



Parliamentary Debates

(HANSARD)

FORTY-FIRST PARLIAMENT
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LEGISLATIVE COUNCIL

Wednesday, 1 December 2021

Legislative Council

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

ABORIGINAL CULTURAL HERITAGE BILL 2021

Petition

HON WILSON TUCKER (Mining and Pastoral) [1.03 pm]: I present a petition containing 71 signatures couched in the following terms —

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia respectfully oppose the introduction of the *Aboriginal Cultural Heritage Bill, 2021* (the **Bill**) in its current form. The Bill does not meet its objectives in the provision of protection for Indigenous cultural heritage. Under the Bill, the Indigenous holders of cultural heritage ('cultural knowledge holders' in the Bill) are unable to secure protection for their cultural heritage without the on-going agreement of the Minister for Aboriginal Affairs. Under the Bill the Minister may, and, we believe, will, refuse or withdraw any protected status for cultural heritage in favour of approving proponent applications to harm cultural heritage. This belief has merit based on the history of the Ministerial approvals regime under the *Aboriginal Heritage Act (WA), 1972*, which the Bill will replace.

Your petitioners therefore humbly pray that the Legislative Council will delay introduction or passage of the Bill until such time as it protects the right of cultural heritage holders to protect areas of cultural heritage from interference, damage, desecration or destruction unless they have given their current, free, prior and informed consent for such interference, damage, desecration or destruction to occur.

And your petitioners as in duty bound, will ever pray.

[See paper 946.]

PAPERS TABLED

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

NON-GOVERNMENT BUSINESS — SCHEDULE

Motion

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Mental Health) [1.06 pm] — without notice: I move —

That pursuant to standing order 111(4), the schedule for non-government business tabled today by the President be adopted.

Hon Martin Aldridge: We haven't seen it.

The PRESIDENT: Just wait for them to be circulated—the papers that were tabled.

Hon Martin Aldridge: Normally it would be made an order of the day for the next day's sitting.

The PRESIDENT: We will just wait for the papers that were tabled to be circulated to members.

Deputy Leader of the House, while that is being circulated, I notice that you have other motions without notice.

Hon Stephen Dawson: I am not tempted to move them, President, given the reaction to the earlier one.

The PRESIDENT: There are other ones.

Hon STEPHEN DAWSON: Thanks, President. I move, without notice, that leave be given to Hon Samantha Rowe for eight sitting days due to urgent personal business.

Point of Order

Hon NICK GOIRAN: There is a question before the house at the moment; we cannot have a second question put at the same time.

The PRESIDENT: Quite correct; that is my error, for which I apologise to the house. I was trying to streamline the efficiency of the house, in my defence; it is not known for its efficiency at times. I will give members a few moments.

Debate Resumed

Several members interjected.

The PRESIDENT: Order! I am sure the Deputy Leader of the House will make an explanatory statement.

Hon STEPHEN DAWSON: By way of explanation, yesterday we added an extra sitting week to the parliamentary schedule. The Daylight Saving Party is listed on the non-government list as the party that will get to deal with non-government business in that third sitting week. The reason for that is that when the estimates week was declared a number of months ago, a commitment was given to Hon Wilson Tucker, who was due for his non-government business time in that estimates week and was therefore not able to do it then, that should Parliament sit an extra week, the honourable member would get an opportunity to deliver non-government business during the extra week.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [1.09 pm]: I would like to relay the discussions that we had behind the chair on this matter. I understand that, yes, in an attempt to give Hon Wilson Tucker his non-government business time, a deal was struck with the government. The opposition is comfortable with that. Obviously, we would suggest that if business is dragging, perhaps the government might consider forgoing private members' business in the final week. I am not sure that will be necessary, but I guess that will be a decision for the government in the fullness of time. My understanding is that it is likely that the government will not have motions on notice in the final week, given that the apportionment of motions on notice has very much reflected the composition of the Legislative Council. Therefore, to give a single group, from whichever side, an additional motion on notice would unbalance that. Assuming that is the case—I am sure the clerks can advise—that would seem to be a reasonable outcome, from the opposition's perspective. We are comfortable with giving Hon Wilson Tucker that opportunity, and I will be very interested to see what motion he comes up with. But I suggest to the government that if we are dragging legislation out, it might be a good opportunity to forgo private members' business in the final sitting week.

Question put and passed.

PRIVATE MEMBERS' BUSINESS — SCHEDULE

Motion

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Mental Health) [1.10 pm] — without notice: I move —

That pursuant to standing order 112(4), the schedule for private members' business tabled today by the President be adopted.

If I may, as the honourable Leader of the Opposition has indicated, there have been some conversations behind the chair in relation to the next few weeks ahead. In relation to motions on notice and private members' business, the decision about what might not be used by government has not yet been made, and will be announced at the appropriate time.

Question put and passed.

HON SAMANTHA ROWE

Leave of Absence

On motion without notice by **Hon Stephen Dawson (Minister for Mental Health)**, resolved —

That leave of absence for eight sitting days be granted to Hon Samantha Rowe on the ground of urgent personal business.

HON ROSIE SAHANNA

Leave of Absence

On motion without notice by **Hon Stephen Dawson (Minister for Mental Health)**, resolved —

That leave of absence for five sitting days be granted to Hon Rosie Sahanna on the ground of urgent personal business.

STATE DISABILITY STRATEGY

Motion

HON LORNA HARPER (East Metropolitan) [1.12 pm]: I move —

That the Legislative Council commends the McGowan Labor government's ongoing commitment to building inclusive communities which support and empower people with disability, through the state disability strategy.

Today I would like to talk about the McGowan government's ongoing commitment to building inclusive communities that support and empower people with disabilities through *A Western Australia for Everyone: State disability strategy 2020–2030*. The strategy was announced in 2020 and is made up of four pillars: rights and equity; inclusive communities; participation and contribution; and living well. I am not going to go into the pillars at this time—I am sure some of my colleagues may do so, and they have already been spoken about in Parliament—but the government also created a two-year action plan that will be reviewed and renewed every two years so that it remains responsive to and reflective of society as we know it.

The state disability strategy plan will ensure that we have the foundation for building a more inclusive WA, which is important for us as a community as we move forward. It also acknowledges and responds to the value of diversity in our community. Luckily, all of us sitting in this house are able-bodied, but that was not always the case for me. Once upon a time, I had an operation on my foot, which required me to spend three and a half weeks in a wheelchair. Until that time, I had never realised the obstacles faced by somebody in a wheelchair. The first lesson I learned was to never let your nine-year-old hold on to the wheelchair as you go down a ramp because they think it is funny to let go of the wheelchair. The second lesson I learned was that going to a shopping centre was extremely difficult. I had the humiliating experience of getting my wheelchair wedged as I was going around a book store because the shelves were too narrow. I could not move and a man had to rescue me. I ended up not buying a book and saying quite a few words near the counter, which, by the way, I could not reach as a person in a wheelchair. As able-bodied people, we do not normally think about these things. Imagine what it would be like to be a child in a wheelchair or a child with varied abilities. What is it like for them to go to a playground and to go into schools? Luckily, as part of this planning, our councils are also looking at schools and playgrounds to determine how we can best put forward the needs of our children as they grow in the community.

One of these places—this is an unashamed plug—is Pia’s Place at Whiteman Park, which is in the eastern suburbs. If members have not been to Whiteman Park—I will unashamedly plug it again—I urge them to please go. It is a beautiful place to visit and is free for residents. People can go for picnics, children can play and it has a paddling pool. It also has a railway that is accessible to all people, including those in a wheelchair and parents with prams, which is another area that people forget about. Pia’s Place is a playground that was built for children of all abilities. It is extremely important that we consider children of all abilities because when we talk about children with disability, we are not just talking about children in wheelchairs. We could be talking about children who have sensory issues, who are autistic or who have an inability to hear or see. We have to create spaces that can adapt to cater for all children, which is what Pia’s Place at Whiteman Park does. A few years ago, the McGowan government gave a \$1.25 million grant to help build Pia’s Place, which is named after the daughter of the Rudds, whose daughter passed away a few years ago. It was built by a group that travels around Australia to help build more inclusive playgrounds for children. A similar playground is Shipwreck Park, which is a nautically themed park in, I believe, Hilbert, which is in the southern suburbs. Children with different abilities can play on not only the playground, but also the sandpits and at sand tables. They have barbecue facilities and fountains for children to access, which makes them feel as though it was made for them as well. They have quiet nooks and crannies, because at different times all children require a quiet place to gather their thoughts. Anyone who has ever had a child who is overwhelmed or overstimulated will understand that it is important to have places of quiet reflection for children. Children have highs and lows and different abilities and challenges. These are playgrounds for children of all abilities, which means that children who can run, jump, climb and cause mayhem in a playground can continue to do so alongside children who do not have those abilities. That is just one of the many strategies and things that are coming through here in WA. Another thing that has come through and has been completed as part of the two-year action plan is the establishment of the office of disability. The Koolangka Bridge at Perth Children’s Hospital has been completed. People who have had the opportunity to walk across the bridge will know that it is absolutely fantastic. It allows not only children with varying abilities but also parents and families to safely access Kings Park. Kings Park is another place where there are all-access areas that people of all abilities can visit. It is another beautiful area in WA where it is free for all of us to go to enjoy and to picnic. We are very lucky here in WA because of this.

There was also the launch of the autism alert card. Children with varying degrees and levels of autism can be extremely difficult. People may have noticed when they go to their supermarket that the store has a quiet hour or two on maybe a Wednesday or Thursday morning. That is to enable parents with children who cannot deal with the extra noises, music and loud goings-on in a supermarket to take the children to do their shopping without overstimulating the children. It is very important and can benefit not just children with autism but also any child with sensory issues.

One in five Western Australians live with a disability. That is quite remarkable; if we look around the room, we can see that it means a lot of us here will know people who have a disability or know people who have children with a disability. I have worked with children with a disability. Their disability does not stop them from having fun, playing, forming relationships, forming friendships and basically participating in society. I have friends with disability that impedes on some aspects of their life, and I have friends who are Auslan interpreters. I have been very happy to be exposed to parts of the deaf community who think it is absolutely hysterical when they find out that I am Scottish and make the sign of bagpipes because apparently in Auslan that means I am Scottish. They point at me and laugh and think it is very funny. I do not take offence. I think it is funny when they say what Australians are in Auslan as well!

We all have a role in creating an inclusive community. Any action we take that is big or small has the power to change lives. The small changes we make today could have massive impacts in the future. All Western Australians have that responsibility and we should all be standing up and acknowledging and paying respect to people with disabilities. My colleagues will get up and talk and I am sure that they will talk about the International Day of People with Disability, which is this Friday, 3 December. Thank you for your time and I will leave it to them.

HON PETER FOSTER (Mining and Pastoral) [1.22 pm]: I rise to speak in support of the motion moved by Hon Lorna Harper and I thank her for moving this motion. I would like to start by acknowledging her contribution

and for sharing her personal story of her broken leg. I have a similar story; I sprained my foot a couple of years ago when I put my foot on the ground incorrectly and was laid up for a few weeks due to having to keep my foot in the air, which was quite an inconvenience, because those who know me know that I am a very busy person. It was at that moment I realised just how reliant I was on my partner, my son and those around me. It reinforced to me that it is very important that our state have a strategy like this to empower people and to include them because laying up at home for a few weeks was not fun.

As Hon Lorna Harper mentioned, it is important that we move this motion this week because on 3 December it is International Day of People with Disability, a United Nations-observed day aimed at increasing public awareness about the importance of access and inclusion, understanding and acceptance of people living with a disability. International Day of People with Disability is also important to acknowledge and celebrate the achievements and contributions of people with disability.

Visibility of disability is important. It brings the community together for a better understanding of disability and also promotes inclusion. A few weeks ago, the Minister for Disability Services announced \$100 000 in grants, made available to 100 organisations across WA for inclusive events to be held to mark this day on 3 December. Recipients in my electorate include Broome Regional Aboriginal Medical Service, which will be hosting an awareness lunch; Carnarvon Tennis Club, which will be hosting an inclusive tennis fun day; Empowering People in Communities in Karratha, which will be developing inclusion cards; the Far North Community Services in Derby, which will be hosting an IDPWD art showcase; and the Shire of Exmouth, which will be hosting a morning tea to recognise local leaders who are promoting inclusion.

Unfortunately, disability is underrepresented in the media and the workforce. Many people with a disability are often highly skilled or have incredible stories to tell, but the lack of accessible career pathways, employment opportunities and a commitment to authentic representation create significant blockages for those wanting to forge ahead in their careers. That is why talking about disability today is so important, and this is why the McGowan Labor government's commitment to support and empower people with disability through the *State disability strategy* is also very important. All of us have a role to play in creating an inclusive community. All acts, either big or small, have the power to change lives.

It is important to note that more than 411 500 Western Australians live with some form of disability. The *State disability strategy* was launched by the minister, Stephen Dawson, in December 2020 and is our state's commitment to all people with disability. It aims to promote opportunities for the whole community to work together to achieve transformative change. In the recent 2021–22 state budget, we committed \$13.4 million over four years to establish the office of disability within the Department of Communities, which will lead the state's strategic policy and functions for disability services. The office will coordinate the state's response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. It is important here to point out that the COVID-19 pandemic has disproportionately impacted on people with disability, their families and carers, and has changed the ways in which we conduct business. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability has received evidence that people with a disability have faced various barriers, including communications, and that is why the work that will be done by the office of disability will be so important. The office of disability will be used to promote the rights and interests of people with disability and the broader disability sector, and will be a vital conduit of information and knowledge on a range of services that people with disability require. It will sit within the Department of Communities and will support the WA government's long-term commitment to empowering people.

Members may remember that prior to my election to this place I worked with the Department of Communities in Tom Price. In my role, I worked closely with the disability services team and I saw firsthand some of the good work that was being undertaken within the department to support and empower people with disability. I would like to pause and acknowledge the good work of the local coordinators who have worked with individuals, families and carers to access information, and engage with the community to identify their strengths and needs and to support the families in gaining the skills, confidence and expertise to develop, maintain and review the plans and access to funding. In the state budget, we also committed \$2 million to expand the Changing Places network, which provides secure, clean facilities for people with a disability who need space and assistance to use the bathroom when out and about in the community. There was also a commitment of \$500 000 in seed grants to support the establishment of innovative microenterprises by people with a disability and develop and implement a business mentoring initiative to support interested businesses to overcome their uncertainty in employing someone with a disability. Finally, \$100 000 was committed for the provision of purpose-built all-terrain wheelchairs at beaches and in national parks so that people with mobility issues can explore the great outdoors. Accessible tourism is often talked about in the media. According to Tourism Research Australia, one in five people with a disability are not holidaying because it is too difficult, with the shortage of accessible accommodation and accessibility to information being key barriers to travel.

The McGowan government is listening and the \$100 000 in the state budget will help those with mobility issues wander out yonder. The Parks and Wildlife Service has made a number of tourist destinations more accessible across regional WA, including in my electorate, with Karijini National Park having wheelchair access to both the

visitor centre and the Hamersley Gorge lookout; with Monkey Mia having wheelchair accessible decking to allow close-up viewing of the dolphins at feeding time; and with the Kalbarri Skywalk, which I visited recently with Hon Sandra Carr, also having wheelchair accessibility from the car park to the viewing area, with accessible toilets and cafe.

There is more to be done, and that is why the state disability strategy, and our government's commitment to it, is so important to building inclusive experiences for all. In late September, the Minister for Disability Services announced \$200 000 in funding to Nirrumbuk Environmental and Health Services to develop culturally appropriate National Disability Insurance Scheme services in the Kimberley. Nirrumbuk's aim is to build capacity and to help youth independently manage responsibilities that come with long-term unemployment. The grant funding part of the transition fund was established to help registered service providers in the disability services sector transition to the National Disability Insurance Agency. The services at Nirrumbuk will help grow its Aboriginal workforce and build upon the services that it provides to the Broome and the Kullarri region.

Before I finish my contribution, I want to acknowledge a local group in Tom Price and Paraburdoo that is empowering local families. They call themselves the Tom Price and Paraburdoo Special Families Group. It was established only last year, in 2020. The group's primary focus is to advocate for local families with a child with a disability. They also build connections with each other because, as members will appreciate, connection is very important when living in a regional town that is somewhat isolated. I acknowledge, in particular, two individuals in that group, Audra Smith and Kristiana Italiano, both of whom have children with a disability and work endlessly organising events and supporting one another. The aim of the group is to work with the community to educate, empower and promote inclusiveness, focusing on the ability, not the disability. The group currently has about 40 members and will be hosting an International Day of People with Disability and Christmas function this Saturday at the Mountain View Sporting Club in Tom Price from 11.00 am. I will be joining them for that celebration.

In conclusion, I support the motion moved by Hon Lorna Harper today and commend the McGowan Labor government's ongoing commitment to build inclusive communities that support and empower people with a disability through the state disability strategy. This is evidenced by the state budget and also through our efforts to establish the office of disability through the Department of Communities. I commend the motion to the house.

HON PETER COLLIER (North Metropolitan) [1.32 pm]: I stand to make some comments on this motion and say at the outset that I am the B team as far as the alliance is concerned. The A team's Hon Donna Faragher had intended to speak, but is away on urgent parliamentary business today. After a full morning of committee hearings, here I am. It is an area that I feel strongly about and I am delighted to comment on it.

I thank Hon Lorna Harper for bringing the motion to the chamber. Having said that, I do not want her to get too comfortable. After my very strong support for the last motion, I will most definitely support the intent of this motion; however, in terms of strategies, it is a little early to be passing too much praise on the strategy. We will wait until we see what happens on the way out. Having said that, the strategy is a bold step forward. It is a very good step forward. It did take a while, and the minister opposite will know that I asked numerous questions on this strategy over the last four years, but it has finally got there and I am pleased about that. It is a good step forward.

As far as people with a disability are concerned, it is wonderful that we are getting to the point as a society that we are witnessing people with a disability moving from being marginalised to the mainstream. People who for generations have been marginalised in every theatre of their life are moving to empowerment and mainstream society. That transcends all areas, not least being, of course, education. I will touch on that very briefly. As education minister I was insistent that students with a disability were treated, as much as we possibly could, as mainstream students. The former Liberal–National government put an enormous amount of resources into education support centres, and an additional \$40 million in 2016. It is so good to see when we visit schools—I know Hon Sue Ellery will agree with this—and when we go to education support centres et cetera, that students with a disability are now moving into what is deemed an inclusive classroom; that is, they are in a classroom with mainstream students and a raft of other cohorts of students. That is testament to where we are moving as a society.

Way back in 1994, the Richard Court government established the Disability Services Commission. The Disability Services Commission was applauded across the nation. It was used as a beacon for how to deliver disability services. It was a very good commission. In our term of government, we created for the first time a discrete Minister for Disability Services. That was, again, an indication of the significance of that portfolio. I am pleased that the current government has shown the interest that it has in this sector. It has to be bipartisan. It also has to be not only community based but nationally and internationally based. The fact that it is nationally based goes way, way back to 2011 when the Productivity Commission identified issues with the delivery of disability services, and to 2012 when Julia Gillard was the first to propose the notion of a national disability insurance scheme. That has been rolled out in the ensuing years through what is now the National Disability Insurance Scheme.

That was the only time in Western Australia that there was a bit of a disconnect between the two parties about the delivery of the NDIS. The previous Liberal–National government wanted to be part of a scheme that would deliver locally as opposed to nationally through Geelong. I still stand by that. That probably would have been the best way. It would have avoided a lot of the difficulties that arose for people who were getting their financial plans in accessing

information and funds through Geelong. I will not make a big deal of that. It is a national program. Another Productivity Commission report in 2017 identified a number of systemic issues across the nation, particularly with obtaining qualified staff for the rollout of the NDIS. I will not waste a millisecond on that for anyone; that would just be nitpicking. The NDIS is a magnificent program. It is empowering people with a disability. It is saying to people with a disability, “You can be in control of your own life.” What a wonderful vehicle. That is why I am so supportive of the NDIS.

While we are having show-and-tell, I had my own experience about 11 years ago when I had tried to play tennis like a 20-year-old, but it did not work and I snapped my Achilles. For someone who is fastidious about their physical activity, it was not pleasant. That was a poignant moment for me. It was a real eye-opener. I had been down south, playing tennis doubles with former Premier Colin Barnett, Michael Sutherland and Andrea Mitchell. I came back home to Perth that night and I had my foot in plaster. I have stairs in my home. I tried to use crutches for the first time on my way up the stairs, and I landed flat on my face. I sat on the stairs and felt completely out of control. I thought, I am not going to be able to do this. The doctor had told me that the inflammation would take three to six months to heal. I thought, rubbish; it will take only a couple of weeks. It was so disempowering. I sat there for minute and I said to myself, “You sook.” This is fact. This is true. I certainly used the word “sook”. Yes, it is true—I had to put some plastic over my leg when I had a shower, I had to get carted around everywhere, and I could not go for a run. I could not do all those things. However, some people are like this every single day of their lives. Some people are born with a disability. So, of course I picked up my chewie and realised I could not do anything about it and got on with it. Some people do not have that privilege, particularly those who are born with a disability. For those who become disabled later in life, it is a seismic shift, and that is why the National Disability Insurance Scheme is such a good scheme.

We have had a number of teething problems, and Hon Stephen Dawson them knows well. I think he handled the portfolio very well, and his office and my office, as I was the shadow minister at the time, worked very well together trying to facilitate a more seamless transition to a financial plan for dozens upon dozens of people with disability as they transitioned to the new scheme. I like to think that things have improved from the initial teething problems and that gradually more and more people do not have to worry, because they have enough issues in their lives as it is, about whether they will have the same amount of money they had previously or any money at all.

