reported. Therefore, rather than burden the Ombudsman with investigations into however many teachers are registered, the TRB is already in place to do that. Therefore, an assessment may be made by the Ombudsman, such as, "We do not need to investigate that; it has already been investigated." But we need to know the outcome of its investigation.

Hon NICK GOIRAN: What about the Australian Health Practitioner Regulation Agency? If AHPRA makes a finding that a medical practitioner is no longer suitable to hold registration because there has been some type of misconduct pertaining to a child, why would we not include it as a conduct review authority?

Hon SUE ELLERY: The member raises a good point. The advice that I have provided so far is that we intend to capture the Ombudsman and the Teacher Registration Board in the legislation. As with everything that has been done in this area of the law, it may well be that AHPRA and other bodies will be captured in the future. The intention,

as I understand it, is that the policy is to start with where we are at with teachers and the Ombudsman and see how that goes, bed that down, and figure out the things that need to be tweaked. It may well be that other bodies will be added to those categories as well.

Hon NICK GOIRAN: Minister, is the reportable conduct scheme, in which reportable conduct must be reported to the Ombudsman, presently operational?

Hon SUE ELLERY: No.

Hon NICK GOIRAN: If the intention is to include the Ombudsman and the Teacher Registration Board as conduct review authorities, why are they not listed in the bill in clause 5 and that is instead left to be prescribed by regulation? I can certainly understand that the government will say that it would like the opportunity to be able to add, by way of regulation, AHPRA and the like, but if the decision has already been made to include them, why do we not do it now?

Hon SUE ELLERY: I am advised that this is linked to the provision in proposed section 17A about designated conduct review authorities. The policy consideration is that we do not want a prescribed list in the bill because we do not want bodies that are not responsible for being designated conduct review authorities acting outside the scope—I guess that is a layperson's way of describing it. The member's question was: if the government knows it wants the Teacher Registration Board, why does it not just list the Teacher Registration Board? I suppose the best advice that I can offer the member is that in terms of drafting the bill, structuring it this way was considered the most sensible way to proceed.

Hon NICK GOIRAN: I will note that for future reference, minister, the next time I see a bill presented with a few items listed and then at the end it says "and any other matters prescribed by regulation."

I will move right along, in the limited time that we have left, to my last question on clause 5. The minister will see that there is a definition of "WWC purpose" on page 6 of the bill, and it runs over to page 7. Why do we need to insert a definition of "WWC purpose"?

Hon SUE ELLERY: Essentially, it is because we are adding to this bill a broad range of information-gathering and sharing provisions that have not previously been in the legislation, so we need to make it clear what the purpose is.

Hon Nick Goiran: For the information-sharing?

Hon SUE ELLERY: Correct.

Clause put and passed.

Progress reported and leave granted to sit again, on motion by Hon Sue Ellery (Leader of the House).

HOME BUILDING CONTRACT ACT — HOME INDEMNITY INSURANCE

Statement

HON WILSON TUCKER (Mining and Pastoral) [6.20 pm]: I will not take up too much time, but I would like to take this opportunity to highlight a recent petition that I tabled concerning the maximum coverage payment for home indemnity insurance. I congratulate and thank the government, which is something that I do not typically do, and specifically the Deputy Premier, Hon Roger Cook, for his work in approving amendments to the Home Building Contracts Act 1992 to increase the maximum payout amount to home owners. I understand that the government's actions cannot generally be attributed to one specific action, but I would also like to the thank the principal petitioner, Tiarna Nouwland, for her advocacy in this space and for helping to apply some level of pressure to the often slow-moving wheels of government.

As members will be aware, the Home Building Contracts Act was last amended in 1996 to introduce a requirement for builders performing home-building work to take out insurance to protect home owner clients against the risk of losses stemming from a builder's disappearance, death or insolvency. A number of builders who were operating on razor-thin margins and were susceptible to the rising cost of materials and labour folded during the pandemic, and, as a result, a lot of people who were building homes in Western Australia unfortunately found themselves in a financially devastating situation. I was in contact with Tiarna Nouwland, the principal petitioner, and she shared with me a similar story. She thought that the building of her house would happen quite quickly as the time frame she had been promised was quite short, but that did not happen. The company went under and she found herself out of pocket for a very large sum, well beyond the maximum payment amount afforded currently under the Home Building Contracts Act. Tiarna found herself in a temporary living situation—she lived in a shed for a while with her family and her dogs—while she sorted out her personal circumstances, and that was obviously quite devastating for the family.