I am probably being a bit naughty here, but this is an observation. I reckon that in a lot of instances with the NDIS—this is inevitable when billions upon billions of dollars are traversing the nation—a business culture has developed in some areas instead of a care culture. Some service providers, not people with a disability, started to exploit the situation and saw it as a means to an end for financial benefit. That is a shame, because they were exploiting some of the most marginalised people in our community. Ideally, when we come out the other end—it might take a few more years before we get there—everyone with a disability who receives their package will feel more empowered, and will be more empowered, and will be more financially able. As I said, I applaud the NDIS.

I have said this before and I am not going to be critical; again, it is a suggestion for the government. When it reviews the machinery-of-government changes, I strongly recommend that it unscramble the egg with the Disability Services Commission. I know the government has an office of disability services or something, but it is still consumed within the Department of Communities. As I say, I am not being difficult here, but one of the biggest issues I experienced with people with a disability over the four years that I was the shadow minister was that it was very difficult for them to communicate with government, and this was at a time when we were transitioning to the NDIS. Fortunately, I had a very good relationship with the then minister, so we were able to sort out these issues. But when a department such as the Department of Communities deals pretty much mostly with the most marginalised people in our community—Aboriginal people, people with a disability and those who need child protection services and housing—it is dealing with people who really need support and someone who has their back. The Disability Services Commission was renowned nationally. I really hope that when the government reviews the Department of Communities et cetera, it considers unscrambling that aspect of the egg at the very least. That would be widely applauded throughout the disability sector, unless there has been a massive shift in the last eight months. I say this hand on heart: not one person in the disability sector said to me that they supported moving the Disability Services Commission into the Department of Communities. That is just some feedback. Members opposite are the government and I respect that, and I will not do anything to undermine the disability sector, but that voice was unambiguous and unanimous. These people like to have their own standalone Disability Services Commission, and, as I said, nationally, it was widely applauded.

I apologise; I will stop there. I realise we have a few more speakers. Having said that, I thank Hon Lorna Harper. It is a good motion and I like to think that ultimately, in years ahead, people with disability will be more empowered and will feel that they are mainstream, and that this strategy is successful in achieving those ends.

HON JACKIE JARVIS (South West) [1.44 pm]: I thank my colleague Hon Lorna Harper for moving this motion and I thank Hon Peter Collier for his input. I, too, stand to support the motion and reflect on *A Western Australia for everyone: State disability strategy 2020–2030* and the action plan. Hon Peter Collier mentioned that it perhaps took some time to get there, which is not always a bad thing. Obviously, I thank the members of the fortieth Parliament for the time and effort they put into getting this strategy together. One thing I am particularly pleased to see in this

strategy is the action plan, which Hon Lorna Harper spoke to. I think those of us who worked in or out of government over the decades have perhaps seen strategies or strategic intents that are printed and then sit on a shelf, so it is good to see this one has an action plan. I am particularly heartened to see that lead agencies have been appointed on a number of these matters. I think that really drives engagement.

It is probably worth reflecting how few of us in this place have a lived experience of disability, and perhaps we can all think about what we can do to encourage more political engagement from people with disability. Our lived experience seems somewhat limited to injuries and perhaps misadventure, dare I say. I do not have a story to tell, other than that my husband has broken his leg twice playing veterans AFL, and I have learnt that I will never be in the caring profession! That is my own reflection.

I would also like to thank Hon Peter Collier for talking about how the relationship in schools is now much more inclusive. My three daughters went through the Catholic education system in regional WA, so quite small country schools, and they have all had experience of being in school alongside kids with disabilities. I think that really helps to normalise it for our next generation. I think it is very different from back when I went to school, when we just did not have access to seeing that lived experience firsthand.

I want to acknowledge Hon Stephen Dawson who, as the Minister for Disability Services in the fortieth Parliament, launched this strategy. I have the media release here from December 2020. I remember it, because there was also the launch of the autism alert card, which was spoken about earlier. At the time the card was launched, I remember an ABC regional radio report covered it quite extensively and talked to a number of parents about the difference it would make in the lives of their young adult children. The autism awareness card alerts the emergency services and police that people may have communication difficulties or exhibit unusual behaviours. I remember that as being a big leap forward. It sounds like quite a simple thing, but that is why when we have action plans and stakeholder engagement, it is important that we actually listen to people who have these lived experiences.

One of the pillars of the state disability strategy that I am particularly pleased to see is “Participate and contribute”, which is about how we can support people to play more of a role in the workforce if that is their desire and ability. We have such a strong economy at the moment that we have skill shortages and an incredibly low unemployment rate. It really is imperative that people who want to play a bigger role in the workforce are empowered and supported to do that. If we do not take full advantage of those people in our community who can assist, our economy will be missing out, and there are many social benefits that come from working. I am particularly thrilled about the pillar “Participate and contribute”, which is about supporting people with disability to get the education and skills they need and opportunities for meaningful employment and economic independence. This is one for us all to reflect on: How can we support people with disability to hold positions of leadership and influence across the public, private and community sectors? How can we support people with high and complex needs to have the opportunities and networks that will help them to participate in a way that suits them?

I am really keen to see what comes out of the \$5 million innovation fund. I have a media release from our new Minister for Disability Services, Don Punch, who is from my electorate. On 1 October 2021, a \$2.5 million initial round of innovation fund grants was announced to generate new employment opportunities for people with a disability. Tenders for these grants have now closed, but it is going to be really exciting to see what projects have been put forward and who has accessed those funds. The media statement says that the grants will —

- Focus on developing projects that creatively apply new knowledge, technologies or processes to improve the inclusion and independence of Western Australians with disability

This will happen in a way that helps to grow those employment opportunities. I do not think that it is any accident that these grants were announced by the new Minister for Disability Services, Hon Don Punch, who is also the Minister for Innovation and ICT. I really look forward to what that holds for us when the successful tenderers are announced. As I said, the tenders closed in October.

I also want to briefly touch on those employers who are already working in this space. Many members would know that Good Sammy has a long history of providing employment services to people with disabilities, most commonly through its op shops. I have an ABC media report of Wednesday, 1 December—that is today! I was trying to remember what day it was because, like Hon Peter Collier said, I was in a committee meeting all morning as well. This is a story about Good Sammy and how its involvement in the container deposit scheme has helped it to provide more employment opportunities. I will read a little excerpt from this news story —

Josh Turner remembers the first time he was paid after starting work at the Good Sammy container deposit depot.

“Honestly, it was awesome. I felt like I’d earned it,” he said.

“I felt like I ... put in some effort and this is the reward that I got and I was just hyped.”

Mr Turner is neurodiverse and previously had only been able to work in volunteering roles.

He said getting his first paid job had made a great difference in his life.

This is the most important quote for me —

“I’m now actually even more social outside of work. I’ve even made a little circle of friends at work that I go out and do dinners with,” he said.

...

“I am now able to ... talk to people, getting to know how to talk to strangers.

“I’m still developing the skills to ... be confident in front of strangers, but I’m getting there.”

This is what these programs are all about. This program not only offers paid employment to people, but also empowers them to move up the next step of the ladder. The container deposit scheme has created seven new jobs across Good Sammy’s two drive-through locations in Wanneroo and Canning Vale. Workers who wish to remain in their role can, but the main goal is to provide them with the skills and opportunities that will take them into other positions well beyond that particular job at Good Sammy.

This story was released by ABC online news. I do not know if other people have noticed this, but the ABC seems to be leading the charge on positive stories about disability. I know that it has employed a number of journalists with a lived experience of disability, which goes a long way, as I said, to making sure that we do not just have a bunch of people like us reflecting on sporting injuries and not actually having that true, lived experience.

With that, I would like to again thank my colleague Hon Lorna Harper for bringing this motion to the house. I commend the motion to the house.

HON MARTIN PRITCHARD (North Metropolitan) [1.53 pm]: I will take only a couple of moments. This motion deserves a lot more time but we need to get to a number of other matters. I want to pick up on the last thing that Hon Jackie Jarvis said. We can all have some empathy for people with disabilities, but it is very difficult for an able-bodied person to really understand what it is like to have a disability. I want to talk about an area that I have a particular interest in—the deaf and hard-of-hearing community. This community has a particular problem because their disability is not an obvious disability. A person walking down the street would have no idea of the hearing capacity of someone from this community. This is a little bit different from other disabilities that are more obvious to able-bodied people, who can then assist or recognise more easily when there is an opportunity to assist.

The other thing with the deaf and hard of hearing, particularly with the profoundly deaf, is that there are a lot of different views and challenges within the community. If a person is born deaf, the situation they are in can be very different and varied. For instance, a young person born into a family who uses Auslan will very much be pushed into the culture of the deaf community, so they will often miss out on the variety that other children have. A more difficult situation is a deaf child who is born into a hearing family in which the parents do not learn Auslan. A deaf child growing up in a family in which they have no real contact with their own family let alone outside of their family are in a very difficult situation. They struggle to try to catch up, and often never catch up, with education and other things.

People may not know that Auslan is totally different from English; English has no correlation with Auslan whatsoever. If someone knows Auslan, people suspect that they might know written English, but that is not always the case either. There are a wide variety of views within the community and a wide variety of views outside the community looking in, so all these things need to be taken into account. As I said, it is very difficult, but there are some green shoots. One green shoot is the motion today with regard to *A Western Australia for everyone: State disability strategy 2020–2030*. We need to continue to revise that, and I congratulate the McGowan government for taking that step. The National Disability Insurance Scheme empowers people with disabilities, and that has been mentioned today as well. There are days when we celebrate not the disability of people, but the ability of people. In September, there was the International Day of Sign Language. There was also the National Week of Deaf People. I attended some events fairly recently. One very inspiring event was Telethon Speech and Hearing’s Power of Speech Awards. Hon Kyle McGinn attended the day with me. The young children there have had cochlear implants fitted and they have grown in confidence exponentially. I thank Telethon Speech and Hearing for the invitation. Recently—again with Hon Kyle McGinn; Minister Don Punch; Hannah Beazley, MLA; and Hon James Hayward—I attended the Access Plus WA Deaf centenary ball. It was absolutely amazing to see the whole community get together and celebrate at the centenary ball and to see them dancing and really having a good time. It was incredible.

The last thing that I want to mention is—as I said, it does deserve a lot more time, but we do need to get onto other things—next year on 16 February we will have the inaugural event of the friendship group for the deaf and hard of hearing, which members will receive an invitation to. This will be an opportunity to get all the different parts of the community together to build those bridges and educate ourselves as much as we can on the challenges facing that community. Hon Kyle McGinn, as a parliamentary secretary, has taken a particular interest in this, which has made me extremely grateful.

HON SOPHIA MOERMOND (South West) [1.59 pm]: I will not be long. I commend Hon Lorna Harper for putting forward this excellent motion. As a person with about a 60 per cent to 70 per cent hearing loss, I rely on my hearing aids all the time. I miss stuff in this chamber, especially if everyone is talking and it all sounds quite funny and hilarious—I have no idea what is going on, which is okay. I miss cues in here as well and that causes a level

of anxiety in me because I want to make sure that I am not missing things such as when I am supposed to stand up and sit down and all that. I think that aspect, the anxiety around not hearing things, is often missed by people. Even though I have hearing aids that are valued at \$11 200, which is pretty standard for a good set of hearing aids, they do not seem to work with the loop in here, so I will have to buy some new ears. Even though they are very good, they do not replace normal hearing. In a room full of people, if I cannot see someone's face, I cannot hear them, basically, so I sometimes escape to the room next door to hear members speak so that I can follow it as well. Thank you.

HON KYLE MCGINN (Mining and Pastoral — Parliamentary Secretary) [2.00 pm]: I want to thank Hon Lorna Harper for bringing such a great motion into this chamber for us to discuss. I will start by saying what a great debate it has been this morning hearing about each other's experiences and the respect everyone has for this issue. A key thing that has come out this morning is about understanding the past and trying to build an inclusive future. I also pay my respects to the previous minister, Hon Stephen Dawson, who is also in the chamber and who I know worked tirelessly in the disability space. He has a very good reputation amongst organisations for putting in some hard yards in the last term. I also want to acknowledge that I am representing the Minister for Disability Services, Hon Don Punch, who has passion in this space. I think it has been great for the industry to have these two ministers back-to-back, pushing a very strong agenda on how we can improve the lives of people with disabilities.

I want to go through a couple of things that have been said. Hon Lorna Harper touched on the four pillars, and I will go into a little more detail about the four pillars because I do not think members delved too hard into them. They have been critical to the 10-year strategy that we are only very fresh into. I acknowledge that the two-year action plans are very responsive. The way that they rotate means that we can be updated and they can be formulated in a way that if there is change—for example a pandemic—we can navigate our way through a more critical space that needs to be identified and worked on.

Pia's Place rang a bit of a bell for me, Hon Lorna Harper, because if I saw an inclusive playground when I take my nephews down to the park, it would make me feel good, knowing that a child with a disability has the ability to play just like everybody else and be in that space together. That is really good. I am looking forward to getting down to see it. From what the member said, it sounds pretty amazing. I do not know whether I will be able to fit down the slide, but I will give it a go!

Hon Peter Foster mentioned inclusive events grants. Yes, that has been absolutely great out of this strategy. Giving local governments and organisations the ability to get funding to create inclusive events is another step in the right direction, absolutely. I also note that Hon Peter Foster mentioned the under-representation of people with disabilities, particularly in employment and within all levels of government from federal and state to local government. I feel a bit of optimism; I think we are getting there and I think we are getting there with a lot of minority groups. It is one of those things that we have to keep getting better at, and a bit later I will go into a few of the things that we are trying to bring together to make even more representation of people with disabilities in the disability space.

The COVID-19 pandemic has had a very heavy and harsh effect on people with disabilities. Hon Peter Foster identified that. I like the all-terrain wheelchairs that Hon Peter Foster mentioned. I have seen one and they look like something out of a *Starship Troopers* movie. They have massive wheels and they get onto anything. That has given an ability for someone to get onto the Exmouth foreshore and potentially go out to Oyster Stacks and Turquoise Bay, which is just a great opportunity. The more accessible tourism we have, the better it will be for our state, not just for people in Western Australia, but for people coming from around the world and across Australia when we get back to some normality.

I will touch on the office of disability. Hon Peter Collier briefly touched on the Disability Services Commission, and I will go through some things with the office of disability that may reassure members on where we are heading with that. I take on board what members have said, but I think we have put in place something that takes up that space. Hopefully, I can answer some of those questions. The member mentioned that it is a bit early to judge, and I agree with him on that. It is a 10-year strategy. As I have said previously, it is adaptable within our action plans. It will be a movable feast. I am confident that we are off to a good start, but we just need to keep tracking and make sure that we keep onto it.

I absolutely agree with the comments on the National Disability Insurance Scheme and empowerment. The feedback I get just in Kalgoorlie from the Goldfields Individual and Family Support Association and Empowering People in Communities is that people are feeling empowerment. Instead of being with an organisation, they make the decision to take someone individually because they love that person and that is the person they want to be connected with the whole time. To me, it is a huge step in the right direction. I agree that there are teething problems, and I know that the former minister would have had some pretty stressful days and nights during the rollout of the NDIS. All I can say is that I am hearing more success stories than negative ones, which is a positive turn. I look forward to seeing the communication of the NDIS improved as well, because some of the feedback I get is about the ability to connect with someone. I believe the helpline was shut down as well, which is just madness. At a national scale, we need to ensure that a little bit of change for a person with disability can have a massive change and effect on their life, particularly when they cannot get assistance in what is sometimes a very complex situation.

I will never call on Hon Jackie Jarvis to be a carer for me! I thank her for highlighting that to the house! I also thank her very much for bringing up the innovation funding. That was something that the previous and current ministers

worked very, very hard on, and I think it makes a lot of sense. The pillar of “participate and contribute” will be focused on over the next four years as one of the four pillars. The member mentioned Good Sammy Enterprises, and yes it does an amazing job in its support for people with disabilities. I am attending an event this weekend with Good Sammy’s to celebrate the International Day of People with Disability.

Meaningful employment was also touched on. It goes without saying that meaningful employment creates social engagement—the feeling of being part of a team and having support, which I think is really important.

I thank Hon Martin Pritchard for raising Access Plus WA Deaf. It is an amazing organisation that I recently had the pleasure of engaging with. When I went to the gala ball, naively rocking up and not knowing what to expect and then to be in a room with everyone communicating with Auslan, it was quite an experience. I have to say that I had a very eye-opening experience that I will take with me when leaving this place. You end up feeling like you are the person with a disability, but the people there make you feel so at home and comfortable. We were lucky enough to have interpreters. I think what the Auslan interpreters do is phenomenal. Just one achievement that night was that they allowed me to engage with people who were so happy. They were telling me that they did not have a disability. They do not feel as though they do, because they can communicate and they have two legs and two arms. They made it very clear to me that maybe I was the one with a disability! It was really good and I cannot speak highly enough of the minister’s and my night. Access Plus WA Deaf was amazing.

I will touch on a couple of things in the time remaining. Importantly, the McGowan government’s innovation fund is a key feature of implementing and achieving the strategy. The \$5 million innovation fund will stimulate innovative ways to increase employment opportunities for people with disabilities and enhance independence at home and in the community. That is important. The key part of the strategy is the ability to spend locally and build the local economy whilst also being inclusive. That benefits everyone within the community, not just people with disabilities. I have heard so many stories of people who have hired somebody with a disability and have got so much more out of that employment through their own business, which is really successful. That fund commenced in 2021–22. The initial round of funding included \$2.5 million, which was a really good start. I understand that the Minister for Disability Services will announce the successful applicants for the innovation fund in January 2022. We are looking forward to some of the new adventures that will come out of that innovation space. I look forward to talking about them in the future in this place.

I said that I would touch on the office of disability. We are very proud that as part of the 2021–22 budget, we will establish the state’s office of disability to promote the rights and interests of people with disability and the broader disability sector. The establishment of an office of disability will ensure that disability issues continue to be at the forefront of the state government’s focus and that there is a strong voice advocating for people with disabilities across government, the disability sector and the broader community. The office will act as a vital conduit of information and knowledge for a range of quality services that people with disability require. We envisage a type of hub scenario, which would provide the ability to access a one-stop shop for advocacy and information. Set up under the Department of Communities, the office of disability will provide disability sector stewardship, advice on state and commonwealth systems, and drive work and innovation to advance the inclusion and participation of people with disabilities in Western Australia. The office will also provide leadership through a dedicated team to implement, monitor and further develop *A Western Australia for everyone: State disability strategy 2020–2030*. That is impressive. As I said earlier, there is a bit of fluidness to it and a changing environment. We need to adapt to that. The office of disability will have the ability to do that. I hope that gives some reassurance to Hon Peter Collier that there is a space that will provide advocacy and push the agenda of disability services further.

Members touched on the grants for the International Day of People with Disability. We have been providing multiple grants since 2017 for events across Western Australia to celebrate the International Day of People with Disability that highlight the benefits of inclusive communities. We provided \$100 000 in 2021 for sponsorship of inclusive events and activities. As I said earlier, that is a huge start to getting the community to come along on this journey with us, which is absolutely critical.

I could go on and on because this strategy has so many different angles to it. The four pillars break down where the strategy is heading. I will touch on them briefly before I conclude. As Hon Jackie Jarvis mentioned, the first pillar is “Participate and contribute”. Another pillar is “Inclusive communities”, which ties in with the grants and innovation in the strategy. The other pillars are “Living well” and “Rights and equity”. These pillars define the strategy that will be rolled out over the next nine years. I am looking forward to seeing more inclusivity for people with disabilities. I say to any employer out there: take the chance and have a go, otherwise you will not understand the benefits your organisation will get by having someone passionate and driven to be a part of your business.

HON LORNA HARPER (East Metropolitan) [2.15 pm] — in reply: I rise again to quickly thank my colleagues for their contributions. I love Hon Peter Foster’s idea of going down to the beach. It is great to see how inclusive it is at the beach now. I very well remember the contribution of Hon Peter Collier as a former Minister for Education about addressing the needs of children with special needs at school.

I agree with Hon Kyle McGinn that nursing may not be Hon Jackie Jarvis’s calling. Hon Martin Pritchard spoke about the deaf community. Yes, I understand a little bit about that; whether people are capital “D” Deaf or little “d” deaf depends on where they are. It is quite complex and people do not realise. I would particularly like to thank

Hon Sophia Moermond for sharing her personal story about the impact of our speaking in the chamber and how sometimes it is difficult for her to hear. As a chamber, that is something we should all be conscious of. We will try. I cannot guarantee it because some people in here are a bit rowdy—not me! I thank her very much for raising that. I thank again Hon Kyle McGinn for his wrap-up of everything we spoke about.

Moving forward, it is really good to see a cross-party agreement on how important this state disability strategy is. So far, so good, but we have a long way to go. It will be good to work with everybody in the chamber to keep moving forward. I thank members very much.

Question put and passed.

COMMITTEE REPORTS — CONSIDERATION

Committee

The Deputy Chair of Committees (Hon Dr Sally Talbot) in the chair.

Joint Standing Committee on the Corruption and Crime Commission — First Report — Annual report 2020–21 — Motion

Resumed from 27 October on the following motion moved by Hon Dr Steve Thomas —

That the report be noted.

Hon NICK GOIRAN: I am pleased to rise as we consider the annual report of the past financial year for the Joint Standing Committee on the Corruption and Crime Commission. We have had the opportunity to consider this report previously. One element I have yet to address with members is the seventeenth report that was tabled by the Joint Standing Committee on the Corruption and Crime Commission. Members will be aware that at page 2 of this report the committee notes that it tabled the report titled *Meaningful reform overdue: The Corruption, Crime and Misconduct Act 2003*. It specifically drew to our attention that that report called on the government to undertake a comprehensive review of the Corruption, Crime and Misconduct Act 2003.

This report was tabled in this place now more than a year ago. It is a little contentious because these calls for reform have been going on for a very, very long time. It is quite timely for us to have the opportunity to consider this today, given that the house is in the midst of debating a bill dealing with unlawful consorting, among other things, and that there is a difference of opinion at present between the government and the opposition on who should be the overseer of those powers—the CCC or the Ombudsman.

Interestingly, this report that the committee tabled sets out a whole range of stakeholders that have called for reform. It might interest members to know that not only did the Joint Standing Committee on the Corruption and Crime Commission call for reform in the fortieth Parliament and, indeed, as identified in this report, in the thirty-ninth Parliament, but also the Corruption and Crime Commission called for reform and a review of the act. The committee also draws to our attention that the Parliamentary Inspector of the Corruption and Crime Commission has called for reform of the act and tells us that the Public Sector Commissioner has called for amendments to the act. The committee identified a further three organisations, agencies or stakeholders that have called for improvements and legislative reform. The submission of the Community and Public Sector Union–Civil Service Association of WA can be found at appendix five. Members will also see at appendix seven that an organisation known as Civil Liberties Australia has called for reform. The last group that has called for reform and suggested changes is none other than the Western Australia Police Force. Its suggestions are found at appendix eleven.

The issue is that the current Joint Standing Committee on the Corruption and Crime Commission drew to our attention in its first report that work had been done in the form of the previous committee’s seventeenth report, which had called for this review, yet we have had no response from the government on this matter. I suspect that the government is likely to say that there are two reasons there has been no response to that report. First, it will say that the Joint Standing Committee on the Corruption and Crime Commission in the forty-first Parliament has not sought to re-table the seventeenth report from the fortieth Parliament. Therefore, the government will say, “We’ve got nothing to respond to in the forty-first Parliament.” Secondly, I think the government will say that the particular report I am referring to does not list any specific recommendations that formally require a response from the government under the standing orders of the Legislative Assembly. Just because there is no formal requirement for the government to respond does not mean that it ought not to respond anyway. If the Joint Standing Committee on the Corruption and Crime Commission felt it necessary to table a report that says that meaningful reform is overdue, that should be enough for the government to take notice and provide a response. The fact that it has been supported by calls from the Corruption and Crime Commission, the Parliamentary Inspector of the Corruption and Crime Commission, the Public Sector Commission, the Western Australia Police Force and other stakeholders only elevates the importance of this issue.

It is worth making members aware that in the CCC’s submission—very brief as it may be—to this inquiry, which is found on page 41 of the seventeenth report, it said —

Reshaping the unused organised crime exceptional powers would also strengthen the State’s ability to deal with serious and organised crime.

This is particularly pertinent given the debate we are having at the moment on the Criminal Law (Unlawful Consorting and Prohibited Insignia) Bill 2021 and the proposed dispersal notice scheme, because we have here a suggestion by the Corruption and Crime Commissioner, John McKechnie, QC, that it would be worthwhile to reshape the unused organised crime exceptional powers.

Members may not be aware that there are very significant—in fact, extraordinary—powers in the Corruption and Crime Commission for organised crime. It enables the CCC, on an application of the Western Australia Police Force, to hold hearings in which individuals are compelled to provide evidence. If they do not provide evidence—if they do not provide a response under compulsion—they can be held in contempt, such is the power of these extraordinary hearings. These laws have been rarely used over the last 15 years. They have been used in some high-profile cases, including, most recently that I recall, in cases that involved members of outlaw motorcycle gangs; but, generally speaking, they have been rarely used. It is interesting that the Corruption and Crime Commissioner uses the word “unused”. I think that perhaps, on reflection, the commissioner might prefer to use a different phrase. It is not true to say that these organised crime exceptional powers have been unused, but it is certainly true to say that they have been under-utilised.

That in itself warrants a response. Does the McGowan Labor government agree with the Corruption and Crime Commissioner that these organised crime exceptional powers should be reshaped, and reshaped into what? I recall that the main issue is that WA police have been hesitant, depending on the leadership model at the relevant time, to utilise these powers. I have never fully understood why that is the case, given that these exceptional powers have, in fact, been used, when certain bikies were jailed for two years for being in contempt of the Supreme Court due to their non-answers or lack of answers when hauled before a Corruption and Crime Commission hearing.

The Corruption and Crime Commissioner also mentioned in his submission, found at appendix four of the seventeenth report of the Joint Standing Committee on the Corruption and Crime Commission in the fortieth Parliament, to an “exciting opportunity to deliver a Misconduct Act that best serves the State in the decade to come.” The Joint Standing Committee on the Corruption and Crime Commission, under the then chairmanship of Margaret Quirk, MLA, embarked on this process and the Commissioner of the Corruption and Crime Commission said that this was an “exciting opportunity”.

The DEPUTY CHAIR: Hon Nick Goiran.

Hon NICK GOIRAN: Yet, two years has passed since the commissioner referred to this “exciting opportunity to deliver a Misconduct Act that best serves the State in the decade to come.” The letter is dated 3 September 2019. More than two years ago, the commissioner basically embraced the Chair of the Joint Standing Committee on the Corruption and Crime Commission and said, “This is an exciting opportunity. We can work together to reform this for the benefit of the next decade”; yet, two years later, nothing has happened. What has the McGowan government done with the review of the Corruption, Crime and Misconduct Act and the commissioner’s proposal of a new act? Has any work commenced in this space? What is the current status of that work? This suggestion was made two years ago by the Corruption and Crime Commissioner; meanwhile, despite the fact that that particular submission of the CCC commissioner was very brief and only talked about this “exciting opportunity” and about reshaping organised crime exceptional powers, a far more comprehensive submission was provided by the then Parliamentary Inspector of the Corruption and Crime Commission. That can be found at appendix eight. It should be noted that the author was the Parliamentary Inspector of the Corruption and Crime Commission at the time, the late Hon Michael Murray, AM, QC. He was a man of great intellect. In my previous role as Chair of the Joint Standing Committee on the Corruption and Crime Commission over two parliamentary terms, my observation of him was that he was a person of great intellect, integrity and professionalism. In his three-page submission to the committee he set out a range of areas that require reform. In fact, he provided a very helpful list of those areas, in some form of chronological order. By my count, in his three-page letter the parliamentary inspector saw fit to draw to the attention of the committee some seven different areas of reform.

Once again, more than two years has passed since this letter was first provided to the committee. The letter is dated 7 October 2019; one would assume that the committee received it shortly thereafter. The committee included it in a report it provided to the Parliament a year ago. The committee had the benefit of this letter for just over a year and now the Parliament has had the benefit of it for more than a year. The McGowan Labor government, therefore, has also had the benefit of this letter for more than a year, yet we have had no response from it about what it wants to do with these seven areas of reform that the late Hon Michael Murray thought fit to draw to everyone’s attention.

Some of the areas he outlined in the letter go back as far as Hon Michael Murray’s predecessor as Parliamentary Inspector of the Corruption and Crime Commission Hon Chris Steytler, QC; the observations I made about Hon Michael Murray equally apply to Hon Chris Steytler, who was the first parliamentary inspector I had the opportunity to work with in, if my memory serves me correctly, the thirty-eighth Parliament. Hon Michael Murray referred to Mr Steytler’s proposals in the letter, which states, at page 63 of the report —

Mr Steytler thought such cases should be investigated by the Commission itself and proposed a general policy statement to that effect in the Act, perhaps by amendment of s7B.

He is referring to concern about the priority with which the police were looking at allegations of excessive use of force. This has been a longstanding concern. Indeed, I note that the Joint Standing Committee on the Corruption and Crime Commission has provided another report to Parliament dealing with this issue; it may even be on the *Daily Notice Paper* before us. I can see that it is the third committee report for consideration, and the second of the reports tabled by that committee in this Parliament. It goes to the issue of the excessive use of force. This is a matter that has been going on for so long that not the previous parliamentary inspector, but the one before that—Hon Chris Steytler—said that we need to elevate the issue of investigations by the CCC into excessive use of force by police, and we need to elevate it in the act by way of an amendment to section 7B, yet nothing has happened.

Another area that Hon Michael Murray brought to our attention in this letter is a recommendation of amendments to the act —

... designed to make the process of investigation complete under my oversight.

That is the phrase that is used in the letter on page 63 of that report. What he is referring to there is a set of circumstances when there was misconduct within the Corruption and Crime Commission by some of its officers. The unit was then known as the operational support unit. There was difficulty about who had primary carriage of the investigation—whether it was the CCC looking into its own officers, whether the Western Australia Police would be involved and to what extent the parliamentary inspector would be able to undertake the task. In the 2015 report, he indicated that it was necessary to make amendments to the act. Now we have two areas that have been identified by two different parliamentary inspectors that have not been actioned. These matters precede the McGowan government, not just since the 2021 election but before its appointment following the 2017 election. These matters have been repeatedly brought to the McGowan government's attention, yet there has been no action—not only no action, but also no response.

The third area that the parliamentary inspector draws to our attention in his letter is what he refers to at page 64, which states —

... the need to amend the Act to make it clear that the Commission's power to deal with industrial matters without interference from me, may only be exercised after or to the extent that it does not derogate from my function to deal with misconduct by Commission officers.

I can recall a set of circumstances when the Corruption and Crime Commission and the parliamentary inspector were in a demarcation dispute about jurisdiction all with regard to this language in the act and its reference to an industrial matter. If there is an industrial matter, is it only for the Corruption and Crime Commission to be engaged or might the parliamentary inspector still be able to be engaged? What happens when there is overlap between an industrial matter and misconduct matters? That issue remains unresolved, hence why the late Hon Michael Murray drew our attention to it and said that there needs to be an amendment to the act.

The fourth matter that Hon Michael Murray drew to our attention in the seventeenth report of the Joint Standing Committee on the Corruption and Crime Commission is an area about which he said —

In my view it would be convenient to amend the Act to make it clear that the Commission has no power to prosecute for any offence and, consequently no power of arrest for any matter which might constitute a criminal offence, or at all.

The DEPUTY CHAIR: Hon Nick Goiran.

Hon NICK GOIRAN: The situation there was another dispute that arose and was ultimately settled by the Supreme Court. If my memory serves me correctly, the WA Police Union assisted a police officer to challenge in the Supreme Court whether the Corruption and Crime Commission had the power to lay charges and prosecute the offence. Ultimately, there was a Supreme Court decision on the matter. What Hon Michael Murray said in his letter is that it would be convenient to amend the act to make it clear that there is no power to not only prosecute for any offence, but also arrest for any matter that might constitute a criminal offence or at all. He sought for these things to be clarified. This is the fourth area drawn to our attention by Hon Michael Murray, and on which there has been no action.

The fifth of the seven areas that the former parliamentary inspector draws to our attention is referred to at page 65 of the report —

“Misconduct alleged by public officers who subsequently become officers of the ... Commission.”

He is referring to another report, dated 4 December 2018. He goes on to say —

The point which is relevant for present purposes is that, if such an officer is alleged to have been misconducting himself or herself as a public officer before their engagement, and it has been inadequately dealt with; or not dealt with at all, it is beyond my power to intervene because my function is limited to dealing with misconduct by Commission officers. I continue to propose the legislative amendments (at least in their substance) proposed in the Report.

In this scenario, it is possible—or indeed, as I understand, it has occurred, hence the need for this report of 2018—that a public officer might have committed one or more indiscretions that could be described as misconduct. However, before the matter is fully investigated or finalised, they remove themselves from the place where the indiscretions

occurred—whatever department it might have been—and find themselves in the employment of the Corruption and Crime Commission. There is then a big difficulty for the parliamentary inspector, because he cannot look into historical matters that involved the public officer. The public officer will therefore have managed to shield themselves from the scrutiny of the parliamentary inspector, quite perversely, by hiding in the Corruption and Crime Commission. The very overseer of the Corruption and Crime Commission, the parliamentary inspector, who is supposed to be looking into misconduct in the commission, cannot even look into the particular officer because they have shielded themselves from such scrutiny all because their indiscretions occurred prior to their appointment at the commission. We can well appreciate that Hon Michael Murray has brought this to our attention and said that this is another area for reform. It is the fifth area for reform set out in this comprehensive submission, yet nothing has been done by the McGowan Labor government and there has been no response.

The sixth area set out in this excellent submission by Hon Michael Murray, albeit more than two years ago—two years of inaction by the government—is quoted at page 65 as follows —

... because neither the Commission, nor the Public Sector Commission, can deal with “minor misconduct” by Commission officers, in the result no investigative agency can do so and I recommend that the Commission be again provided with the power to deal with all forms of misconduct by its officers, subject to my independent oversight.

The genesis of this matter was a report entitled *A saga of persistence*. The name of that report from 2019 is timely, because I feel it is a bit of a saga of persistence here in the chamber at times trying to get the government to take seriously these reforms to the Corruption and Crime Commission. The report is, after all, entitled *Meaningful reform overdue*. It will take, I think, some more persistence and perseverance before we see any true action taken by the government.

In this episode, the parliamentary inspector has identified that if the misconduct is defined or characterised as “minor misconduct” compared with “serious misconduct”, there is a gap in the oversight umbrella whereby neither the Corruption and Crime Commission nor the Public Sector Commission can deal with that minor misconduct. Why? It is because it is by a commission officer. If a public servant is alleged to have committed minor misconduct, the matter is investigated by the Public Sector Commissioner. However, if an allegation of serious misconduct is made, it is handled by the CCC. The question then becomes: what happens if a CCC officer commits minor misconduct? Should the subordinate body, the Public Sector Commission, look into allegations of minor misconduct by the CCC, or should it be the CCC itself? Hon Michael Murray recommended that the commission should once again be provided with the power to deal with all forms of misconduct by its officers, subject to his independent oversight. That seems to be an eminently sensible and long-overdue reform. The *Parliamentary Inspector’s report on ‘a saga of persistence’*, the eleventh report, was tabled on 27 June 2019. The McGowan government and the Attorney General cannot shield themselves from the scrutiny of that report. It absolutely happened on their watch, and they should indicate whether they intend to reform the Corruption, Crime and Misconduct Act, or is it okay for an officer of the Corruption and Crime Commission to commit minor misconduct, hide in the CCC and be shielded from investigation, just like when the misconduct occurred prior to the officer’s appointment to the Corruption and Crime Commission?

The last area identified—certainly that I have been able to identify—in the letter from Hon Michael Murray from two years ago is what he has referred to as the collateral damage that occurs when individuals have been identified without the benefit of any court process or other means of making a finding of guilt. He has referred to this as a matter that causes him “grave concern”. That is the language he uses in this letter. I will quote the letter for completeness. He says at page 65 —

I must say that it is a matter which causes me grave concern when what is often referred to as “collateral damage” arising out of identification without the benefit of any court process or other means of making a finding of guilt occurs, it is said as a necessary corollary of the exercise of a discretionary decision to name. I think the Act needs to provide greater clarity as to when such judgements may be made, but I am not yet in a position to settle on a specific view.

Members probably know that, from time to time, parties can be named in reports and proceedings and the like, yet we find that they have not had the opportunity to clear their name in a court of law or by some other means. That was of sufficient concern to Hon Michael Murray that he drew it to the attention of not only the committee, but also the Parliament of Western Australia. The question is: what does the McGowan government intend to do about that? Does it intend to respond to this matter or will it allow the shields to continue?

The DEPUTY CHAIR: Hon Nick Goiran.

Hon NICK GOIRAN: I will conclude my consideration of this matter shortly, suffice to say that in the Joint Standing Committee on the Corruption and Crime Commission’s first report of 2021, the committee thought it was appropriate to draw our attention specifically to its seventeenth report of 2020. I note that page 2 of that report says —

‘[o]ver the course of the 40th Parliament, this committee has observed a range of areas where the *Corruption, Crime and Misconduct Act 2003* ... is either deficient, obsolete or unclear’, and ‘[w]hat is made abundantly clear through the collation of feedback from stakeholders, is that a comprehensive review is necessary to support much needed reform of the CCM Act.’

This report that the committee talks to and quotes from—the seventeenth report, which I have been referring to this afternoon—includes not only the brief submission from the Corruption and Crime Commissioner that I alluded to earlier, but also the far more comprehensive and worthwhile one by Hon Michael Murray.

Interestingly, other stakeholders were consulted about the reforms. One of them was the Ombudsman. The Deputy Chair (Hon Dr Sally Talbot) will remember that I said it is timely for us to consider this matter given the other debate we are engaged in regarding the unlawful consorting laws. In a letter dated 21 August 2019 found on page 67 of the seventeenth report of the Joint Standing Committee on the Corruption and Crime Commission, the Ombudsman said —

I sincerely appreciate the courtesy of you writing to me about this matter.

As Ombudsman, I serve Parliament and its Committees, and am available to you at any time to assist you in any way.

In relation to the request the subject of your letter, I have no suggestions for change to the *Corruption, Crime and Misconduct Act 2003*.

He goes on to provide contact details before ending “Yours sincerely”.

There is very much this issue that will need to be considered later, either today or tomorrow, by members as to whether the Corruption and Crime Commission ought to be the overseer of these police powers or it should be the Ombudsman. We have already seen from the committee’s seventeenth report that the CCC is saying there is a need to reshape some of these organised crime powers. In comparison, the Ombudsman said that he had nothing to add about reforms in this area. The question might reasonably be asked: what does WA Police Force have to say about all this? Its submission can be found in the final appendices to this report, and the author of this letter dated 7 October 2019 is the Commissioner of Police, Mr Dawson. He has set out four areas of reform that he is calling on the government to consider. Of course, we still do not know what the Minister for Police, the Attorney General and the Premier have to say about this. This letter was sent by the Commissioner of Police at a time when he was busy, but perhaps not as busy as he has been over the last two years with the additional hats he has had to wear. On 7 October 2019, he saw fit to advise Margaret Quirk, MLA, the Chair that Joint Standing Committee on the Corruption and Crime Commission, that part 3, division 3, section 28(2) warrants further clarification. He says at page 73 of the seventeenth report —

This section provides for notifying authorities to “... notify the CCC in writing ...”.

There he takes the opportunity to underline the phrase “in writing” to bring it specifically to the reader’s attention. He goes on in this letter to say —

The use of the word writing implies traditional correspondence and is proposed this be amended to reflect email and electronic notification methods. Use of the word writing also appears at several other sections throughout the Act, which may require clarification.

What is the government’s response to Mr Dawson’s plea for clarification from two years ago? Has it provided him any comfort or clarification on this point? If it has, we would certainly welcome the government tabling that response. I very much suspect that, regrettably, there simply has been no consideration of this point at all, despite the fact that more than two years have passed. Nevertheless, the Commissioner of Police, not satisfied with just that one area of reform and clarification, goes on to provide a further three areas, which I quote here. He refers to section 28(6), which is found in the third division of part 3 of the act, and says —

This section places a general obligation/duty on agency heads to notify the Corruption and Crime Commission ... of suspected serious misconduct. Section 28(6), provides specific exemption for the agency head, of the duty to notify if the matter concerns *Reviewable Police Action* ...

Members may be aware that all reviewable police action must be considered and drawn to the attention of the Corruption and Crime Commission. It can then determine whether it will independently consider the matter or simply monitor how WA Police Force considers the matter.

One of the big issues that has arisen—this has been mentioned by a number of stakeholders—is what is referred to as a section 42 notice. A section 42 notice enables the Corruption and Crime Commission to effectively place a stop work order on a police officer. In fact, a section 42 notice is not limited to police; it can be issued to any agency. Section 42 notices have caused great tension over the years between WA police and the Corruption and Crime Commission, so much so that on 7 October 2019, Mr Dawson saw fit to bring this matter specifically to the attention of the Joint Standing Committee on the Corruption and Crime Commission. He said —

Historically, there have been occasions after a 42 Notice direction, where CCC investigations have continued for extended timeframes. This prevented the WA Police Force from investigating and the loss of investigative strategies and evidence.

It is proposed that after issue of the Section 42 Notice, a requirement be placed upon the CCC to review the issue of the Notice every 30 days and a duty placed upon the CCC to notify the appropriate authority of such review, particularly timely advice over revocation, so that investigations can be quickly reinstated.

Members can see that a number of issues have been raised, whether it be by the CCC itself, the parliamentary inspector or WA Police Force. This is before we even start considering what the Public Sector Commissioner and other bodies, including the other two stakeholders that I referred to earlier, have had to say about this. These things demand a response. If the Joint Standing Committee on the Corruption and Crime Commission in the previous Parliament saw fit to table a report entitled *Meaningful reform overdue*, and it had the opportunity to highlight that some of this review and reform goes back as far as the Gail Archer review, one would expect that at some point the McGowan government would provide a response to these issues. In fact, interestingly, the Gail Archer review made 58 recommendations. The fifty-eighth of those was that a further review be conducted of the act eight years after its commencement. This comment was made by Gail Archer in her report of February 2008. More than 13 years have passed since Gail Archer made the recommendation that a further review be conducted of the act eight years after its commencement—not eight years after she had said that. It has now been 13 years since she said that, yet nothing has been done about it. What does the McGowan government propose to do about this, or will it be left to languish?

The DEPUTY CHAIR: Hon Nick Goiran.

Hon NICK GOIRAN: I would ask the ministers, whether it be the ones who are present, or any others, to give this matter due consideration, and when we next consider this report to advise what the McGowan government intends to do about this. It is really not satisfactory that Gail Archer said in 2008 that we need to have a review of the act eight years after its operation, keeping in mind that it is a 2003 act, and 13 years after she said that, nothing has happened. It is really not satisfactory that the Joint Standing Committee on the Corruption and Crime Commission in the thirty-ninth Parliament identified numerous areas in the act that need reform and made recommendations to that effect, and nothing has happened. It is really not satisfactory that the same committee in the fortieth Parliament has tabled its seventeenth report, entitled *Meaningful reform overdue*, and nothing has happened. It is really not satisfactory that the Corruption and Crime Commissioner, Mr McKechnie, indicated two years ago that he looked forward to working with the committee on this exciting opportunity so that we can reshape these laws for the next decade, and two years into those 10 years, nothing has happened. It is really not satisfactory that there has been no response from the government to the submission made by the late Michael Murray, the former Parliamentary Inspector of the Corruption and Crime Commission, about the various reforms that he and his predecessor, the Honourable Chris Steytler, recommended over that period, the least of which are the seven that I have mentioned this afternoon. It is really not satisfactory that there has been no response from the government to the four areas of reform that Mr Dawson, the Commissioner of Police, brought to our attention two years ago. All those stakeholders—the Joint Standing Committee on the Corruption and Crime Commission; the Corruption and Crime Commissioner, Mr McKechnie; two parliamentary inspectors; Mr Dawson, the police commissioner; and I have not had time this afternoon to touch on the submission by the Public Sector Commissioner—have called for reform, yet there has been no response from the Attorney General or the McGowan government.