Since 1996, the market has moved quite considerably. Back in 1996, $100 000 was probably an adequate amount to buy a home. Since then, the market has increased a lot and the cost of a home in Perth has risen significantly. The COVID pandemic has played a big part in that and we find ourselves in an inflationary, cost-of-living spiral at the moment. Prices have certainly gone up quite a lot in the last two years.

Hon Roger Cook provided a response to the inquiry on this petition by the Standing Committee on Environment and Public Affairs. The response states —

> This relative devaluation in cover has been particularly stark over the past two years as increases in building costs have accelerated amidst material and labour shortages, compounded by impacts of COVID-19 on the economy and supply chains.

This is welcome acknowledgement by the government and certainly good news for home owners who are going through the building process right now, as their policies will be covered by a higher amount that will be reflective of current market costs. The response from Hon Roger Cook also mentioned that the changes will take effect as soon as possible and apply to residential building work undertaken from the date of gazettal. Properties that are currently being built will be covered by this new regime, which is very good news.

Unfortunately, this new payment will not apply to Tiarna or a lot of other families whose policies have ended and who were awarded, in some cases, the maximum payment amount of $100 000, which did not cover the cost of the buildings themselves. Tiarna's story has certainly been repeated; it is not a standalone story. A lot of Western Australian families have found themselves in similar situations and circumstances, certainly over the last two years, and for them the dream of home ownership has unfortunately been pushed further and further away from becoming a reality. I do not want to appear unappreciative of this welcome news, but given the government's own concession that the previous amount was inadequate, I take this opportunity to respectfully ask the Deputy Premier to consider backdating the new payment amount of $200 000 for residents who had previous policies and were affected by the recent circumstances of the pandemic, the disruption to supply chains and the spiralling cost-of-living increases that we have found ourselves in.

I also take this opportunity to thank the Standing Committee on Environment and Public Affairs for its hard work in reviewing the petition and helping to facilitate its passage. The e-petitions system is a very good system, and there was quite a quick turnaround between the time that Tiarna was affected, the tabling of the petition and the government's response. The e-petitions process is a welcome addition to our parliamentary processes. I again thank the government for its sensible review of this policy and the committee for helping to facilitate that.

REMEMBRANCE DAY

Statement

HON DR BRIAN WALKER (East Metropolitan) [6.27 pm]: "They shall not grow old, as we that are left grow old." We were not sitting last week when the country and, indeed, the commonwealth observed Remembrance Day. I was travelling on that day, but in my heart I did remember. I have no doubt that most of us attended services and heard that ode being recited. "Age shall not weary them, nor the years condemn." That sentiment has seeped into our psyche in Australia; it is a tangible part of who we are and who we see ourselves as being as Australians.

I want to take a moment, as close as I can to Remembrance Day, to acknowledge the Town of Victoria Park for the service it held honouring the sacrifice of Private Alec Ernest James Bell, who died on 29 January 1968 from wounds he received in action in Vietnam. I am sure that members will recall me speaking about my own parents taking me out of Australia, in no small part driven by the desire to make sure that I did not serve in Vietnam. For that reason, and for others that will become apparent, Private Bell's story resonates with me quite strongly.

He was a son, a brother, an uncle and, we could say, a hero. He was the second-youngest of six children born to Robert and Florence Bell, and was born in 1946 in Welshpool. He had an ordinary Western Australian family. His father worked on the railway; his mother was a skilled seamstress. Alec's sister Margaret described her parents, and by extension the whole family, as ordinary people living in extraordinary times, raising their family to be enterprising and resourceful and to enjoy life. Alec and his siblings went to St Francis Xavier College, which is now Ursula Frayne Catholic College. He graduated at the end of year 10, at 15 years and nine months old. He went to work in the Postmaster General's Department as a telegraph boy and later as a postal officer at the General Post Office in Perth. When the Menzies government introduced selective national service in the mid-1960s, he found himself chosen by ballot and sent off to train at the second recruit training battalion in Puckapunyal in Victoria. From there, he went to the third infantry training battalion. Within six months, he was on his way to Vietnam as a rifleman. It is usually one year of training. I recall at that time standing before a ballot demanded of myself and my peers, from which one of us might have gone to Vietnam. Off he went; I could have gone.