I would ask the ministers to give this matter consideration. Given the very few sitting weeks that remain between now and the end of the year, I doubt that we will have another opportunity to consider this report. That will give the McGowan government the long summer recess to consider this matter properly—all the feedback from those stakeholders, from the joint standing committee through to the various agencies—and then advise the chamber what it is going to do about the review that Gail Archer, SC, as she then was, indicated should happen a long, long time ago. What does it intend to do about that? It will have the whole recess to consider it and then come back and provide some sort of response to the chamber. Unless any other members would like to contribute to the debate on the committee's first report, I will move that consideration of this report be postponed to the next sitting.

Resolved, on motion by Hon Nick Goiran, that consideration of the report be postponed to the next sitting of the Council.

*Joint Standing Committee on the Commissioner for Children and Young People —
First Report — Annual report 2020–2021 — Motion*

Resumed from 10 November on the following motion moved by Hon Kyle McGinn (Parliamentary Secretary) —

That the report be noted.

Hon NICK GOIRAN: This is a very important report by the Joint Standing Committee on the Commissioner for Children and Young People. It is also very timely that we should be considering this matter today because there has been a revelation in another parliamentary committee and a public document is now available for all to see. By way of context and explanation for members, we have here the annual report of the joint standing committee that oversees the Commissioner for Children and Young People. At page 2 of the report, this comment is made in the third sentence under the heading “Briefings” —

The Committee invited the Commissioner for Children and Young People, Colin Pettit, to a briefing to meet the new members and outline his recent and ongoing work.

This briefing took place on 23 June 2021—that is, this year. On 23 June this year, the Joint Standing Committee on the Commissioner for Children and Young People met with Mr Colin Pettit, the commissioner, who, for reasons known only to the government, has not been reappointed, to find out about what is described in the report as his

recent and ongoing work. Of course, this report is looking at the work of the commissioner during the financial year 1 July 2020 through to 30 June 2021. A substantial portion of that work was this bombshell *Independent review of Department of Communities' policies and practices in the placement of children with harmful sexual behaviours in residential care settings*. As I say, whether that bombshell report played any role in why the McGowan Labor government decided not to reappoint Mr Pettit as the Commissioner for Children and Young People is something that is perhaps only known to members of the McGowan Labor government. One has to wonder whether it was ever discussed in cabinet whether, according to the McGowan government, Mr Pettit's bombshell report was grounds to not reappoint him. I suspect we will never know the answer to that question. But what is particularly interesting about this matter is just how long the Minister for Child Protection knew about the matters at the heart of this placement of children with harmful sexual behaviours in residential care settings.

We had the opportunity to briefly consider this report, as I look at my notes here, on 10 November this year. Members may recall from that day if they were here and not away on urgent parliamentary business that it goes to the case of two unidentified Western Australian young people. For the purposes of the report, the primary victim has been renamed as Macie. Macie's case is a harrowing one. In effect, despite the fact that Macie pleaded with the then Department for Child Protection and Family Support, she continued to be placed in a residential care setting or settings, plural, with at least one child who was displaying what is referred to as harmful sexual behaviours. The report set out Macie's exasperation at page 13. She is quoted as saying —

"I know from my experience, no one believed me, like DCP didn't really believe me when what happened to me at 12."

On that same page, in her case file, Macie is recorded as saying —

"I don't know why they would put me in a house with [him] when they know that I have been sexually assaulted before."

We touched on this on the last occasion. What we did not know on the last occasion, and we only know now because of the work of the Standing Committee on Estimates and Financial Operations—this matter has only been revealed today, at least in a public forum—is this response provided by the Minister for Child Protection following a budget estimates hearing on 18 October this year. My question at the time, which was supplementary information A20, was —

When did the Department of Communities first brief the Minister for Child Protection about the two individuals referred to as 'Macie' and 'Lee' in a recent report by the Commissioner for Children and Young People?

Of course, I know from previous hearings in previous years when the Leader of the House has been representing the Minister for Child Protection that if we asked for any information whatsoever about something that might be in the knowledge of the Minister for Child Protection, everything would be taken on notice. Under no circumstances would any of the witnesses who might be sitting less than 30 centimetres away from the Leader of the House be consulted. No—the work of the committee would be obstructed in that form, and we would not be able to get that information. Thankfully, this year, the Department of Communities was represented by the hardworking Hon Samantha Rowe, who is away on urgent parliamentary business today. She was good enough to take this information on notice and this response came back from the minister, signed by Minister McGurk. It states —

The Department of Communities provided briefing information to the Minister regarding Operation Timing Belt on 22 June 2020.

The significance is that from 22 June 2020, Minister McGurk knew about this at the very least—having been briefed by the Department of Communities about this horrendous set of circumstances that involved two Western Australian young people who have been re-identified as Macie and Lee—since 22 June 2020! When did the Minister for Child Protection refer this matter to the Commissioner for Children and Young People? Page 11 of the report of the Commissioner for Children and Young People tells us —

In October 2020, a young person in the care of the CEO of the Department of Communities ... in Western Australia spoke out in the media about her experience of being in residential care and specifically of being placed in the same group home as an older young person who she understood had engaged in acts of harmful sexual behaviour.

On 30 October 2020, the Minister for Child Protection, Hon. Simone McGurk MLA requested the Commissioner for Children and Young People ... conduct an Independent Review ... of the Department's policies, practices and services regarding children with harmful sexual behaviours ... in residential care.

It is shocking to think that the Minister for Child Protection knew about this, according to the answer signed by her and provided to the Standing Committee on Estimates and Financial Operations. The answer, which has just been made public today, states that this was brought to her attention on 22 June 2020. It was only when the young person screamed and pleaded in mainstream media in October, and public pressure was applied by the opposition and the media, that the minister found a solution, which was to refer the inquiry to the Commissioner for Children and Young People to determine whether the department should be housing victims and perpetrators together. One would not think that a competent Minister for Child Protection would need to have the commissioner undertake an inquiry to ascertain that information.

The CHAIR: Hon Nick Goiran.

Hon NICK GOIRAN: Thank you, Mr Chair. One would not think that that would be the case, yet that is exactly what has transpired. I cannot believe that the Minister for Child Protection, having known about this matter since 22 June, would have allowed young Macie to have to resort to pleading her case in the media in October before referring the matter to the Commissioner for Children and Young People. It is a harrowing story to think that these young people were put through this in a systemic fashion by the department, and that after all this time has transpired, the government's solution and supposedly policy direction is to say that it will not do that anymore if it involves a reportable offender. In the budget estimates hearings, we asked the department what it is doing about those offenders who might not necessarily be reported, but whom the department knows has committed some harmful sexual behaviours. Let us not wait for everyone to have to prove beyond all reasonable doubt that the harmful sexual behaviour has occurred. Let us not wait until that time before we start rehousing some of the victims away from the alleged perpetrators. Yet, the government has not provided a response to that. It did not provide a response at the estimates hearing and it has not provided one since. What exactly is the McGowan government's policy when it comes to victims and perpetrators being housed together?

This report from the Commissioner for Children and Young People contained a range of recommendations for not just the Department of Communities, which is always the easy way for Minister McGurk to shield herself from any accountability and responsibility; indeed, the commissioner took the step of making recommendations directly regarding the minister. I am sure she would have been thrilled by that! The first of those recommendations was for her to prioritise the full implementation of the 33 royal commission recommendations. The royal commission made more than 33 recommendations, but, nevertheless, the Commissioner for Children and Young People highlighted and identified 33 of them and asked for those ones to be prioritised by the minister. Has that happened? Is the minister or one of the representative ministers, in the absence of the parliamentary secretary, who is away on urgent parliamentary business, in a position to advise whether these matters have been prioritised? Have all 33 royal commission recommendations been prioritised by the McGowan government at this time, on 1 December 2021, or have only some of the recommendations been prioritised? Has anyone gone back to the Commissioner for Children and Young People to report on the progress of this matter? I cannot recall when the new commissioner starts or whether they have started or is due to start shortly, but one would think that the government would take some responsibility and the Minister for Child Protection would report back to the commissioner about the prioritisation of these 33 royal commission recommendations.

The second recommendation made by the commissioner was to establish and resource an independent advocacy function for children and young people in the CEO's care to ensure they are supported to speak out when they feel unsafe, so that their views are heard and responded to, and they can immediately participate in decisions about their lives. What is happening about that? Is anything happening? At page 72 of his report, the commissioner went on to say —

The Department's Better Care Better Service Standards 2 and 7 require that children and young people in care be supported to express their views and are made aware of individual bodies and/or agencies, including the Advocate for Children in Care, who can assist them in resolving concerns.

Consideration of report postponed, pursuant to standing orders.

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

LEGISLATIVE COUNCIL — CORONAVIRUS — MANDATORY VACCINATION

Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [3.19 pm]: I move —

That —

- (1) In order to protect the health and safety of members and parliamentary staff, and to give effect to the Chief Health Officer's published health advice, this house requires members of the Legislative Council attending the chamber, Parliament House or the Legislative Council Committee Office to be fully vaccinated during a lockdown or similar restrictions.
- (2) Members must provide proof of their first and second COVID-19 vaccine doses, or proof of a valid exemption, to the Clerk by 31 January 2022.
- (3) Unless otherwise ordered, any member who has not complied with the requirements set out in paragraph (2) is determined to have failed to comply with an order of the house and, therefore, is suspended from attending the chamber, Parliament House and the Legislative Council Committee Office during a lockdown or similar restrictions.
- (4) If a member who is suspended under paragraph (3) provides proof of their first and second COVID-19 vaccine doses, or proof of a valid exemption, to the Clerk, their suspension is immediately lifted.

- (5) For the purposes of this resolution:
- (a) “COVID-19 vaccine” means a vaccine to protect a person against SARS-CoV-2 that has been registered or provisionally registered by the Therapeutic Goods Administration;
 - (b) “proof of their first and second COVID-19 vaccine doses” means forms of evidence approved by the Chief Health Officer; and
 - (c) “proof of a valid exemption” means forms of evidence approved by the Chief Health Officer.
- (6) The Clerk:
- (a) must ensure all information provided under this resolution remains confidential and is stored securely; and
 - (b) must destroy all information provided under this resolution at the end of the session or an earlier time determined by the house.
- (7) The house may agree to further resolutions to:
- (a) vary or amend this resolution; or
 - (b) provide for arrangements for sittings in 2022 based on health advice.

I want to walk members through the circumstances that have led to me moving this motion. Members would be aware that on 20 October 2021, the Premier announced arrangements in respect of mandating the COVID-19 vaccination based on health advice. Health advice came in two sections. On 19 October, the Chief Health Officer provided health advice on mandating vaccination for COVID-19 for what I will describe as group 1, and then indicated in that same piece of advice that he would provide further advice on further groups to be mandated and gave an indicative list of categories. On 22 October, the Chief Health Officer provided detailed advice on the categories that I will refer to as group 2 and 3. Members of Parliament are captured in group 3.

I take members to some of that advice sent from the Chief Health Officer to the Premier in a letter dated 22 October 2021. He referred to the advice that he had provided on 19 October about group 1 and said —

The workforces that I recommended to be initially mandated included those that work in State border control roles, who may be exposed to COVID-19 during their work, and those who interface with vulnerable groups in their work in the community, including those working in residential and non-residential community care settings, Remote Aboriginal Communities, the WA Police Force and Corrective Services. In addition, my advice was to strengthen the mandates in place for two critical emergency services in WA; the WA Police Force and the Department of Fire and Emergency Services (DFES). Finally, due to the unique environment within the abattoir and meat processing industry, which has been demonstrated repeatedly to predispose to outbreaks, I recommended that abattoir and meat processing workers be included within this first group.

In my letter of 19 October 2021, I also advised that further vaccine mandates would be necessary on public health grounds to mitigate the risks of critical services being degraded in the event of a lockdown or major restrictions in the event of a significant outbreak, or in preparation for opening of interstate and/or international borders, with consequent outbreaks requiring public health restrictions to further control community spread.

He continued —

This advice seeks to protect the remaining vulnerable groups in the WA community, to protect the critical infrastructure and services, and to ensure that workers who frequently interact with the community in their work settings are vaccinated to reduce their own likelihood of contracting COVID-19 and of spreading it to others. As the maximal protection against contracting, spreading and the serious impacts of the disease does not occur until 2 weeks after the second dose, an average of 5 to 6 weeks after commencing the vaccination course depending on the vaccine, mandated requirements are designed to protect the individual prior to their anticipated exposure to ensure the best outcomes. For these reasons, and as advised in my previous letter, I recommend that vaccination of additional workforces, outlined in further detail below, should be mandated to mitigate the risk from COVID-19 transmission and outbreaks as WA moves closer to a future of living with endemic COVID.

The groups that he went on to set out advice for includes child care and family day care centres, schools and boarding schools, essential retail and hospitality, critical infrastructure and services, hospitality and accommodation. He then went on to a category of additional businesses that would require full vaccination to open during lockdowns and major restrictions or group 3. He made the point —

It is my advice, as Chief Health Officer, that the staff in following workplaces should be required to be fully vaccinated to attend work in the event of a lockdown or major restrictions ...

Included in that list are members and staff of members of Parliament of Western Australia. He then went on to provide under this heading further advice —

There are good public health grounds for mandating the COVID-19 vaccine in the workforces outlined above if the following conditions are met:

1. There is a serious public health risk — To date, there have been over 4.9 million deaths attributed to COVID-19 globally and 241 million cases. While Australia has been relatively protected due to effective public health measures, COVID-19 disease continues to cause major outbreaks in many parts of the world, particularly in parts of Asia, Europe and the United States. Among survivors, there is emerging evidence that there may be long-term consequences for those who have been infected but survive, even from mild disease. ‘Long COVID-19’ health implications may present a grave future public health problem.

He goes on to say —

It has been demonstrated that strategies that vaccinate essential workers early lead to substantial reductions in the number of infections, hospitalisations, deaths, and cases of Long COVID. In addition to this, vaccination would reduce staff absenteeism, sick leave and subsequent disruption of services, which may in turn contribute to morbidity and mortality from other causes.

2. The vaccine is safe and effective — All persons in WA are currently being offered one of three vaccines, being the Comirnaty (Pfizer), the Spikevax (Moderna) vaccine or the AstraZeneca vaccine, all of which have completed a rigorous safety evaluation prior to registration by the Therapeutic Goods Administration ... In addition, the vaccines have been given safely around the world in hundreds of millions of doses. Recent studies in the United Kingdom have shown the Pfizer vaccine to be highly effective in preventing clinical disease generally and serious disease particularly, including against the Delta variant. The Pfizer vaccine has been demonstrated to be effective in preventing infection in individuals and subsequently reduce community spread to others in the community, particularly those who are more vulnerable, such as those over 70 years of age and those who cannot be vaccinated on medical grounds. The COVID-19 vaccines also reduce the incidence and severity of ‘Long COVID-19’.

The three vaccines provide excellent protection against the Delta variant, and, as demonstrated in the current NSW and Victoria outbreaks, serious disease is largely confined to the unvaccinated or partially vaccinated and is impacting more severely on younger age groups than previous variants. The vaccines also significantly reduce the rates of infection and subsequent spreading of the virus. It is vital to ensure all possible risk mitigation measures are in place to minimise the potential of COVID-19 transmission to the WA community.

...

3. The mandating of the vaccine is proportionate. According to the principle of proportionality, additional measures are justified when the restrictions placed on individuals are both minimised and proportionate to the expected advantages offered by the more coercive policy. Although voluntary compliance by these workers would be preferable to mandates, the inconsistent uptake of the vaccine leaves me, as the Chief Health Officer, with limited options. Unvaccinated workers in settings in which exposure is likely, and/or the propensity for outbreaks is high, and/or where vulnerable people may be inadvertently exposed to COVID-19, can cause tremendous harm.

...

Noting the 5 to 6-week time interval and 2 doses required to get maximal protection, this vaccination process should commence well before potential exposure. It is prudent to strongly message that vaccination is the most effective protective measure that is available to the community ...

He then makes recommendations that specify the category as I have already outlined, and he concludes with this —

Employers will also have an obligation, to both collect the vaccination status of their employees and to prevent unvaccinated staff entering the site after the date by which the mandatory vaccination has come into effect.

I am of the view, as the Chief Health Officer, that, for the reasons outlined above, this approach to mandating the vaccine is proportionate to the risk, the efforts made to encourage the voluntary uptake of the vaccine and the benefits achieved, and should be implemented as soon as practicable. I further recommend that mandatory vaccination be required by way of Directions issued under the *Public Health Act 2016*.

That was signed by Dr Andrew Robertson, Chief Health Officer, on 22 October 2021.

In order to prepare for our compliance as part of that third group, the clerks and Presiding Officers of the Western Australian Parliament drafted and sent a motion to both the leader of government business in the Legislative Assembly and to me in my role as Leader of the House for consideration by the government. There is one difference between the motion drafted and sent to us and the one that is before us today, and that is the date in

paragraph (2). The date in the original motion was 15 February 2022, and the government has changed that in the motion that is before members today, which refers to 31 January 2022. That change was to line up with the date required by the vast majority of other workers who are in group 2. Although MPs are in group 3, we took the view that it was an important signal as community leaders that we, too, will meet the same deadline as the many who are in group 2. It acknowledges that members of the Legislative Council fall within the category of workers who need to be fully vaccinated to attend work in the case of a lockdown or similar restriction and complies with the health advice that employers will have an obligation to both collect people's vaccination status and to prevent the unvaccinated entering the site. It is important to understand that the provisions with respect to access to the Parliament will apply only in the event of a lockdown or major restriction.

In moving this motion, we are acknowledging that it is up to this house to make its own determination of how it addresses and meets the mandatory vaccination directive issued by the Chief Health Officer. As members can see, there are several parts to the motion. Primarily, it is asking the house to agree that in order to comply with the Chief Health Officer's published advice, members are required to be fully vaccinated in order to attend the Legislative Council chamber, Parliament House or the Legislative Council Committee Office during a lockdown or similar restriction. Members will be required to provide proof of their first and second COVID-19 vaccine doses or proof of a valid exemption to the Clerk by 31 January 2022. Members who fail to comply will be suspended from the chamber, Parliament House and committee offices until they provide proof of their first and second COVID-19 vaccine doses or proof of a valid exemption to the Clerk. The motion makes clear what constitutes a COVID-19 vaccination and what will be accepted as proof of evidence or proof of a valid exemption. It also provides for the vaccination information of each member to be stored securely, remain confidential and be destroyed once it is no longer required.

The final part of the motion allows for the house to agree to further resolutions to vary these arrangements or provide for additional arrangements in the future should further health advice be issued by the Chief Health Officer. This motion is identical to the one passed in the Legislative Assembly last week, with the support of the Liberal Party and Nationals WA in that place. I wish to acknowledge the bipartisan support from both the Leader of the Opposition, Hon Mia Davies, on behalf of the opposition, and the member for Vasse, Libby Mettam, on behalf of the Liberal Party in the other place. The member for Vasse made the comment —

It is important that we, as members of Parliament, set an example.

That is a sentiment with which I could not agree more. It is also about ensuring that we have arrangements in place to continue the important work that Parliament does in the event of a lockdown or major restrictions. It is about keeping everybody in this chamber, as well as the staff across Parliament, safe.

Honourable members, I am aware that Hon Sophia Moermond may move an amendment to the motion. I thank her for sharing that with me yesterday. In the event that she moves it, I will address it when it is put, but I indicate now that the government will not be supporting it. I commend the motion to the house.

HON MARTIN ALDRIDGE (Agricultural) [3.34 pm]: I rise to speak on this motion. I want to raise a number of matters that I have observed in several limbs of this motion in the short time that we have had to consider it, noting that the Legislative Assembly resolved a motion in the same terms only on Wednesday of last week. I first became aware of it by an email from the office of the Leader of the House late last week. We have not had a lot of time to consider this matter. I want to put on the record a number of things, and I will seek answers to some questions.

Hon Sue Ellery: By interjection?

Hon MARTIN ALDRIDGE: Does the Leader of the House get a right of reply?

Hon Sue Ellery: Yes.

Hon MARTIN ALDRIDGE: That is good. It is nothing too tricky for the Leader of the House. I want to work through a few practical application issues. The first limb of the motion refers to protecting the health and safety of members and parliamentary staff and to giving effect to the Chief Health Officer's published health advice. In this respect there are a few things I want the government to consider. As far as I can tell, the only other jurisdiction I am aware of that has passed a similar motion of this kind is Victoria, and obviously the other place. This motion is significantly similar to the motion that was passed in the Legislative Assembly in Victoria, with a few exceptions, which I will talk about in time. One of the things I find interesting about this motion, which reflects the health advice, is the focus solely on the first and second dose of the COVID-19 vaccine. The restrictions that have been put in place, and many that take effect as of today, 1 December, for entering what are deemed to be critical workforces or critical workplaces, rely solely on a first and second dose of a vaccine. The other thing that relies on this requirement is, of course, the government's transition plan, which is around reaching a target vaccination rate of 90 per cent of the eligible population. That relates only to first and second vaccinations, not subsequent doses of the vaccines. I make this point because this will be a standing resolution. As far as I can tell, no end date is applied to the resolution, although there are some references to information being destroyed at the end of the session. At the very least, it is meant to apply for the entirety of this Parliament.