At that time, medical support was very limited in the field. There were doctors at the regimental level, medics at the company level and stretcher bearers at the platoon level. They had the most basic first aid training. Such colleagues found themselves facing potentially devastating situations and conditions—treating friends with whom a short while before, they had had a drink or shared a meal with. They may have had horrible wounds or minor things, maybe mosquito bites. With the experiences I have in the emergency department and all the things I have done in my life, I think I would find such a situation more than harrowing. He found himself assigned as not only a rifleman, but also a stretcher bearer for 2 Platoon, A Company, 7th Battalion, Royal Australian Regiment. As such, he disembarked from HMAS *Sydney* in Vũng Tàu, Vietnam, on 20 April 1967.

Ian Garthwaite, Alec's platoon commander, remembered Alec in these terms —

> Private Bell took this responsibility most seriously. The moment he donned his medical kit, he was ready to go forward in the middle of a fire fight to help a mate in trouble. When the cry of 'Medic' cut through the deafening noise of rifles, machine guns and the ear-splitting crash of artillery, Alec was the man you wanted to see, running or crawling towards you, lying beside you, bringing an end to pain, stopping the bleeding, reassuring you that you would be drinking beer in the soldier's boozer in a few days time. His courage under fire was well known …

Private Bell was killed on 29 January 1968 during Operation Coburg in Biên Hòa province, South Vietnam, when his platoon was ambushed by a much stronger enemy force. One of his surviving colleagues, Sergeant Bourke, recalled —

> *In the first few moments the Platoon Commander, 2Lt O'Brien, and all the NCOs were wounded including Private Bell who had received a direct hit from a rocket. Even though shockingly wounded, Private Bell tried to get to the other wounded. When he could not move he gave orders to another soldier as to how to help them. Even when we finally got him on to the Dustoff stretcher, Private Bell was still giving advice as to the care of the other wounded. As he was lifted up through the trees the enemy opened fire again. The Dustoff was forced to leave the area with Private Bell and stretcher hanging underneath. We later learned that he was dead on arrival at hosp[ital]".*

That day, 12 men from 2 Platoon were wounded, but only Private Bell died of those wounds, quite possibly as a result of his own courage and commitment to his fellow soldiers—struggling to offer medical assistance and advice, when he himself had been badly injured. Sir Phillip Lynch, Minister for the Army, when writing to Alec's grieving parents back home in Perth noted —

> I have read with feeling the report of his brave conduct before and after he received a mortal wound and I can assure you he died in a manner worthy of an Australian soldier"

The ode reminds us —

> At the going down of the sun and in the morning
> We will remember them

Yet Private Bell's remains rest in section KA of Karrakatta Cemetery. The grant status on his grave is listed by the Metropolitan Cemetery Board as "expired". That area is scheduled for imminent renewal. The years, it seems, have indeed condemned Private Bell, in spite of all our public protestations to the contrary. He was then a man close to my own age—just 21 years old when he died—fighting in a war that I narrowly avoided. He undertook the sorts of medical tasks that doctors and nurses might undertake on a daily basis, albeit in far more harrowing and dangerous circumstances. I cannot help but feel a connection to Private Alec Bell's story, as a result. To think of his grave being built over to provide modern mausolea, which could so easily be built elsewhere, fills me with sadness, members. I hope that the minister will involve himself in the case and do all that he can to ensure that Private Bell's grave remains undisturbed. Of course, what I would really like is for him to put an end to this renewal issue as a whole and leave all our beloved dead to rest in peace. They all deserve our remembrance, but given his actions on our behalf, perhaps Private Bell is first and foremost amongst them today.

Lest we forget.

FLOODING — CARNARVON

Statement

HON NEIL THOMSON (Mining and Pastoral) [6.33 pm]: I rise today to speak on behalf of a group of residents, growers and landowners in the Carnarvon region on the Gascoyne River flood plain about some of the concerns they have raised with me about the oncoming flood season. It is starting now, really, in terms of the potential for floods. These residents, business owners and growers are predominantly located east of Boundary Road. For those members who are familiar with Carnarvon, it is east of the main levee bank people go over when they enter the town, back towards the T-junction where the fuel station is on the corner as people come up on Great Northern Highway. It is in the suburb of Kingsford.