If this motion is about the health, safety and protection of members and their staff, be they parliamentary staff or electorate staff, why are we not contemplating the efficacy of these vaccines beyond the first and second doses? Jurisdictions elsewhere in the world are moving perhaps more swiftly on this with the new variant, which we are learning more and more about every day. A six-month booster shot is recommended. Funnily enough, my six-month booster is due this Friday. In other jurisdictions around the world that booster window is being reduced to three months in light of the new variant.

My questions are not necessarily exclusively relevant to this motion, but also to some of the government's public health directions and the transition plan: Why are we not contemplating the efficacy of these vaccines beyond the two doses? Why is that not a relevant matter in this motion or, indeed, in the public health directions that are being issued, or in the transition plan? In two years, how effective will a 90 per cent vaccination rate be if that second dose was administered 18 months prior? That question remains unanswered in this debate.

One of the interesting issues that was raised in the context of the Victorian debate—it is important to observe that people there have been through a very different lived experience from us—was that if Parliament is one of those critical places, as I agree it is, the last thing we would want is a Parliament unable to sit in the midst of a state of emergency response. Why are there no other measures that are important? In the Victorian debate the issue of testing was relevant, particularly as members were drawn in from across the state. Our state is obviously much bigger than Victoria. We have many vulnerable communities in our remote and regional areas. A significant number of intrastate travel restrictions have been put in place and those restrictions did not always exempt members of Parliament from free movement. When there were lockdowns, members of Parliament were not always exempted from free movement restrictions.

The issue of testing is not contemplated by this motion. I know it was part of the debate in Victoria, in the context that some members wanted to have a testing regime rather than a vaccination regime. I put to the government that there is probably merit in both, particularly now that the Therapeutic Goods Administration, on my last check, has approved some 13 rapid antigen tests for use in Australia. I understand that RATs are still prohibited in Western Australia under a direction issued by the Chief Health Officer. I do not believe that has changed, but if it has, it may be something that could present some value in the context of community transmission in Western Australia and Parliament wanting to meet and conduct its business in a safe and orderly fashion.

Before I move on from the application of this motion, I want to reiterate something I touched on earlier; that is, it is not clear to me the period of time that this resolution will stand because there is no cessation date and no trigger for its repeal. There is a reference in paragraph (6)(b) for the Clerk to destroy all information provided under this resolution at the end of the session or at an earlier time determined by the house. I understand that this will be a standing resolution of the Council until it is repealed; unless the government's plan is that when Parliament is ready it will repeal or rescind the order of the house. Perhaps a neater way of dealing with this would be to link it to a mechanism, such as the declaration of a public health state of emergency in Western Australia, so that the order will exist as long as the Chief Health Officer declares that the grounds for a public health state of emergency exist. That may have been a neater way of dealing with that matter, because, as far as I understand, if we do not repeal the resolution within this session of Parliament, after the next election it will still apply but members will have to provide proof of their first and second COVID-19 vaccine doses or proof of a valid exemption to the clerk by 31 January 2022.

There are a few things that I think the government should contemplate. Maybe it is simply that at the appropriate time we will return to this debate with a motion to rescind this order, or amend it. On that point, I think there are some superfluous words found at paragraph (7), which says —

The house may agree to further resolutions to:

- (a) vary or amend this resolution; or
- (b) provide for arrangements for sittings in 2022 based on health advice.

I am not quite sure we even need to say that. Of course the house can agree to vary its resolutions. It would be a strange occasion if we could not, or in fact if we could not provide arrangements for the order of sittings. Maybe it is just a case of stating the obvious, but I think those words in the motion are superfluous.

I have a question about the application of paragraph (3). In effect, if the member does not comply with the requirements of this order, it will be determined they have failed to comply with an order of the house and will be therefore suspended from attending the chamber, Parliament House and the Legislative Council Committee Office during a lockdown or similar restrictions. It is important that we focus on the words used here. The motion states members will be "suspended from attending". They will not be suspended from the services of the house. If they are a member of a committee, for example, and that committee meets virtually, or perhaps in a hybrid sense—some in person and some virtually—a member suspended under paragraph (3) could still participate fully as a member of the committee. I raise this point because the standing orders have some specific provisions on leave of the house, and I think this is where some further consultation by the government would have been beneficial.

We must keep in mind that the health advice that kicked this off is dated 22 October, so this has not been sprung on us overnight. I refer members to standing orders 28 and 29 and, specifically, to standing order 34. Standing order 28 states —

A Member who is absent for more than 6 consecutive sittings of the Council without leave of the Council shall be deemed guilty of contempt, and may be dealt with under standing order 34.

That is pretty black and white. Standing order 34(1), interestingly, states —

(1) If any Member wilfully disobeys any order of the Council, or is guilty of contempt by infringing the terms of Standing Order 28, the Member may be ordered to attend in their place or, if under suspension, at the Bar, to answer for their conduct.

I am not sure how a member, if they offend this order at paragraph (3) of the motion, who has a leave of absence and, therefore, is deemed guilty of contempt under standing order 28, can attend before the Bar of the house to explain their conduct under standing order 34. Of course, I think that if a member is noncompliant with this order, leave of the house will be granted. I think that would be a reasonable thing to do. The practical challenge of that is that if that member is a member of a committee and wishes to continue to participate in their committee business, albeit virtually, their leave of absence, if approved, will immediately be withdrawn under standing order 29(3), which states —

Any Member having leave of absence shall forfeit the same by their attendance in the Council or at a meeting of a Committee before the expiration of such leave.

The situation could arise in which a member who is in breach of the order and is suspended from attending the house would have a leave of absence so they would not be guilty of contempt of the Council under standing order 28, but upon having leave, if they participated in committee business, would immediately forfeit such leave under standing order 29(3). We have a real practical challenge here, which leads to the conclusion that if a member is found noncompliant with this motion—if it is passed—they will have no choice. They will not be able to attend the Council or a committee even in virtual form without, effectively, regularly seeking the leave of the Council under standing order 29. That seems to be a fairly cumbersome way of dealing with that issue. I do not know whether that was contemplated in the consultation that occurred prior to the Legislative Assembly dealing with this matter last Wednesday.

I turn to the health advice of Dr Andrew Robertson, Chief Health Officer, dated 22 October 2021. The health advice, at page 6, includes a list of additional businesses that will require people to be fully vaccinated so that they can open during lockdowns and major restrictions. Towards the end of that list are members and staff of members of Parliament of Western Australia. I understand the legal challenges the government would face when issuing public health directions—which it has done with many other workplaces—for Parliament and its operations. I am glad that it chose to do that, because we do not need any more complex disputes between the executive and the Parliament this session. Obviously, the alternative approach is to have a resolution of the houses. What is not clear to me is how this will apply to our staff. We must keep in mind that the employer of our staff is the President. The agent of the President in their employment is the Department of the Premier and Cabinet, but the employer is the President. I wonder whether the government can further elaborate on the extent to which the government intends to treat our staff and our parliamentary electorate officers. I note that the Victorian motion, upon which I think this motion is modelled, states —

In order to protect the health and safety of electorate officers and community members, this house requires members of the Legislative Council attending their electorate offices to have received COVID-19 vaccinations as set out in paragraph (1).

There is no such similar reference in the motion before us, and I wonder whether a member who falls foul of this order of the house and is suspended from attending the chamber, Parliament House and the Legislative Council Committee Office will be treated the same with regard to their parliamentary electorate office. That is not mentioned in this motion. I suspect the government may well find itself in a spot of bother if it tries to use some other legal instrument to bar a member of Parliament from attending their parliamentary electorate office, unless it is by order of the house. That could constitute interference with the legislature and could well be grounds for raising a matter of privilege, or it might constitute contempt of the Legislative Council. That is not considered under this motion, as it was in the Victorian motion. Those two matters—parliamentary electorate offices and staff—are not resolved at all or even mentioned in the motion before us.

A number of matters would have been better resolved with some consultation following the Chief Health Officer's advice to the Premier of 22 October. We are now here on 1 December, considering this motion. I understand from debate in the other place, limited though it was, that consultation took place with the Presiding Officers and the clerks. If that is the case, I would like to know when that occurred and what the advice was. A number of the issues before us could have been resolved in two ways: firstly, through consultation with those people to seek responses to some of the questions I have asked about the employment of our staff, the operations of our electorate offices and the interoperation of our standing orders with this motion, if passed, because they all relate to either the Presiding Officers

or the staff. It would be interesting to know what that advice was and whether any of these concerns were expressed in the consultations identified by the Leader of the House in the other place. The second way would be to have the Standing Committee on Procedure and Privileges consider the content of this —

Hon Sue Ellery: Member, will you take an interjection?

Hon MARTIN ALDRIDGE: Yes.

Hon Sue Ellery: The advice provided to me is that this was initiated by the clerks, who then went to the Presiding Officers. I understand they did some consultation with the Deputy Chief Health Officer, and then the Leader of the House in the other place, and I received correspondence from the Presiding Officers saying, “Here is what has been drafted.” That’s the sequence of events.

Hon MARTIN ALDRIDGE: I think the Leader of the House said earlier that Parliamentary Counsel’s Office drafted the —

Hon Sue Ellery: They may have; I don’t know. I’m telling you what I know. I am advised that the clerks went to the Presiding Officers, conversations were had with the Deputy Chief Health Officer, and then correspondence was sent to me and the Leader of the House in the other place.

Hon MARTIN ALDRIDGE: Okay, that is interesting. I think the motion before us is effectively a cut-and-paste of the Victorian motion. It may well have been the clerks who initiated this conversation. I suspect they read the health advice on 22 October and said, “Well, there’s probably a few legal concerns if the government were to issue public health directions on members of Parliament or the parliamentary precinct. Let’s look at alternative ways of achieving the same.” I have already mentioned one of the inconsistencies between this motion and the Victorian resolution in relation to our staff and our electorate offices. Another limb that has been dropped off states —

If any members do not meet the requirements set out in paragraph (3), the Clerk will—

- (a) as soon as practicable, notify each member of the house which members have not met the requirements; and
- (b) report the details to the house on the next sitting day.

That provision has not been included in the motion before us. Earlier today I was considering what would be the merit of that. There would be merit in members of the Council and a committee knowing whether a member has been suspended from attending under this order, but that limb has not been included in the motion before us. The motion before us puts an obligation on the Clerk at paragraph (6)(a), because it states that the Clerk —

must ensure all information provided under this resolution remains confidential and is stored securely ...

Given that, how and when will the house know when a member has been suspended from attending the Council or a committee consistent with this order? It is key that the Council is aware for a number of reasons that I could think of in the short time that I have had, not the least of which is being able to achieve quorum on a committee, perhaps, or to determine whether it is appropriate for a member to attend at the committee office and whether that attendance is inconsistent with an order of the house. I would think that that matter would be key to the knowledge of the chair and deputy chair of a committee and other committee members. That limb, which was included in the Victorian model, has not been included in the motion before us.

Under the Victorian model, when a member is ordered to not attend, their parliamentary precinct security access pass will be revoked for the period of the suspension at the direction of the Clerk. That is another limb that has not been included in the motion. I am not sure that is necessarily required in the resolution. One would think that if you were suspended from attending the Council and other areas of the parliamentary precinct, that would naturally follow as an administrative matter. That was certainly featured in the Victorian order.

Another provision in the Victorian order that has not been included in the Western Australian version is that the Clerk must not disclose any information except as authorised by this resolution. That has been deleted from this motion, but the other two limbs with respect to the Clerk remain.

I want to talk about a number of things with respect to the amendment that was foreshadowed by the Leader of the House, but I will leave those remarks for when and if that amendment is moved.

The last aspect of the motion I want to talk about, which again varies from the Victorian solution—if I can call it that—concerns defining certain matters; namely, what is a COVID-19 vaccine, what is proof of a member’s first and second COVID-19 vaccine dose and what is proof of a valid exemption? The Victorian resolution makes those matters specific within the order. The motion before us relies on the unknown decisions of the Chief Health Officer, particularly as it relates to paragraph (5) —

- (b) “proof of their first and second COVID-19 vaccine doses” means forms of evidence approved by the Chief Health Officer; and
- (c) “proof of a valid exemption” means forms of evidence approved by the Chief Health Officer.

I am not exactly comfortable with those two elements of the motion because, effectively, an order of the house will be significantly reliant on, as competent as I believe the Chief Health Officer is, a decision of a member of the executive government, whereas the Victorian model makes it explicit and states —

- (b) ‘proof of vaccination’ means information about a person’s vaccination status and includes a letter from a medical practitioner, a certificate of immunisation or an immunisation history statement obtained from the Australian immunisation register;
- (c) ‘proof of a valid exception’ means written certification from a medical practitioner that the person is unable due to a medical —

Sorry, Hon Dr Brian Walker! I will not be able to pronounce this word —

contraindication to receive a dose, or a further dose, of a COVID-19 vaccine.

It is defined and does not rely on the view of somebody else, whereas our motion relies on the view of the Chief Health Officer. If we did want to leave this a bit open-ended, I probably would have preferred the words to be something like the following —

Proof of their first and second COVID-19 vaccine dose means forms of evidence approved by the President following the advice of the Chief Health Officer.

Of course, that cannot happen because this process has not been subject to a great deal of consultation or consideration. That would have been my preference or it could have perhaps been made more explicit within the order itself, as was done in Victoria.

If we leave it as it is, 5(b) and 5(c) remain the decision of the Chief Health Officer, how will that evidence be produced and made known to members? I understand that when the Chief Health Officer issues public health directions, the way it now appears on that awful website called www.wa.gov.au is that there is a direction and a whole range of related orders or directions under it that could be exactly these things. What is acceptable forms of evidence; and what are acceptable forms of exemption or prescribed forms that may need to be completed by a medical practitioner in order to confirm the exemption? This will not be something that the Chief Health Officer orders because it will be an order of the Legislative Council. I think it is a matter that should be known, particularly if we rely significantly on the operation of this order being in the hands of decisions not yet known by the Chief Health Officer. I assume that they will be consistent with the other public health directions with respect to evidence and exemptions; in fact, I expect them to be the same. We need to make sure, particularly if we rely on that person to prescribe them for the operation of the Legislative Council order, how that information will be provided for the record and the record of the Council. I think that should be subject to a document tabled in the Legislative Council before the end of the year so that it is put beyond doubt whether a member is in breach of this order once it passes. If they are, it could well come down to the matters as determined in 5(b) or 5(c) of this motion.

With that said, I will probably have some comments a bit later on the amendment if it is moved. I will finish on this: I agree with the government that we need to do whatever we can to make sure Parliament continues to operate, particularly through states of emergency and states of uncertainty as COVID-19 has presented to all jurisdictions and all Parliaments the world over.

One of the other reasons I think this will be helpful is as follows. I am sure members are being bombarded by communications, not the least the large rally on the steps of Parliament House this morning when I could barely take a phone call in my office because of the noise. Often a feature of those communications is that they point out the contradiction with respect to the public health directions issued for workplaces such as healthcare workers, police, firefighters and the like, but no such orders exist for members of Parliament. It is often featured in much of the correspondence I receive. I think to that extent, we can perhaps show that we are leading by example and encouraging as many people in the community who are eligible and suitable to be vaccinated, as I am, to get vaccinated. To that extent, I think this motion has merit in addressing the concerns of the community about members of Parliament.

HON SOPHIA MOERMOND (South West) [4.03 pm]: I rise to make a contribution to this motion today, a motion that I honestly did not think would be required in either of our parliamentary houses. Nevertheless, here we are. I think I have been clear about my stance on this issue. I am against mandated medical treatments, but I am by no means an anti-vaxxer. If you think vaccination is the best option for you, and you have discussed this with your healthcare professional, absolutely, go and do that. I encourage anyone who comes to that conclusion to get vaccinated. It is your body; it is your choice. But whether or not someone has been vaccinated is not my business and certainly is no business of the state.

I have to say that I feel slightly targeted here. I am, after all, one of the only MPs who has voiced their very reasonable concerns about vaccines and vaccine mandates. My main concern is that once we start mandating a medical treatment and mandating a breach of medical privacy, it will be a slippery slope and that the next time, the bar will be lowered and another treatment may be deemed necessary. I am pretty sure there are others from each of the major parties who feel similar to me but that party politics may well prevent them from speaking out.

I have an amendment to the motion that I would like to offer up at this time. I think I am meant to ask whether the amendment can be circulated at this stage.

The ACTING PRESIDENT (Hon Steve Martin): If you would formally move the amendment in your name, thank you.

Hon SOPHIA MOERMOND: Okay, but I would like to speak more, please —

Hon Sue Ellery: That puts it on the floor for debate.

The ACTING PRESIDENT: You get to debate the motion—sorry, let us just move the amendment, please. I will clarify. If the member wishes to discuss the general motion now —

Hon SOPHIA MOERMOND: I will speak more and then I will move the amendment.

The ACTING PRESIDENT: Correct.

Hon SOPHIA MOERMOND: Thank you.

Hon Sue Ellery: If you wanted it circulated now, you would have to formally move it.

Hon Peter Collier: She understands that. Continue with your speech and then move your amendment right at the end.

The ACTING PRESIDENT: The floor is yours, honourable member.

Hon SOPHIA MOERMOND: Thank you for your understanding.

The effect of my amendment today is very simple. It will ensure that members of Parliament who are unable to attend the chamber will still be able to participate in the workings of the house. This will ensure that MPs like myself who have a fundamental objection to revealing their medical data can still represent their constituents in Parliament. Also, MPs, regardless of their vaccination status but who may be caught in a lockdown, for instance, would also be able to participate in the running of the house. As I understand it, if it becomes impossible for some regional MPs to be flown in, it could take 15 or 24 hours or so to drive here, which is not particularly practical. My amendment simply seeks to task the clerks of the house with working through the issues required to ensure that this can take place. As discussed by Hon Martin Aldridge, the Victorian Parliament has successfully introduced this type of provision. I am sure members have also seen images of MPs participating in debates online in the federal Parliament. I think the way forward is very clear: everyone should be able to participate in the Parliament. We discussed inclusivity earlier today. I feel that being able to work remotely, just like the many other people who are affected by lockdowns, is a sensible solution. I understand that the government might think this would be quite a costly endeavour. However, after having spoken to the clerks, I understand that after the Commonwealth Parliamentary Association conference most of the infrastructure is already in place.

The safest way for people to remain COVID-free is simply to not be in contact with anyone else. The vaccinations do not stop people from catching COVID nor do they stop people from passing it on. Remote working is essentially the safest option. I hope that all parties will come on board and support this very sensible amendment that will lead only to better outcomes for members of the Legislative Council and therefore the people of Australia.

Amendment to Motion

Hon SOPHIA MOERMOND: I move —

To insert after 6(b) —

- (c) must ensure that any member unable to attend Parliament during a lockdown, be it the result of regional border closures, their COVID-19 vaccination status, or any other valid reason, has the ability to participate fully in the deliberations of the house via secure online means, such as have been introduced in other Australian Parliaments in recent months.

HON SUE ELLERY (South Metropolitan — Leader of the House) [4.10 pm]: The government cannot agree to this amendment. The amendment has the effect to compel the Clerk to implement a remote Parliament to operate for any member who is not vaccinated and for certain other reasons in the absence of any health advice that this is necessary. There is no advice from the Chief Health Officer that Parliament needs to do this. The amendment goes beyond the health advice that the government and the house has. There is no advice from the Chief Health Officer that the sound public health and social measures, which now in the lingo of COVID are referred to as “PHSMs”, that the Parliament had in place, for example in 2020, when there were cases of COVID-19 in the community. Those measures included extending the floor space of the chamber; reducing the number of members in the house at any one time by putting distance between recognised seating; alternate measures to limit movement in the chamber by changing the arrangement for divisions; not requiring hard copy answers to parliamentary questions to be handed in the house; the use of hand sanitiser before entering the chamber. A range of other measures were put in place throughout the Parliament—for example, how we got our meals. There is no advice that those measures were not then satisfactory, nor that they will be unsatisfactory into the future, in addition to being vaccinated.

Online remote access to this Parliament may well be something that happens in the future if the Chief Health Officer's advice provides that it is necessary. The honourable member touched on the notion of potential travel restrictions and referenced them in the amendment as well. On that, I draw members' attention to the announcements around travel under the safe transition plan. All of the advice and the arrangements are linked to vaccination status. There is no advice on intrastate travel during lockdown or major restrictions; and, in the absence of specific advice, the government will not support an amendment that assumes a policy that does not exist.

I appreciate the honourable member's position. I am sorry that she feels targeted, because this is not targeted at her at all. The motion that was before us came to me as a member of the government because the clerks and the Presiding Officers had consulted with the Deputy Chief Health Officer and came up with this motion to enable them to give effect to the provisions that were set out that will apply for that category of people, which includes us, in group 3 of the health advice provided by the Chief Health Officer. This is not directed at Hon Sophia Moermond or anybody else. This is what the Clerks and Presiding Officers have put to us about the best way for them to give effect to the requirements that they can establish, in the event of a lockdown or major restriction, whether the people entering the building have or have not been vaccinated. The amendment that the honourable member has moved goes beyond what the Chief Health Officer has advised needs to be done. There is no advice on the matters that the member has included in the amendment before us, and the government will not support it.

HON DR BRIAN WALKER (East Metropolitan) [4.14 pm]: I initially planned to just say a few very short words to this motion, and those words were to this effect. We are 97.22 per cent vaccinated, as far as I am aware, without being absolutely certain that it is not 100 per cent—I cannot know that—but 97.22 per cent is pretty good, especially as we are considering opening the borders at 90 per cent. That would imply that although we would think of opening the borders at 90 per cent and having a risk that is fine for the people to have, we are not going to have that risk here. There is a problem with that thinking. Either we are showing, if you like, that we are leading the way, which is an admirable thing to do, or it is a political stunt. I would like to think it is not a political stunt, because, if it were, I simply could not support that on principle. I am going to assume the best of intentions, and I absolutely understand that these are the best of intentions.

I note that the Chief Health Officer has not given directions as to what might happen with regard to this motion. It is also true that he has very clearly given no directions that we are not to put our hands into a fire. Nevertheless, we are aware that this would be a poor idea. If we as a Parliament decide that we are going to take steps that we consider suitable, that is entirely up to us to do. I put it to the Leader of the House that the point she has made is understandable but not actually correct.