The Gascoyne River has a long history of floods. People on the floodplain, particularly growers, accept that flooding occurs and there has been a lot of mitigation works over the years, including major works funded by royalties for regions to divert major flooding to the east of the grower area. That work was undertaken by the former government and I think it might have been close to finished at the time of the change of government. It was around about that time. That was certainly significant insofar as it provided a buttress against major flooding but the concerns that have been raised with me relate to the Kingsford area. I have spoken to a number of landowners in that area and they have told me that, in the most recent flood in 2021, although the flood level was significantly lower than the major flooding that occurred some time ago, the effects were significantly worse than an equivalent flood would have likely had on properties close to Boundary Road. We are talking about properties along Robinson Road from the

T-junction that leads towards the town of Carnarvon. The hypothesis that has been presented by the growers and landowners in the region is that the mitigation works, including some minor levee construction along South River Road, has concentrated the water in that region. That is a hypothesis presented by people who live in the region and have lived there for a long time. They obviously have a very deep interest in what is going on there and they are concerned about what will happen and how a flood that is similar to last year or even larger will impact them.

Members in this house will know that I have asked the now-retiring Minister for Regional Development about the work. A package of $1.3 million of federal funding with an additional $240 000 of state government funding was allocated to some work in flood preparedness on the Gascoyne floodplain. That was broken into six projects: town levies, Carnarvon Airport levee floodgates, geotechnical investigations, hydraulic modelling, a river care floodway natural infrastructure upgrade, and a project audit and acquittal costs. The amount that specifically relates to the hydraulic modelling is $425 000. There is now $425 000 in funding available for hydraulic modelling. I have spoken to many growers and landowners in the Kingsford area who are very concerned about the upcoming flood season. They would like to see that hydraulic modelling undertaken so that they can confirm or disprove their concerns about the impact of the potential concentration of water that will effectively result from the diversion of water during the various mitigation works that have occurred. That is the concern. It was very disappointing for those in that region who listened and watched the now-retiring Minister for Regional Development present her answer.

That hydraulic modelling will not be completed until the middle of 2024. That to me seems a very unreasonable time frame. I think it is incumbent on the Premier to consider this as he looks to identify the new Minister for Regional Development. I know there are members in this place who could be the new Minister for Regional Development—Hon Darren West, I am sure, or Hon Jackie Jarvis. Those aspiring ministers would take a very strong approach to getting this work done and identifying any short-term works that could occur to provide a sense of security for those growers. Certainly, they should get on the ground and talk to those growers and landowners so that they can allay their fears or provide the mitigations that are needed. I want to make that point as we go into the season of change. By the demeanour of Hon Darren West, I am not sure whether he has the job in the bag, but I am certainly hoping that we will have some action.

I was speaking to some of the growers today. They approached the Minister for Water—Minister Dave Kelly from the other place. They are concerned that they have not been able to get an audience with the minister. There has been some time taken on potentially getting an audience with the advisers. If there are any advisers from the office of the Minister for Water listening, please take note. These are genuine concerns. Put aside the politics. I am here doing my job as a member of the opposition, but put that aside, get on the ground and listen to the concerns being raised by the community. Use that available money now, get a contract out as soon as possible and deliver that hydraulic modelling, because we have the technology. We have the opportunity to assess these concerns and either provide comfort and assurance to those growers that their hypothesis is not correct or confirm their concerns and do something about it. This government has a track record lately of not getting on with the job. The government needs to get on with the job and bring that deadline forward, because 2024 is far too far out. It is unacceptable. The money is there. The government needs to do the work now and provide the reassurance or get in there and change the situation on the ground for those residents in the community of Kingsford and on the Gascoyne River.

LIQUOR CONTROL AMENDMENT (PROTECTED ENTERTAINMENT PRECINCTS) BILL 2022

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Stephen Dawson (Minister for Emergency Services)**, read a first time.

Second Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [6.43 pm]: I move —

That the bill be now read a second time.

In July 2020, Giuseppe "Pep" Raco was attacked from behind by a stranger in Northbridge. The attack was unprovoked and Mr Raco tragically died as a result of the injuries he suffered. Despite her immense grief, Mr Raco's wife, Enza, has since led a tireless campaign to improve the safety of Western Australia's entertainment precincts. A key element of her campaign was the concept of a "coward's collar", or the introduction of a five-year prohibition from licensed premises and entertainment precincts for individuals convicted of a one-punch attack that results in death or disability. I want to thank Mrs Raco for her strength and unwavering commitment to see changes to our laws to better protect members of our community.

Western Australia is home to some fantastic entertainment precincts. The McGowan government believes that everyone should be able to enjoy going out in our entertainment precincts and get home safely. Families should be able to go out to enjoy dinner at a restaurant without being threatened. Women should be able to go out to a nightclub and not be assaulted. Someone working in a venue, like Mr Raco was on the night of his assault, should be able to do a day's or night's work and return home to their loved ones unharmed.

This bill is all about protecting people, who just want to go out and have a good time and do the right thing, from those who do the wrong thing. The bill will send a clear message to those who come into our entertainment precincts and behave in an unlawful, violent, disorderly, antisocial way and impact on the safety and wellbeing of others: you are not welcome here.

Under the Liquor Control Act 1988, there are some mechanisms—namely, barring notices and prohibition orders—that restrict or prohibit individuals from attending licensed premises. However, those mechanisms are primarily limited to licensed premises and cannot deal with antisocial, offensive and disorderly behaviour and violence occurring in other public areas in our entertainment precincts. It is this inappropriate and unacceptable behaviour that this bill seeks to deter and respond to.

I turn now to the bill. To reflect this new broader response, clause 4 of the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022 will amend the long title of the Liquor Control Act 1988 to read —

> **An Act —**
>
> …
>
> - **to minimise harm and adverse effects, and public disturbances and disorder, in areas with a concentration of licensed premises, by providing for offences and orders that prohibit people from entering or remaining in those areas** …

This is complemented by the proposed object of new part 5AA of the act, which will be to minimise, in areas with a concentration of licensed premises, harm to people; adverse effects on safety or welfare; adverse effects on the atmosphere, ambience, character or pleasantness of the areas; and public disturbances disorder.

The bill will introduce protected entertainment precincts—or PEP, named in honour of "Pep" Raco—and allow for people who act in an antisocial, offensive, violent or threatening way that impacts on others in a precinct, or are convicted of serious offences that occurred in a precinct, to be excluded from the precincts.

Clause 17 provides that protected entertainment precincts will be prescribed in the regulations, which means that precincts can be amended, added to, or removed when necessary. Prior to prescribing a protected entertainment precinct, the bill requires the Minister for Racing and Gaming to be satisfied that the precinct is an area that contains a concentration of licensed premises, and the Commissioner of Police, the relevant local government authority and any other persons considered appropriate, must be consulted. Subject to that consultation, the initial proposed five precincts are Northbridge–Perth, Fremantle, Scarborough, Hillarys and Mandurah.

The bill will create two types of exclusion orders. Division 2 allows for a short-term exclusion order to be issued by a member of the Western Australia Police Force, subject to approval from a senior officer, for a period of up to six months. Division 3 allows for an extended exclusion order to be issued by the director of Liquor Licensing on application by the Commissioner of Police for a period of up to five years for adults and two years for juveniles. In relation to short-term exclusion orders, proposed section 152ND(3) requires a police officer to obtain the approval of an inspector or a higher ranking officer prior to issuing a short-term exclusion order. For extended exclusion orders, proposed section 152NJ provides that the Commissioner of Police—or, under proposed section 152NZG, an inspector or a higher ranking officer—may apply to the director of Liquor Licensing for an extended exclusion order to be made. Pursuant to proposed division 5, the penalty for breaching a short-term or extended exclusion order will be two years' imprisonment and/or a fine of $12 000.