I heard some very admirable points from Hon Martin Aldridge and, indeed, from all concerned. I note that reference has been made to the Public Health Act 2016, with the recommendation there that we could forcibly vaccinate people against their will, even to the point of having them stripped naked and held down by the police to have the vaccine administered. That is in our law. I find it remarkable that no medical advice was present in this chamber to give an opinion about that. I have in my clinical career required people to not only be forcibly injected against their will, but also be held down by two or three police officers while they are kicking and screaming to get their antipsychotic medication administered—and I had their rights removed for two days until they had been formally examined by a psychiatrist and then were either committed to an involuntary period in hospital or allowed their freedom. To do that, I had to sign two forms that allowed me to direct a police officer to convey this person against their will to a place of security where they could be further examined and held against their will, much like in prison, until the facts had been sorted.

It is an awesome power. I use the word “awesome” not in the sense of being great, but awesome in that it inspires awe that someone like myself is enabled under certain conditions to require certain acts to happen. What we are seeing now is the same type of law applied as a general truism that could require people to be vaccinated against their will. It could even require police to hold them down. I think we are on very dangerous ground here, personally speaking.

On the one hand, I am very much in favour of liberty. I have said to quite a few patients that I would be very content to sign their death certificate if they continue making the same stupid choices that they have been making. There is absolutely no reason why I would want anyone to be longer on this earth than they intend to be, provided they are of good mental health. It is everyone's right to make a choice for themselves about what they do for their own wellness.

This discussion has been going on for some time in Germany. In the last two years, they have been very clearly saying there will be no mandatory vaccination; there will be no mandatory vaccination. I am reading this from *Der Spiegel*, which I will not translate for members just now. Germany has been going through this rigmarole of politicians saying, no, there will be no mandatory vaccination. That is because it simply is not palatable to the people, nor to the politicians, to take away an individual's freedom to make their own decisions. Now, however, they are saying that we need to speak about mandatory vaccination.

That is serious, because they are serious people—serious scientists. We came to that decision a long time prior to that, so I think we can be congratulated for thinking that we will take the bull by the horns and deal with it. But we

are in uncharted territory, are we not, both in Germany and here? The human rights philosopher Christoph Möllers said—I have to translate here—that it has always been clear that on theoretical freedoms grounds, we have no right to damage others or to lay paralysed social functions and conditions. That is very true.

I remember very well some years back, when I was perhaps more stupid than I am now, losing my way in a boulder pass in Nepal and finding myself shy of a 5 000-metre peak. The easy way was up a ridge. I was following the healthy students, as the sick ones had gone back. I saw the peak and I said, “I’m having that peak.” I might have been oxygen deprived, but I did a snow-face ascent and a rock climb. There is a lovely photograph of my left leg dangling free, with my right foot supporting me on a boulder; otherwise, I would have fallen to my certain death. It was almost the stupidest thing I have done in my life, but it was fun. It could have ended in death, quite easily. It was my choice and I was aware of that choice.

Others make their health decisions based on their freedom to choose. Skydiving, scuba-diving or visiting Parliament have their consequences—their risks. We should be free to make these choices, unless of course it means that we would damage others. Here in our house right now we are being asked the questions: Do we want to damage the freedom of others? Will their freedom impact on our health? The Chief Health Officer has given an opinion. I must tell members that although I can agree with that opinion as an individual doctor, and I am science based, I also have serious colleagues working in emergency departments and in intensive care units and professors of medicine who have written to me and spoken with me and complained that the science we are following is not correct. That is a very serious thought, because colleagues who are scientifically based and serious people who have read and understood, and not just sat on the toilet doing their Facebook research, have brought up concerns and I am unable to address those concerns. I have an opinion that is different from theirs and I do not have the science to back up my opinion to my complete satisfaction; nor do I have the science to back up their opinion to my complete satisfaction. There is an area there where we in the field have doubts.

When we apply the opinion of simply one group—the Chief Health Officer—and make this de facto a fact, we are at risk of making a mistake. What would the consequence be if we let things be and let people have their individual choice and put themselves at risk, provided that we who are vaccinated are not at risk? This is a serious question. The solution I put to members is not that they accept my word or the government’s word, but that we defer this motion and allow the matter to be examined properly by a committee and we take our time to look at the detail of all the pros and cons such that we can get the facts and nothing but the facts, not opinions, even if they are well rehearsed and pseudoscientifically based. I say “pseudoscientifically” because I cannot trace the precise science to my satisfaction. When we have that, then, honourable colleagues, I suggest we can make that decision. At this moment, I am in doubt, I am uncertain and I am unhappy with this. As a result, I will not be able to support the motion as put. I will be supporting the amendment.

HON WILSON TUCKER (Mining and Pastoral) [4.24 pm]: Unfortunately, I rise today to oppose the amendment to this motion. I say “unfortunately” because it naively makes me very happy when the crossbench can agree on something; that has been quite rare recently. I cannot support this amendment on the grounds of what it is signalling—that is, the avoidance of MPs to disclose their vaccination status and still perform their roles.

By way of backstory and just to expand on this position, I recently had a conversation with an acquaintance on social media. We had a very pleasant conversation. It started out quite friendly, and then they realised that I was a member of this place. They promptly went back through *Hansard* and looked up a recent division that I participated in on a motion raised by Hon Sophia Moermond on a person’s right to not disclose their medical history. At the time, I voted against the motion. My acquaintance proceeded to take me to task about my position on supporting the government’s mandatory vaccination policy. One problem with just looking at a division is that it does not give people the full picture; it is a binary decision—yes or no. I directed this person to look back at the speech I gave preceding the division to get more insight into my position on the issue. I do not believe that person did; however, if they had, they would have seen that I support disclosing vaccination status during a global pandemic as an incentive to encourage vaccination uptake. It is for that reason that I opposed the motion on that day.

My opposition to this amendment, the previous motion and the motion we are currently debating is slightly more nuanced. Really, it extends to my belief that if other groups are being compelled to get vaccinated as part of the mandatory vaccination policy that we have in place, then I agree with the Leader of the House’s comments that, as community leaders, MPs should be setting a positive example and should also be forced to get vaccinated.

This motion raises the lively question of the mandatory vaccination policy and is certainly a topical motion given the date on which the motion has been raised—1 December, which I believe is the date when workers in group 2 are required to have their first dose of the vaccine. There was some colourful outreach by the community on the steps of Parliament today, which I am sure all the people in this chamber either heard, saw or potentially participated in.

I refer to the mandatory vaccination policy. I have mentioned this previously. I believe that the government has taken this heavy-handed approach to raise the vaccination rate of this state for two reasons. First, there is the negative public perception that the people of WA will be exposed to when they see the rest of the state—indeed, the world—opening up, certainly coming into the Christmas period. The other risk to the government is that our hospital system

is unable to cater for an outbreak of COVID-19. We have heard from the director general that the recent announcement by Labor for additional beds in hospitals will not be fully realised until August next year. Then we have the other issue—the lack of workers and the staffing shortage in hospitals—to deal with, as well.

I want to acknowledge that there is hesitancy to take up the vaccine here in WA, which is understandable considering that a lot of the community has not been directly exposed to the virus and the pandemic at large. I want to state that I have strong scepticism that we will hit the 90 per cent double vaccination target any time soon. When we hit the target of 80 per cent, as we are aware, a date will be announced. That is a fixed, hard date. If we do not hit 90 per cent before that date, there will be additional restrictions put in place.

One of the restrictions and a potential lever that the Premier has will be to enforce intrastate closures. The Kimberley and the Pilbara have been earmarked as places that will potentially be locked down. One concern I have about closing off this community from the rest of this state and, indeed, the rest of the world is that we will potentially be segregating communities that are already very geographically segregated, and certainly are already at a disadvantage, particularly those Indigenous communities. I do not think that this will build any trust with the government. Certainly, the Indigenous population does not have much of a reason, in living memory, to trust the government. I am talking about not only the McGowan government, but also the federal government and other state governments. This lever will potentially be pushed, and this very heavy-handed approach will instil a greater level of distrust within those communities in Western Australia.

I will circle back and touch on the amendment moved by Hon Sophia Moermond. I really like some parts of the amendment. I support the use of technology in Parliament and the idea of using it to empower our democracy. I can certainly envisage scenarios in which using Zoom or teleconferencing in Parliament for members who are unable to attend would be a good thing. One of the very small silver linings to come out of this pandemic is that it has allowed for more flexible working conditions around the world. It has certainly forced a lot of companies to embrace technology and to go through that baptism of fire. I worked from home for 16 months. Initially, there was a level of scepticism, but I was forced to adapt and I embraced it. I support using technology to empower our democracy and to allow for members of Parliament to interact remotely with the chamber.

I thank Hon Sophia Moermond for moving this amendment. I also thank the Leader of the House for moving this motion. I will line up and be more than happy to provide my vaccination status to our hardworking clerks when required.

Debate interrupted, pursuant to standing orders.

[Continued on page 6078.]

QUESTIONS WITHOUT NOTICE

CORONAVIRUS — MANDATORY VACCINATION POLICY

1050. Hon Dr STEVE THOMAS to the Leader of the House representing the Premier:

I refer to the government's announcement on 5 November of a plan to have a plan for the opening of the state from COVID-19 restrictions called *WA's safe transition plan*, and to answers to questions without notice 896 and 934 about mandatory vaccinations.

- (1) How many tier 3 workers have refused to be vaccinated by today's cut-off?
- (2) What proportion or percentage of tier 3 workers are unvaccinated today?
- (3) How many tier 3 workers were made unemployed today?
- (4) Who is measuring the number of unvaccinated workers; and what monitoring regime has the government put in place to ensure that employers have no unvaccinated staff?
- (5) Given that the Chief Health Officer issued the public health order mandating vaccination, and the police are on record as saying that compliance is not a police responsibility, is the Chief Health Officer ultimately responsible for compliance with his order?

Hon SUE ELLERY replied:

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

- (1)–(3) I reject the premise of the question. *WA's safe transition plan* does not relate to mandatory vaccination requirements as referred to in questions without notice 896 and 934. I assume that the honourable member is referring to Western Australia's mandatory vaccination policy. The mandatory vaccination policy does not make any reference to tier 3 workers.
- (4) Each employer or person in charge of a workplace must ensure that employees are vaccinated or exempt from vaccination. Employees are required to comply with the direction to provide evidence to an employer of their vaccination status and not to enter or work at a location if unvaccinated. Employers will be required to keep records of staff vaccination status and ensure unvaccinated staff are not permitted to work.
- (5) I reject the premise of the question.

CORONAVIRUS — RELIEF FUND — INDONESIA

1051. Hon Dr STEVE THOMAS to the parliamentary secretary representing the Minister for Citizenship and Multicultural Interests:

I refer to the minister's joint media statement dated 5 August 2021 that advised \$2 million had been allocated for one-off grants directed through an Australian charity organisation to support COVID-19 crisis relief activities on the ground in Indonesia as it manages its second wave of the COVID-19 pandemic.

- (1) Has the \$2 million fund been fully allocated to Indonesian community associations based in Western Australia?
- (2) Please provide a breakdown of eligible applicants, the amount provided and the name of the direct partner—a registered not-for-profit Australian charity with operations in Indonesia, or affiliated with a reputable and officially registered not-for-profit Indonesian charity—for each provided grant.
- (3) Did any of the funds directly benefit Bali or East Java, the latter with which WA has a 30-year sister-state relationship?

Hon KYLE McGINN replied:

On behalf of the parliamentary secretary, I thank the member for some notice of the question. The following answer has been provided to me by the Minister for Citizenship and Multicultural Interests.

- (1) Yes. The Indonesia COVID-19 crisis relief fund has been fully allocated to Indonesian community associations based in Western Australia.
- (2) Indonesian community associations decided to work together and provide one application as a consortium to the Indonesia COVID-19 crisis relief fund. Kreasi Indonesia Inc was selected by the consortium as the main applicant. The partner charity selected by the consortium is Save the Children Australia. The full \$2 million has been provided to the consortium and partner charity.
- (3) The consortium of Indonesian community groups worked with Save the Children to identify the most appropriate approach to the crisis response. The funding will support communities across Indonesia, including those in Bali and East Java.

PUBLIC SERVICE APPEAL BOARD

1052. Hon COLIN de GRUSSA to the Minister for Industrial Relations:

I refer to the Public Service Appeal Board.

- (1) On how many occasions since June 2015 has —
 - (a) the board summonsed a minister in relation to an appeal brought by government officers or public service officers; and
 - (b) a board summons then been blocked by an Attorney General?
- (2) Has the board sought assurances that a minister can appear voluntarily before the board?
- (3) Can a minister appear voluntarily before the board?
- (4) Has the board sought advice on the number of cases that may need to be reviewed due to the board issuing subpoenas or summons?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. Honourable member, I have numbering of (1)(1) and (1)(2) rather than (1)(a) and (1)(b), but the answer, I think, is the same.

- (1)
 - (a) The Public Service Appeal Board has not issued summonses to any minister.
 - (b) Not applicable.
- (2) I am unaware of assurances sought by any PSAB. It should be noted that the PSAB is independently constituted for each matter lodged with the registrar.
- (3) The Western Australian Industrial Relations Commission cannot identify any matter in which a minister has appeared as a witness.
- (4) I am unaware of advice sought by any PSAB.

ENVIRONMENTAL PROTECTION (COST RECOVERY) REGULATIONS 2021

1053. Hon TJORN SIBMA to the minister representing the Minister for Environment:

I refer to the draft Environmental Protection (Cost Recovery) Regulations 2021.

- (1) Under what conditions might the minister consider making the regulations effective from the commencement of the 2022–23 financial year, rather than at the midway point of the present financial year, which is the government's current plan?

- (2) Under what conditions might the minister consider phasing in the full quantum of the proposed fees, rather than implementing these charges all at once, considering that the department's price and demand modelling data still has not been shared with stakeholders?

Hon STEPHEN DAWSON replied:

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

- (1)–(2) The state government has undertaken a thorough consultation process with stakeholders on the development and implementation of the Environmental Protection (Cost Recovery) Regulations 2021. Feedback received through this consultation process is being carefully considered as part of finalising the cost-recovery model.

CHILD PROTECTION — REGISTERED CARERS

1054. Hon NICK GOIRAN to the parliamentary secretary representing the Minister for Child Protection:

I refer to the minister's answer to my question without notice 936 in which the minister informed the house that she regularly meets with the director general of the Department of Communities about the practice that he described to the Standing Committee on Estimates and Financial Operations as "not something that we encourage".

- (1) Will the minister table the most recent documents received from the director general at, or in preparation for, one of these regular meetings about this practice?
- (2) Will the minister table the most recent documents created by the minister's office about this practice?

Hon KYLE McGINN replied:

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

- (1)–(2) The minister meets with the director general of the Department of Communities regularly to discuss child protection matters. A standing agenda item in these meetings allows for verbal discussion between the minister and the director general to cover emerging or current issues. Agenda items are typically focused on significant issues and major projects.

POLICE — SENIOR OFFICERS

1055. Hon PETER COLLIER to the minister representing the Minister for Police:

I refer the minister to question without notice 550, asked on Thursday, 19 August 2021.

- (1) How many vacancies are there for each category—assistant commissioner, commander and superintendent—of the total of 62 on 31 July as referred to in (1)?
- (2) In reference to (2), what is the current number of women who hold the position of —
- (a) assistant commissioner;
- (b) commander; and
- (c) superintendent?

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 as follows.

- (1) Nil.
- (2) As at 1 December 2021 —
- (a) three;
- (b) two; and
- (c) six.

PUBLIC HOUSING — SALE AND DECOMMISSIONING

1056. Hon Dr BRAD PETTITT to the Leader of the House representing the Minister for Housing:

- (1) How many public housing homes were sold or decommissioned in 2020–21?
- (2) How many public homes does the government intend to sell or decommission in 2021–22?

Hon SUE ELLERY replied:

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

- (1) Upon coming to government, the public housing portfolio consisted of a significant number of dilapidated buildings that were unsafe, expensive to maintain and not fit for purpose. The Department of Communities sold 140 dwellings and demolished 219 in 2020–21. Public housing may be sold or demolished for a number of reasons, including sales to tenants, urban and regional renewal to help revitalise communities or due to natural or man-made—that is not a term I would use—hazards such as fire.

- (2) The McGowan government is investing \$2.1 billion into social housing over the next four years, which includes the record investment of \$875 million as part of the 2021–22 state budget, the single largest investment into social housing in the history of the state. As part of the record investment into social housing, \$12.8 million has been allocated to carry out building assessments on public housing and Government Regional Officers' Housing assets, which will inform future maintenance, refurbishments and disposal decisions. This, along with maintenance funding under the social housing economic recovery package and business-as-usual funding, will assist to keep properties stay in the system longer. The Minister for Housing continues to investigate all options to accelerate and fast track social housing delivery, including the use of modular and timber construction methods. As of 31 October 2021, over 650 social housing properties are under construction.

SCARBOROUGH LNG PROJECT

1057. Hon WILSON TUCKER to the minister representing the Minister for State Development, Jobs and Trade:

I refer to Woodside and BHP's Scarborough gas project. What is the project's estimated value to the Western Australian economy and how is this quantified?

Hon ALANNAH MacTIERNAN replied:

That question has been directed to me as the minister representing the Minister for State Development, Jobs and Trade. The minister has provided the following information from the department.

The Scarborough liquefied natural gas—LNG—export project will provide significant investment, jobs and economic benefits for Western Australia. Large volumes of gas from the Scarborough field development will be made available to support the state's long-term energy needs and ongoing economic development. Both the Scarborough and Pluto train 2 joint venturers will undertake commitments to regional and Western Australian industry participation, logistics and community development outcomes. The Scarborough–Pluto train 2 gas project will have capital expenditure of \$AU16 billion. The construction will create 3 200 jobs. Once operational, the project will support around 600 jobs. Around 1 400 petajoules of gas, equivalent to 180 terajoules a day, is expected to be supplied to the Western Australian market over the life of the Scarborough project. The Scarborough gas supply will underpin the planned \$4.5 billion Perdaman urea plant development. Anticipated regional benefits to local industry and community will be provided through education, training and broader business development opportunities, increasing regional economic empowerment.

CANNABIS — LEGALISATION

1058. Hon Dr BRIAN WALKER to the Leader of the House representing the Premier:

I refer the Premier to media coverage of the German government's decision to legalise the sale of cannabis for personal use, and particularly to Oliver Moody's article in *The Australian* of 26 November 2021 entitled "Germany must dare to be more liberal: new chancellor".

- (1) Does the McGowan government monitor international trends in cannabis legalisation, or other drug reforms for that matter, and do moves in our allied and aligned Western democracies in any way feed into its thinking on legal reforms here in Western Australia?
- (2) If no to (1), how many more jurisdictions will have to legalise personal use of cannabis before the government acknowledges that it has fallen behind in terms of what is a clear and growing progressive trend supported by the majority of Western Australians?
- (3) Acknowledging that "liberal" can be a loaded term here in Australia, does the McGowan government have any plans to be at least more socially aware when it comes to drug reform in general, and cannabis reform in particular, or will it remain turgidly conservative?

Hon SUE ELLERY replied:

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

- (1)–(3) The state government has no plans to amend existing cannabis laws in Western Australia.

CORONAVIRUS — MANDATORY VACCINATIONS — PUBLIC SECTOR

1059. Hon MARTIN ALDRIDGE to the Leader of the House representing the Minister for Public Sector Management:

I refer to the announcement of 20 October regarding WA's mandatory COVID-19 vaccination policy for workers.

- (1) What advice has the Public Sector Commission provided to public sector agencies and government trading enterprises in terms of complying with the directions?
- (2) Has the Public Sector Commission published policies or procedures to guide agencies in the management of staff who are not compliant with the directions?
- (3) If yes to (1) or (2), please table those documents.

Hon SUE ELLERY replied:

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

- (1)–(3) Yes, information was provided to public sector agencies to assist in their planning to comply with the COVID-19 vaccination policy for WA workforces. A copy was provided to government trading enterprises for their information. I now table the information provided.

[See paper [947](#).]

RENEWABLE ENERGY — SECTION 91 LICENCES

1060. Hon NEIL THOMSON to the minister representing the Minister for Lands:

I refer to question without notice 1041, asked yesterday, concerning the section 91 licence issued to Province Resources.

- (1) Can minister provide a map outlining the location and curtilage of the licence area?
- (2) If no to (1), can the minister describe the location so that it can be identified?
- (3) What is the term of the section 91 licence in years?
- (4) Can the minister provide a copy of the licence, including all terms; and, if not, why not?
- (5) What requirements are on Province Resources to provide information on renewable energy prospectivity in the public domain?
- (6) Are there any native title claimants over the site on which the licence has been issued; and, if so, who are the claimants and has the state sought approval from the native title claimants?

Hon ALANNAH MacTIERNAN replied:

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

- (1) No.
- (2) I table the attached tenure information.

[See paper [948](#).]

- (3) The term is two years.
- (4) No. Under the Land Administration Act 1997, the section 91 licence is a statutory right granted by the Minister for Lands on behalf of the state of Western Australia to Province Resources Ltd. The licence can be released only with the prior agreement of all parties.
- (5) There is no requirement for Province Resources to provide this information.
- (6) No.

SIR CHARLES GAIRDNER HOSPITAL — WATER CONTAMINATION

1061. Hon STEVE MARTIN to the minister representing the Minister for Health:

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

- (1) How many substantiated and unsubstantiated cases of illness have been associated with the bacterial contamination and were any of these legionnaire's disease?
- (2) How many point-of-use filters have been purchased?
- (3) Over what period will these filters be deployed, and how long until the contamination is remedied?
- (4) How many patients have been impacted and how many beds have been intermittently closed as a result?

Hon STEPHEN DAWSON replied:

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

I have been advised that further time is required to answer this question. The information will be provided to the honourable member by 2 December 2021.