In addition to the orders, under proposed section 152NZJ, a person convicted of a specified serious offence in a protected entertainment precinct will be subject to a mandatory exclusion period of five years for an adult and in the case of a juvenile, two years. The exclusion will apply 24/7. The specified serious offences are: murder; manslaughter; unlawful assault causing death; grievous bodily harm/intent to cause grievous bodily harm; wounding; sexual penetration without consent; aggravated sexual penetration without consent; and drink-spiking offences. These offences are to be specified in the act, not in the regulations, which means they can be amended only by the Parliament. Under proposed section 152NZJ(5), the five-year mandatory exclusion period will pause while an offender is in custody awaiting sentencing or serving a sentence of imprisonment, and will recommence after they are released. This provision will also apply to an extended exclusion order under proposed section 152NZ if an individual is imprisoned at any time during the period of the exclusion order. The penalty for breaching the mandatory exclusion will be up to five years' imprisonment, or up to two years' imprisonment and a $12 000 fine for summary offences.

To ensure that individuals who are issued with an exclusion order or are subject to a mandatory exclusion period are aware of their exclusion, proposed sections 152NX and 152NZQ outline how orders must be served and explained to individuals, with specific service provisions applying to juveniles. With regard to juveniles, service and explanation of an exclusion order must be undertaken personally by either a member of the police force or a custodial officer. Further, pursuant to proposed section 152NZK, an individual subject to an order or an excluded person may enter a protected entertainment precinct for limited, appropriate reasons such as if they reside or work in the precinct, go to school or university in the precinct, and for various other specified reasons if being in the precinct is necessary in the circumstances. These reasons can be asserted by the excluded individual as defences.

Compliance and enforcement of the exclusion order provisions and post-conviction exclusion will be undertaken by the Western Australia Police Force. Pursuant to proposed section 152NI, the Commissioner of Police will be required to develop guidelines for officers in relation to the types of behaviour that should give rise to the issue of a short-term exclusion order. I understand that work on these guidelines has commenced. The commissioner has also made public comment on how he will require his officers to utilise the exclusion order provisions in this bill.

To support compliance and enforcement, pursuant to proposed section 152NZM(3), a police officer may request a person who is in a protected entertainment precinct to provide their personal details for the purposes of making a short-term exclusion order, the Commissioner of Police applying for an extended exclusion order, or serving a document on an individual. A police officer may also make the request if they reasonably suspect that an individual may be subject to an exclusion order or is an excluded offender.

Other parts of the bill will amend sections 115AC and part 5 of the act to support compliance and enforcement through amended disclosure provisions to assist licensees and their staff in identifying individuals who are subject to a barring notice, prohibition order, exclusion order or a mandatory exclusion period. Importantly, the bill also contains several review and oversight provisions.

Individuals subject to short-term exclusion orders that apply for one month or more will be able to seek a review by the Commissioner of Police and/or the Liquor Commission. Individuals subject to an extended exclusion order will be able to seek a review by the director of Liquor Licensing and/or the Liquor Commission. A review of this kind could result in a variation or revocation of the exclusion order. For example, short-term and extended exclusion orders will apply 24/7 unless the order is varied by the Commissioner of Police, the director of Liquor Licensing or the Liquor Commission.

Pursuant to proposed section 152NZV, the Parliamentary Commissioner for Administrative Investigations will oversee and scrutinise the operation of the amendments three years after their commencement and prepare a report for the Minister for Racing and Gaming to table in Parliament. That report will include whether the provisions disproportionately impact on any particular group in the community.

Again, I would like to thank Mrs Enza Raco, and her family and supporters. These laws arise from her advocacy, and I will conclude with her words, which capture the government's intent in introducing this legislation. She said —

> "We are now presented with a solution to a major problem in the Entertainment Precincts across Perth that continually experience the types of behaviour that took my husband's life.
>
> We will now have Protected Entertainment Precincts … what a nice way to honour a man that lost his life and now 'PEP' will help save others. It was not in vain … I believe it will be a large step in keeping families like mine safe; and preventing horrific attacks on innocent people like Pep and the many others who have suffered greatly from these senseless acts of violence.
>
> Let's bring Entertainment Precinct's like Northbridge back into the hands of good people; and let us see families back in the precinct enjoying a meal at the many restaurants and cafes, so that it is a safe place to be for all."

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth. I commend the bill to the house and I table the explanatory memorandum.

[See paper 1841.]

Debate adjourned, pursuant to standing orders.

House adjourned at 6.52 pm