GRIFFIN COAL — COLLIE

1062. Hon Dr STEVE THOMAS to the minister representing the Minister for State Development, Jobs and Trade:

I refer to the Australian Securities and Investments Commission's laying of criminal charges against Griffin Coal for offences over alleged failure to lodge its audited financial accounts and to the answer to question without notice 1003 asked on 17 November.

- (1) Who conducted the inquiry referenced in part (5) of the answer?
- (2) Please provide a copy of that review.
- (3) What volume of coal has Griffin supplied in the first quarter of the 2021–22 financial year?

Hon ALANNAH MacTIERNAN replied:

I thank the member. The minister has provided the following information.

- (1)–(2) Energy Policy WA routinely assesses the energy security of the south west interconnected system, taking into account contingencies for the failure of private companies. In addition, the Australian Energy Market Operator, as the independent system operator of the SWIS, undertakes its own regular analysis.
- (3) The Department of Jobs, Tourism, Science and Innovation advises that Griffin has advised that the volume supplied to its customers in the first quarter of the 2021–22 financial year was 621 027 tonnes.

CORONAVIRUS — VACCINATIONS — CORRECTIVE SERVICES

1063. Hon COLIN de GRUSSA to the minister representing the Minister for Corrective Services:

I refer to the WA Correctional Facility Entrant (Restrictions on Access) Directions and expected directions for critical and essential workers.

- (1) What are the current actual FTEs and authorised or funded FTEs working at custodial facilities?
- (2) How many corrective services personnel have been fully vaccinated to date, given that staff in Western Australian custodial facilities have been eligible for vaccinations since early March 2021 in phases 1A and 1B of the vaccine rollout?
- (3) Has any modelling been undertaken to evaluate the likely attrition rate of corrective services personnel due to vaccine mandates?
- (4) Has the Department of Justice developed any plan to attract and retain corrective services personnel in the event that they are to exit the profession specifically due to vaccine mandates?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for Corrective Services has provided the following answer.

- (1)–(4) As the mandate is in force, the state government is in the process of verifying proof of vaccination for relevant employees and will provide an update once that work is complete in coming days. The mandate is for the first dose by 1 December 2021. These employees are required to be double-dose vaccinated by 31 December 2021.

SINGLE-USE PLASTICS

1064. Hon TJORN SIBMA to the minister representing the Minister for Environment:

I refer to those categories of single-use and disposable plastics that will be banned by the end of this year under stage 1 of the minister's fast-tracked Western Australia's Plan for Plastics.

- (1) Which specific supply chain issues have retailers and suppliers identified to the Department of Water and Environmental Regulation as requiring "consideration"?
- (2) Will this "consideration" extend to revising the date on which the ban on single-use plastic cups, bowls, thick plastic bags and plastic-lined plates comes into effect?

Hon STEPHEN DAWSON replied:

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

- (1) The supply chain issues relate to availability of alternatives as a result of COVID-19.
- (2) These items remain in stage 1 of the Plan for Plastics, which will commence on 1 January 2022.

POLICE — G2G NOW

1065. Hon NICK GOIRAN to the minister representing the Minister for Police:

I refer to the minister's answer to my question without notice 865 on 27 October 2021, revealing that facial recognition technology is being used by the G2G Now application.

- (1) Why has the government rejected recommendation 20 of the Australian Human Rights Commission's recently tabled *Human rights and technology final report (2021)*, which states —
 Until the legislation ...
 Regulating the use of facial recognition and other biometric technology —
 comes into effect, Australia's federal, state and territory governments should introduce a moratorium on the use of facial recognition and other biometric technology in decision making that has a legal, or similarly significant, effect for individuals, or where there is a high risk to human rights, such as in policing and law enforcement?
- (2) In the absence of such legislation or a moratorium, will the minister table the policy, guideline or similar document that governs how the facial recognition data is being used and stored?

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 as follows.

- (1)–(2) Chapter 9 of the *Human rights and technology final report (2021)* reports on biometric surveillance, facial recognition and privacy. Recommendation 20 emanates from this chapter and highlights concerns about comparing certain facial images against a dataset of images for the purpose of identification. The G2G Now system does not compare an image across such a dataset of images and instead provides only a facial match capacity against an image supplied by the individual. As this is a match against a known image, supplied by the traveller, it is not a facial recognition process as considered in the *Human rights and technology final report*.

POLICE — RECRUITMENT

1066. Hon PETER COLLIER to the minister representing the Minister for Police:

I refer to the recruitment and graduation of new police officers.

- (1) In 2020 and 2021, has there been any alteration to the criteria used for —
 (a) selection into entry to the Western Australia Police Academy; and
 (b) graduation?
 (2) If yes, what changes have been made?

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 as follows.

- (1) (a) Yes.
 (b) No.
 (2) On 27 October 2021, the assistant commissioner for professional development made changes to recruitment assessments for applicants applying to join the Western Australia Police Force to align with national standards. This includes that alternative proof of academic ability is now accepted in lieu of applicants sitting the verbal reasoning component of the police entrance evaluation. Applicants who are unable to provide evidence will sit the full police entrance evaluation. The beep test required levels are now 7.01 for males of all ages and 6.01 for females of all ages. The agility test times are now 20 seconds for males and 22 seconds for females.

ABORIGINAL CULTURAL HERITAGE BILL 2021 — *A WAY FORWARD* REPORT**1067. Hon Dr BRAD PETTITT to the Minister for Aboriginal Affairs:**

I refer to the Aboriginal Cultural Heritage Bill 2021.

- (1) Were any revisions made to the 2021 bill following the release of *A way forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge* on Monday, 18 October in federal Parliament, and prior to its introduction in the Legislative Assembly on Tuesday, 17 November; and, if not, why not?
 (2) Does the 2021 bill incorporate all the minimum standards listed for state and territory heritage protections in 7.79 and 7.80 of recommendation 3 in the *A way forward* report; and, if not, why not?

Hon STEPHEN DAWSON replied:

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

- (1) The Aboriginal Cultural Heritage Bill 2021 addresses the gross deficiencies of the Aboriginal Heritage Act 1972 that failed to prevent the Juukan tragedy. It provides a number of mechanisms that will provide better protection for Aboriginal cultural heritage once it becomes law.
 (2) The bill strongly aligns with the standards set out in the *A way forward* report.

CORONAVIRUS — VACCINATIONS — REGIONS

1068. Hon MARTIN ALDRIDGE to the minister representing the Minister for Health:

I refer to a report by ABC Pilbara on 19 November titled “WA regions with low COVID vaccination rates likely to be closed off from rest of state, Premier says”.

- (1) Does the state government have access to local government area data or any other localised data for communities in the Pilbara, Kimberley or Gascoyne regions?
 (2) If yes to (1), please table this data.

- (3) If no to (1), how is the state government monitoring vaccination rates for communities in these regions?
- (4) Please identify any local government areas in Western Australia that have not reached a 70 per cent single-dose vaccination rate.

Hon STEPHEN DAWSON replied:

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

- (1) Yes.
- (2) As this data is Australian government data, WA Health is not authorised to release it, as per the commonwealth Australian Immunisation Register Act 2015. However, a weekly report is published by the Australian government. I have a website address, but it is not our information, so I provide it by way of information to the honourable member in case he wants to look for it. It is <https://www.health.gov.au/resources/collections/covid-19-vaccination-geographic-vaccination-rates-lga>.

Hon Dr Steve Thomas: I suggest you give it to Hansard!

Hon STEPHEN DAWSON: I am being helpful. What happens in this place if we do not give this stuff is that someone stands up at the end of the day and has a go at us, so I am trying to be helpful, honourable member. I am trying to be helpful. You cannot have it both ways.

The answer continues: the website provides select information about vaccination coverage by local government area, with certain caveats to the data, including reporting for ages 15 years and over only and excluding data on remote and very remote LGAs.

- (3) Not applicable.
- (4) Refer to (2).

EAST WANNEROO DISTRICT STRUCTURE PLAN

1069. Hon NEIL THOMSON to the Leader of the House representing the Minister for Planning:

I refer to the east Wanneroo district structure plan launched by the Western Australian Planning Commission in August 2021.

- (1) Why has the proposal to create an additional 10 000 lots of stage 1 residential land been brought forward to 2031?
- (2) What percentage of residents who live in the area affected support the acceleration of urbanisation in the structure plan?
- (3) Noting the land denoted as subject to further planning is state-owned land, does the state see the rapid urbanisation of land west of Lake Gnangara as a way to assist in delivering services to that site?
- (4) Is the government considering urbanising land north of Gnangara Road and to the east of Whiteman Yanchep highway—it is not in the question, but I must add “reserve”—but west of Tonkin Highway?

The Leader of the House may answer as she chooses.

Hon SUE ELLERY replied:

I do not think it substantively changes anything, but the member actually cannot add words to a question that he has submitted with some notice, because the answer has been prepared based on what has been submitted.

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

- (1) Stage 1 has not been accelerated.
- (2) Not applicable.
- (3) The land to the east of the Whiteman Yanchep highway will be subject to the same servicing requirements as the rest of the east Wanneroo district structure plan.
- (4) This area is not part of the east Wanneroo district structure plan, nor has it been considered for an alternative use in the subregional planning framework.

CORONAVIRUS — GERALDTON HEALTH CAMPUS

1070. Hon STEVE MARTIN to the minister representing the Minister for Health:

I refer to public concerns that Geraldton Health Campus will not be able to cope with an outbreak of COVID-19.

- (1) As part of the extra bed announcement on 3 November, how many additional beds have been allocated to Geraldton Health Campus?

- (2) How many intensive care unit beds are available for use at Geraldton Health Campus?
- (3) How many ventilators are available for use at Geraldton Health Campus?
- (4) If a patient tests positive to COVID-19, will they be able to stay at Geraldton Health Campus or will they be transferred to Perth?

Hon STEPHEN DAWSON replied:

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

- (1)–(2) Nil.
- (3) Five.
- (4) Yes. COVID-19-positive patients can be cared for at Geraldton Health Campus; however, they may be transferred to Perth for escalation of care if required.

CORONAVIRUS — MANDATORY VACCINATION POLICY

1071. Hon Dr STEVE THOMAS to the Leader of the House representing the Premier:

I refer to the government's announcement on 5 November of a plan to have a plan for the opening of the state from COVID restrictions, called the WA safe transition plan, and to the answers to questions without notice 896 and 934 regarding mandatory vaccinations.

- (1) How will businesses and business owners in Western Australia be assessed for compliance with vaccine mandates?
- (2) What government departments will oversee that compliance?
- (3) Will businesses be assessed only if an outbreak occurs related to their business?
- (4) If no to (3), what ongoing assessment will occur?

Hon SUE ELLERY replied:

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

- (1)–(4) The premise of the question is incorrect. The WA safe transition plan does not relate to compliance with mandatory vaccination directions. The Chief Health Officer's directions, which are publicly available on the WA government website—I note that we were not asked for documents—detail requirements associated with the mandatory vaccination policy. The Department of Health is responsible for compliance with the public health directions.

HEALTH — STAFF — NURSES AND MIDWIVES

Question on Notice 336 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Mental Health) [5.02 pm]: Pursuant to standing order 108(2), I inform the house that the answer to question on notice 336, asked by Hon Martin Aldridge on 27 October 2021 to me, the Minister for Mental Health representing the Minister for Health, will be provided by 7 December 2021.

BUSH FIRE BUNKERS

Question without Notice 1018 — Answer Advice

HON ALANNAH MacTIERNAN (South West — Minister for Regional Development) [5.02 pm]: Hon Dr Brian Walker asked question without notice 1018 on 18 November, which has been redirected to me as the minister representing the Minister for Commerce. I would now like to provide the answer, and seek leave to have it incorporated into *Hansard*.

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

Answer

- (1) No.
 - (2) No. There is already a pathway for proponents wishing to install fire bunkers.

In Western Australia, under the *Building Act 2011*, anyone wishing to install a fire bunker can obtain a building permit from the relevant local government to do so. In assessing the application for the building permit, the local government will rely on certification provided by a registered building surveyor that the fire bunker meets the requirements of a "private bushfire shelter" as prescribed under the National Construction Code.
 - (3) I am advised there is already a national certification system, called CodeMark, which suppliers of building products can use to demonstrate that their products comply with the National Construction Code. The Government does not promote specific products.
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LEGISLATIVE COUNCIL — CORONAVIRUS — MANDATORY VACCINATION

Amendment to Motion

Resumed from an earlier stage of the sitting.

HON MARTIN ALDRIDGE (Agricultural) [5.03 pm]: I rise to initially thank Hon Sophia Moermond for bringing this worthy matter to the house by way of an amendment. However, I indicate from the outset that, like the government, I will not be in a position to support the amendment, but for different reasons from those outlined by the government. I do not agree with the government's view that we should act and make decisions on how this place conducts business solely, or exclusively, on the advice of the Chief Health Officer. That is a matter for members of the Legislative Council. There may be circumstances in which we contemplate, or consider, the advice of the Chief Health Officer and others, but, certainly, it is not an acceptable argument that we should not do something because a person who is not a member of this chamber does not recommend doing it.

This motion has some merit and is worthy of some further consideration because, as Hon Sophia Moermond mentioned, it is often regional members who are potentially most dislocated when these types of lockdowns and restrictions on movement occur. That certainly was the case in the other place. The Legislative Assembly effectively managed its numbers through an extended pairing arrangement by which regional members, and particularly the most remote regional members, were constantly paired. That is not just my assessment; it was an assessment in a report tabled in late 2020 by the Legislative Assembly Procedure and Privileges Committee. The members who were effectively paired for periods of time represented electorates that are significantly vulnerable to the pandemic, yet their voices could not be heard in the Legislative Assembly during the course of it conducting business, and particularly business related to the government's response to the pandemic.

Also worthy of consideration is what will happen if intrastate borders are put in place. I commented earlier today that we have been through a number of intrastate border arrangements under directions issued by the State Emergency Coordinator, and not all of them have provided for members of Parliament to travel and conduct their business. There have been times when members of Parliament have been locked down in their homes as a result of those directions. It is questionable whether that constitutes a matter of privilege for one of the houses, but, nevertheless, a matter of privilege has not been raised, and at times the directions have directly accommodated an exemption for members of Parliament to travel freely. It may well be the case that a regional member of Parliament could travel to West Perth in order to attend a sitting day for one of the chambers but there is probably no right or entitlement to allow them to return home.

Under an intrastate travel arrangement, once members are at Parliament, it could be the case that they will not be able to leave the so-called affected area. Members may not be able to return to their homes in their electorates, or if they can, it may be under severe restriction. They may be subject to home quarantine for 14 days, similar to the arrangement for commonwealth parliamentarians when they return to Western Australia. The way they could be treated when they return to their electorates or their place of residence could be an active disincentive for regional members of Parliament to come to Perth to represent their constituents in the Council.

For those two reasons I think there is significant merit in considering the proposal in Hon Sophia Moermond's amendment to insert a paragraph (6)(c) in this motion, but I cannot support this amendment on legal and constitutional grounds. I draw members' attention to the Constitution Acts Amendment Act 1899, and in particular section 14, "Quorum—division, casting vote". The section is relatively short and reads —

The presence of at least one-third of the members of the Legislative Council, exclusive of the President, shall be necessary to constitute a quorum for the despatch of business; and all questions which shall arise in the Legislative Council shall be decided by a majority of votes of the members present, other than the President, and when the votes are equal the President shall have the casting vote:

Provided always, that if the whole number of members constituting the Legislative Council shall not be exactly divisible by 3, the quorum of the Legislative Council shall consist of such whole number as is next greater than one-third of the members of the Legislative Council.

Hon Sophia Moermond's amendment to the motion before us seeks to direct the Clerk to ensure that any member unable to attend Parliament during a lockdown because of a regional border closure, their COVID-19 vaccination status or any other valid reason has the ability to participate fully in the deliberations of the house via secure online means such as have been introduced in other Australian Parliaments in recent months. In my view there are clear constitutional and legal doubts over the participation of members fully in compliance with the Constitution Acts Amendment Act 1899, in particular section 14, which relates to the Legislative Council. With respect to what is occurring in other Parliaments, I know that the Queensland Parliament, which is unicameral, amended its statute to provide for virtual sittings of its house and I understand that the Australian Parliament allows virtual participation but not full participation. It allows members to ask questions, to contribute to debates but does not allow a member to constitute quorum or cast a vote in the House of Representatives. Some variance is occurring throughout Australia and its Parliaments, but this motion, if passed in this form today, will cast significant doubt over the proceedings of the Legislative Council.

I draw attention to a report that may not be known to many members; in fact, it may not be known to many members of the other place. It is the eighth report of the Legislative Assembly Procedure and Privileges Committee, tabled by then Speaker Hon Peter Watson in November 2020, titled *The Legislative Assembly's response to the COVID-19 pandemic*. I draw members' attention to page 67 of chapter 4, under the heading "Complications to Organising Sitzings of the Legislative Assembly". I will not refer to the first part of this section, but it effectively talks about the high level of quorum required by the Legislative Assembly and the Legislative Council, and the context of other Parliaments that have relatively low levels of quorum, which is an issue I want to park in the interests of time. But the second issue the report refers to is the legal impediments on the Assembly from conducting its business virtually. I want to quote from the report. It states —

The final impediment to organising meetings of the Assembly is the concept of 'presence' and 'members present' in section 24 of the CAAA.

Section 24 is the equivalent of our section 14 of the CAAA. It continues —

Second 24 provides:

The presence of at least one-third of the members of the Legislative Assembly, exclusive of the Speaker, shall be necessary to constitute a quorum for the despatch of business; and all questions which shall arise in the Legislative Assembly shall be decided by a majority of votes of the members present, other than the Speaker, and when the votes shall be equal the Speaker shall have the casting vote ...

The constitutional issue which arises from section 24 is whether members must be *physically* present in the Chamber to comply with the requirement of 'presence' and 'members present', or whether a member, participating virtually, can be counted towards a quorum and vote.

The CAAA was framed in the latter years of the nineteenth century and, as Professor Anne Twomey has observed, nineteenth-century constitutional framers 'did not envisage Parliament sitting with members dispersed and communicating by way of technology'. As the Clerk of the House of Representatives in the Federal Parliament recently confirmed with respect to similar wording regarding 'presence' for quorums and voting in the Australian Constitution: 'This requirement has always been interpreted as meaning that "the presence" means physical presence'.

One school of thought is that it is up to Parliament, and not a court, to decide this issue. Proponents point to the 'exclusive cognisance' aspect of parliamentary privilege, and in particular the right of a House of Parliament to judge the lawfulness of its own proceedings. As described in the 1999 report of the influential UK Joint Committee on Parliamentary Privilege:

Both Houses have long claimed, and succeeded in maintaining, the right to be the sole judges of the lawfulness of their own proceedings and to determine, or depart from, their own codes of procedure. Courts of law accept Parliament's claim that they have no right to inquire into the propriety of orders or resolutions of either House relating to their internal procedure or management.

The other, and conflicting, school of thought is that the correct interpretation of section 24 of the CAAA *is* within the jurisdiction of the court. That if the Assembly ever recorded in its Votes and Proceedings that a quorum included a member participating virtually, or a vote of a member participating virtually, a court could adjudicate whether the Assembly was conducting its proceedings in accordance with, or in breach of, section 24 of the CAAA and, in so doing, determine whether section 24 of the CAAA permits virtual quorums and virtual votes.

Which school of thought is correct has not been the subject of a court determination. And therein lies the problem: if the Assembly were to pass a resolution to sanction virtual quorums and votes, and virtual quorums and votes followed, then such parliamentary proceedings could become the subject of court action should it be alleged that the Assembly had not complied with section 24 of the CAAA.

It may be that the Assembly would prevail in such litigation, either by persuading the court that the matter was not justiciable, or, if it was justiciable, to persuade the court that 'presence' and 'members present' in section 24 of the CAAA extends to members participating virtually. What is certain, is that a legal challenge to virtual presence and voting would be extremely time-consuming and expensive—and its capacity to cast doubt over legislation could be highly problematic for the Assembly.

That is a quite extensive quote, giving the views of the Legislative Assembly Procedure and Privileges Committee with regard to section 24, which mirrors section 14 of the Constitution Acts Amendment Act. Further along in this report, the Procedure and Privileges Committee made a number of recommendations under the heading "A Suggested Way Forward". It states —

If, however, a time were to come when extreme circumstances rendered it impractical or impossible for a quorum of members to meet physically, then the PPC is of the view that the Assembly should have the authority to conduct its proceedings virtually, and to vote virtually.

While an argument could be made that the Assembly (and the Council) could, in extremis, define ‘present’ as meaning ‘virtually present’ under the aegis of exclusive cognisance, i.e. parliaments’ jurisdiction to control their internal affairs, proceedings and procedures without interference from the courts, there is no guarantee that a court would agree that exclusive cognisance is a complete bar to judicial scrutiny. Accordingly, it seems prudent to remove all scope for doubt by amending the CAAA.

Recommendation 5

That the *Constitution Acts Amendment Act 1899* be amended to enable remote participation and remote voting. Suggested wording to change the *Constitution Acts Amendment Act 1899* could include something along the following lines:

Section 24(a)

Presence for the purposes of this section shall be determined by the Standing Orders of the Legislative Assembly and can include provision for presence and voting by electronic means.

The reference to Standing Orders in the suggested amendment underscores that ultimately it is for the House, and the House alone, to determine when, how, and in what circumstances virtual participation, virtual quorums and virtual voting may occur.

I raise this in the context of a similar response during the COVID-19 pandemic when we amended this act, if I am not mistaken, in respect of meetings of the Executive Council, to allow the Governor and Executive Council to meet and conduct business virtually. Given that this report was tabled in the other place in November 2020, with prorogation of Parliament following shortly afterwards in December, there probably never was a government response to the PPC’s recommendations. I think it would be wise for the government to consider the committee’s report and its recommendation 5 for what I think is a quite simple amendment to the Constitution Acts Amendment Act 1899.

Until the government does so, I cannot support the amendment at this time, and I suggest other members should not support it, because I think it will cast uncertainty and doubt over the proceedings of the Legislative Council. It will allow the decisions of this house, and things said by members in this house, to be challenged—potentially through defamation proceedings to which, it could be argued, privilege would not apply because the house met in contravention of the Constitution Acts Amendment Act 1899. For those reasons, I cannot support the amendment.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [5.18 pm]: I will make a small contribution to the debate. I congratulate both Hon Wilson Tucker and Hon Martin Aldridge for their contributions. Hon Wilson Tucker quite accurately assessed the moral obligations in the debate and Hon Martin Aldridge, also very accurately, assessed the legal and constitutional issues. I think they both did remarkably well and I congratulate them both.

With regard to Hon Martin Aldridge’s contribution, I make the point that although meetings of the Executive Council and the Governor might well potentially occur online, I do not imagine that the Governor of the state would go into full opposition to the government’s agenda and legislation that has been passed in the way that would happen in the Legislative Council, so we are not likely to see the same level of debate and interaction. Therefore, perhaps that is a much more appropriate outcome.

Personally, I have relative abhorrence for most modern technology, particularly Zoom meetings. When I am an attendee in a Zoom meeting and other people are present, I find it an immensely frustrating and generally rather useless process. I am not a fan of that technology coming in. You tend to sit there trying to wave to get somebody’s attention or you speak over the top of someone. Perhaps I am a dinosaur—certainly my children think so—but the work of this chamber is too important to go to that stage of appearing on a screen, perhaps somewhere in the back of the room, and trying to gain the attention of the President or the presiding officer. I am not a supporter of that. It should be done as a last resort rather than be a regular occurrence.

I will make some comments about the proposal so far and the amendment, which I am unable to support largely for the reasons put forward by those two very good members who have made their address. I will not repeat those reasons, but I will comment on a couple of things said by Hon Dr Brian Walker and Hon Sophia Moermond, the mover of the amendment. It is interesting that one answered the other’s question, which was quite useful. Hon Sophia Moermond made the comment quite strongly that the vaccine does not prevent the disease or the transfer of the disease. That is absolutely true; it does not 100 per cent prevent either. However, it does have an impact on the incidence of the disease and the transfer of the disease because antibodies are present when a person’s immune system is stimulated by either vaccination or infection. That point needed to be made because it answered the question of Hon Dr Brian Walker as to why people are not allowed to take the risk for themselves—that last five per cent of people who refuse to be vaccinated. The reason that that becomes an issue is exactly the reason put forward by Hon Sophia Moermond; that is, everybody else whom we are trying to protect is not 100 per cent protected. They might be, in different cases, 90 per cent protected or 50 per cent protected—every case is individual. Let me say that all of that protection is better than no protection. I am an absolute supporter of the vaccination process.

Hon Sophia Moermond has conducted herself in this debate pretty well up until this week, but it slipped when she tabled a petition yesterday that contained the words, “The vaccine does not work but is a serious threat to health.” The vaccine may not work 100 per cent. It probably works 100 per cent rarely. It might work 95 per cent quite frequently and it probably works 25 per cent on occasion. But to say it does not work is an untruth, and that is the problem. I get that Hon Sophia Moermond was tabling somebody else’s work—this is not a personal criticism and I am not even suggesting that that is her view—but I urge her to be very cautious because her name is now associated with an untruth. I have been asked to table a few petitions about this issue. I ask people to read them out to me and if they have the words “The vaccines don’t work”, “The vaccines give you 5G” or whatever else they might say, I say no. I would table a petition that was true even if I did not necessarily agree with the sentiment.

There was an untruth in the petition that Hon Sophia Moermond tabled yesterday and that is a very dangerous process. I urge her to look at that.

Hon Dr Brian Walker talked about the weight of scientific evidence. It is true that there are dissenting views—that is absolutely the case. As a man of science himself, Hon Dr Brian Walker knows that until we have an alternative view, we take the weight of evidence, the weight of science and the greatest number of indicators. It is a bit like the argument about climate change. I can refer the member to probably 1 000 climate change scientists who say there is no such thing, but that does not mean that the 100 000 who say that it exists are necessarily wrong, and it is exactly the same with the COVID debate. The reason that we listen to the Chief Health Officer is that it is not one person’s opinion; rather, it is the opinion of the chief health officers of all the jurisdictions in most of the countries in the world who are in furious agreement, generally, about these things.

Yes, there is always an alternative view in science. As scientists, we are always trained to be sceptics. I am not proud to be a sceptic, but we also have to work with the weight of evidence and we cannot be a sceptic because it suits somebody’s opinion. Again, Hon Sophia Moermond potentially answered her own question without one. She raised the situation in Germany, so I had a quick look. At the moment, Germany is experiencing in the order of 80 000 new cases a day and there have been just over 100 000 deaths to date. If we look at the chart, which I just did, we can see that it is a massive and significant rise. Funnily enough, Germany is now looking at all sorts of measures that Australia and Western Australia put in in advance. Unfortunately, I think there are problems with all the arguments the member presented. I get the intent. I understand that not everybody is a dinosaur like me. I struggle with the proposal, but for the reasons that I think were very well illustrated by Hon Wilson Tucker and Hon Martin Aldridge, unfortunately, this amendment cannot be supported.

HON NICK GOIRAN (South Metropolitan) [5.25 pm]: I rise to consider this amendment that has been moved by Hon Sophia Moermond. We are currently considering the twenty-ninth order of the day on the daily notice paper. It is an order that will require members of the Legislative Council to provide information about their private medical history to the Clerk of the Parliament by a set date, and in the absence of doing so be in suspension of Parliament and the precinct when we are in a so-called undefined lockdown. The honourable member seeks to insert an extra limb into what is already an extraordinary motion. The motion proposed by the Leader of the House has seven limbs. Some of the limbs have some sub-limbs. We seek here at this time to add a third one at paragraph (6). As has just been described by Hon Martin Aldridge, it is in effect a direction and an obligation created on the Clerk of the Parliament.

Before I get to some of the arguments that have been raised, I am not surprised that the government has indicated it will oppose the honourable member’s motion. That does not surprise me in the least. What surprises me is that the one and only explanation provided by the Leader of the House to the honourable member was that the Chief Health Officer’s advice does not tell us to do this. Have we seriously got to the point in Western Australia now of vacating our capacity to think on any topic and that the only thing we can do now is say, “Well, it all depends on whether the Chief Health Officer tells us to do something or not.”? He has a very, very important role to play in Western Australia.

The suggestion put forward by Hon Sophia Moermond is that members should have the capacity to participate in an electronic fashion, just as members do in parliamentary committees from time to time. That is what the honourable member is asking. It is good enough for us to sit in a committee room across the road while some of our colleagues participate via a screen, so the honourable member is simply asking us to say why we cannot do that in here. It is not an unreasonable proposition. We might not agree with it for some of the reasons that have just been articulated, but, seriously, the government’s response is that the Chief Health Officer did not tell us to do that. We have to be better than that, members. There has to be a better reason to oppose the amendment if that is our desire. If we have become slaves to the Chief Health Officer—wow!—why bother having the Parliament in the first place. Why do we not ask him how to determine all bills? I am surprised that was the response by the government; nevertheless, that is what *Hansard* will reflect.

In a stunning contrast to that response by the government, we heard the very considered and eloquent response by Hon Martin Aldridge, who took us through, at some length, the provisions set out in the Constitution Acts Amendment Act 1899. He also drew to our attention a report that was provided to the other place more than a year ago touching on the topic of electronic participation. I associate myself strongly with the remarks Hon Martin Aldridge made on this amendment. I think he very accurately stepped out the state of the law in Western Australia and the risks of the amendment. The principle behind the amendment, which is that people might be able to remotely participate in

Parliament, definitely warrants investigation and consideration. However, at the present time, while there are legal risks in place, it would be irresponsible on my part, as the shadow Attorney General, to support the amendment as it is currently drafted. I hasten to say that I certainly support the idea of it being considered and investigated. The question then becomes: who should do this investigation and consideration on behalf of members? I draw to members' attention schedule 1 of our standing orders that sets out the roles of the various committees. The first of those committees is the Standing Committee on Procedure and Privileges. As members will know, it consists of the President, the Deputy President and three other members. Importantly, clause 1.4 of the schedule says —

The Committee is to keep under review the law and custom of Parliament, the rules of procedure of the Council and its Committees, and recommend to the Council such alterations in that law, custom, or rules that, in its opinion, will assist or improve the proper and orderly transaction of the business of the Council or its Committees.

Members could not articulate a term of reference that is more on point than that which the honourable member is asking us to consider, which is that members should have the ability to participate fully in the deliberations of the house via secure online means. That is what the amendment before us says. Plainly, this type of issue should be considered by the Standing Committee on Procedure and Privileges. I regret that the honourable member has not suggested that, because I think that would have quite a lot of merit. Mind you, honourable member, I think we know what the outcome would be from the government's general attitude on this. It would say that the Chief Health Officer did not tell it to refer the matter to the Standing Committee on Procedure and Privileges and that in the absence of that type of advice, the government could not possibly think for itself anymore. That all stopped during the pandemic, apparently. I regret to say to the honourable member that although I sympathise with what her amendment seeks to achieve, I cannot provide my support for it, only because of the legal risks to the Parliament in the absence of an amendment to the Constitution Acts Amendment Act 1899.

I also hasten to say to the honourable member that there is a solution to this. The member will have witnessed the McGowan Labor government moving heaven and earth when it wants to pass legislation at lightning speed. If it wants to do something, it can make things happen. We have just seen a remarkable set of circumstances. If I am not mistaken, the Aboriginal Cultural Heritage Bill 2021 was introduced yesterday and the public record reflects that the McGowan Labor government thought it was appropriate to introduce the bill and commence the debate on the same day in the other place. That is how fast the government can move if it wants to. Incidentally, the rule in the other place is that bills are normally allowed to sit for three weeks so that members can consider and digest them, but the government has said, for whatever reason, that that would not happen with that bill in the other place. As members know, we now have an extra sitting week in this place because that is how important that legislation is to the government. I am not here to debate the merits of that. I am simply making the point that when the McGowan government wants something to happen—express, pronto—it happens. Apparently, honourable member, that does not apply with regard to the Constitution Acts Amendment Act 1899, because we have heard nothing from the government to indicate that it has any appetite whatsoever to consider it—nothing! As Hon Martin Aldridge pointed out, the government has been aware of this since November last year, when a committee dominated by Labor members in the other place recommended that this be considered. We heard absolutely nothing from the government. It has been far too busy pushing through legislation to change the rules on how we elect the upper house—something that apparently was not on the agenda prior to the last election. It suddenly became a priority, apparently because Hon Wilson Tucker dared to come into the Parliament as a member. It suddenly became a top priority and the government had to drop everything, and that bill has now passed. That is how fast the government can act. Do not worry, Hon Sophia Moermond; if the McGowan government wanted to change the Constitution Acts Amendment Act 1899, it most certainly could do it. It has the numbers in both houses of Parliament to do it, and it could give the honourable member the right to participate electronically if it wanted to. The simple truth of the matter is the government does not want the honourable member to have that right. That is what is at stake here. I do not believe, as the Leader of the House has suggested, that it is because the Chief Health Officer has not mentioned it. As your honourable colleague mentioned, he also did not tell us to go and put our hand in a fire. Apparently, this government needs every type of guidance!

I also regret to advise Hon Sophia Moermond that the second line of her motion refers to a member being “unable to attend Parliament during a lockdown”, and I draw to members' attention that the government has talked about members in circumstances “during a lockdown or similar restrictions”. We will get to this in a moment when we return to the substantive motion, but one of the issues, apart from the fact that “lockdown” is undefined, is we have this other undefined term of “or similar restrictions”. I imagine that if this amendment were to pass, she would want it to apply not just during a lockdown but also when there were similar restrictions. That is the type of drafting improvement that could be made to the motion. As I mentioned earlier, the proper committee that could consider that type of matter more appropriately would be the Standing Committee on Procedure and Privileges. But that is evidently not an option the government will contemplate. We heard earlier today from the Leader of the House that the government would like its motion passed today. Once again, that is a demonstration that the government can act very swiftly if it likes to. Despite the fact that none of this has any bearing until 31 January 2022, apparently it needs to be passed on 1 December, for reasons which have not been explained.

I conclude on the amendment before the house to insert paragraph 6(c) into this motion on member COVID-19 vaccinations. I cannot support it for the reasons that have been explained, particularly the legal risks to the Parliament, but I believe the matter warrants investigation and consideration. I believe that the appropriate place for that to happen is in the Standing Committee on Procedure and Privileges. It is evident from the government that that will not happen today, which I regret.

Amendment put and negatived.

Motion Resumed

HON NICK GOIRAN (South Metropolitan) [5.39 pm]: I rise now to speak to the substantive motion, which is unamended and in the form proposed to the house by the Leader of the House. As I have mentioned, it is the twenty-ninth order of the day listed on the *Daily Notice Paper*. This matter has been prioritised by the government. It is the only order of the day that the government has decided we shall deal with today on 1 December. I quickly make this point in passing. That means that as far as the government is concerned, this twenty-ninth order of the day is more important than everything else that is on the *Daily Notice Paper*; nothing is more important than this particular motion. The government is most entitled to make that decision, but it also has a responsibility to be held accountable for the fact that the matter that it is prioritising will have operational meaningful effect only from 31 January 2022. There are other matters on the *Daily Notice Paper* that if dealt with and enacted could have a material benefit for Western Australians far earlier than that.

Nevertheless, I make these observations with respect to the motion proposed by the Leader of the House. I understand the desire within our community—a desire that I share—for what is referred to as herd immunity. I understand that goal, and I support it. What I cannot justify is when the desire for herd immunity sees individuals resorting to what I would describe as a herd mentality. Very little intellect is required or needed to politicise any matter. However, a great deal of intellect is required to articulate and consider competing important principles. I listened very carefully to the explanation that was provided by the Leader of the House earlier today about why she believes this motion ought to be supported. In essence, the arguments provided by the government come in two forms. The first is that if we pass this motion, it is the safe thing for us to do. The second explanation that is provided is that it is important to set an example. I think Hon Wilson Tucker made similar remarks about the importance of setting an example. They are the two arguments that were provided by the government to justify the motion that is currently before the house.

In effect, the government is relying on and asking us to provide heavy weight to the two principles of safety and leadership. For my part, I agree that these are important principles, but they are not the only principles that are involved at this time and ought to be considered. Ultimately, if members decide that they want to give greater weight to the principles of safety and leadership, over and above every other principle that is involved here, it is certainly their right to make that decision. What saddens me is the complete lack of consideration by the government, led by the Premier, of any of those other principles—in fact, not even a capacity to articulate what those other principles are.

I might remind members that this episode first began in the second sitting week of October this year, when the member for Rockingham, the Premier of Western Australia, expressed that he would direct members of Parliament to disclose their vaccination status. That caused quite some controversy at the time, because I delivered a speech in the chamber, pointing out that the honourable Premier did not have that power, as much as he might like to have it, and that I would not be disclosing my private medical status other than if compelled under law. The Premier was incredibly agitated that week—that would probably be the fairest way I could describe his behaviour that week—so he said, and conceded to the media, that he would need to go and seek legal advice, which he then did. Unsurprising to anyone other than probably the Premier, the legal advice that came back to him was that he did not have the power to do what he wanted to do. Because the Premier was deeply agitated that the legal advice had confirmed that he did not have the power to simply issue edicts like a dictator, we then saw what I would describe as repeated, unhinged displays of abuse. It was constant, not just that week but subsequently, and never once during all that time was there ever a display of any intellect or capacity to engage on the issues—not once. The only thing that was perhaps worse than that was the bizarre, desperate and, frankly, disgusting allegations of what some members, including the Leader of the House, described as dog whistling. It was unbecoming of all those members, such was their desperation. It is no wonder that people in Western Australia are annoyed when they see this type of dictatorial behaviour.

What are some of the competing principles and issues at stake here? The first, which the government will have considered at some point, is: Can Parliament, by way of a motion, create a new category of disqualification or ineligibility without amending either the Constitution Act 1889 or the Constitution Acts Amendment Act 1899? Can it do that? As Hon Martin Aldridge identified earlier, if we were, simply by virtue of a motion, to have proceedings today via electronic participation, there would be a risk that that could be challenged. It is not something that Hon Martin Aldridge invented. It is something that he has quite correctly drawn to our attention and was considered by the Procedure and Privileges Committee of the other place. Further to that, can Parliament also move a motion to create, in effect, some form of disqualification or ineligibility for a member without making those amendments; and, if it does have the power to do that, should it do so? Is it appropriate for one of those criteria for disqualification

or ineligibility to be about a person's medical history? Of course, there is set out in the Constitution Acts Amendment Act 1899 a range of circumstances and criteria that disqualify a person, yet none of these matters could fairly be described as something consistent with a person's medical history. But that is what has been proposed here.

Why is it important to consider whether there should be an express provision in an act? It is important for this simple reason: the voters of Western Australia are the highest authority. Despite the fact that the Premier believes he is the highest authority, there is certainly a higher authority than him. There are two such higher authorities. One is the rule of law; the second is the voters—the electors—of Western Australia. In the case of the 36 members here, irrespective of whether their surname is Ellery, Moermond, Goiran or any other name, the electors of Western Australia have said to those members, “We give you an express licence for four years starting on 22 May 2021 to come in here, take your seats and represent the members of your region, and to do so irrespective of circumstances.” They did not give us a provisional licence; they gave us a four-year licence. They are the highest authority of all. They said to us, “It doesn't matter if there's a war; it doesn't matter if there's a pandemic. It does not matter. We are giving you a licence to represent us in the Parliament, to make the laws and to hold the government to account.” That is the executive. That is why this matter is important.

There has been some suggestion—this goes to the earlier issue—about whether an example needs to be set. I very much understand that argument, but the Parliament has a duty in every circumstance, whether there is a war or a pandemic, to hold the executive to account. To compare that with every other employment situation in Western Australia is simply incorrect. They are not the same. There will be people who have decided that they cannot or do not wish to comply with the mandate requirements that have been made, and, as a result of that, they run the risk of losing their employment. I note that a dispute has now emerged in the Western Australian Industrial Relations Commission between some police officers and the Commissioner of Police; we will see what the outcome of that is in due course. But whether the employment situation is that of a police officer or any other person, ultimately, all those people are electors, and they have asked us to be here for four years, no matter what, to represent them, to have exactly these and other kinds of debates. That cannot be done if some members have been excluded.

Let us assume for a moment that there is a lawful power to do what is before us at the moment, and that not only is there a lawful power, but it is indeed then appropriate to utilise that power for this purpose—that is, to create this new category of disqualification and ineligibility. The question then becomes: how should that power be exercised? Members who have some experience in the industrial relations system may know that it is the case that an employer can provide a direction to an employee in a sense on anything—any topic. Here, at the moment, we are talking about vaccinations, because of course that is the hot topic around the state, but an employer can provide a direction to an employee in a sense on any topic. However, there is some restraint. There is a framework within which that power of direction operates. The first thing is that it has to be lawful. Obviously, an employer cannot direct an employee to do something that is unlawful. It is not unlawful for a person to receive a vaccination. People can lawfully receive a vaccination, so there is no issue with regard to that, but an employer cannot direct an employee to do something that is unlawful.

Secondly, the direction has to be reasonable. The third thing that has to happen, as a matter of law and industrial relations law, is that there has to have been consultation on the direction by the employer to the employee. These are the three categories that have to be met for an employer to provide a direction to an employee: it has to be lawful, it has to be reasonable and there has to have been consultation. I want to deal with the third of those things. Some members have raised the argument that we need to show leadership, we need to set the example and we need to make sure that people do not think there is one rule for Parliament and one rule for everybody else. If we follow that argument, the same criteria should be applied, and that would include consultation. What consultation has there been here, members? Absolutely none. There has been a debate today, but there has been no consultation. Consultation is not limited to whether something should happen; consultation should also be about alternatives. I suspect that is where the industrial relations matter between police officers and the Commissioner of Police will probably go with respect to alternatives.

What are the alternative options? Hon Sophia Moermond encouraged us just moments ago to consider another alternative, and that was the ability for people to participate via secure online means. That is an alternative, and for the reasons that we recently discussed, it remains an alternative that requires the government to first do something that it is not willing to do. That option or alternative is unviable in the absence of the government showing the will to take it up. What other alternatives exist? I ask members to reflect on this for a moment.

If people have not quite worked it out yet, in my case, I say all this in the circumstance that there is no scenario in which I will not be taking my seat in this Parliament. That simply will not happen. It was never in jeopardy; that was never the issue. It was never about an individual perspective; it was about the principles that are at stake here, and the desire to engage with others on those principles. There has been a complete lack of willingness, particularly by the Premier, to do so. He would rather resort to abuse. But in terms of these alternatives, the motion that members will inevitably pass sometime in the next 23 minutes will allow for an unvaccinated member to participate in the proceedings of Parliament during a lockdown or under similar restrictions, just so long as that member has what is referred to as proof of a valid exemption.

Consider this for a moment: there is a lockdown, Parliament has been recalled and we know for sure that there will be at least 34 members present on that day. Who knows, there might be 36, but there will at least be 34. What if one of those members has what is referred to in the motion as proof of a valid exemption? Members will not even know, because the proof of the valid exemption will be provided to the Clerk, and under the motion that members are about to pass, the Clerk cannot disclose that information to anybody. Members will be very pleased to be sitting here during a lockdown and passing urgent laws that, no doubt, the McGowan government will insist be passed in a microsecond, but unbeknownst to them, they could be sitting next to a person who has not been vaccinated. My point is this —

Hon Dan Caddy interjected.

Hon NICK GOIRAN: Except for Hon Dan Caddy, who has the benefit of the permanent social distancing arrangement! Consider this, Mr Acting President: the person you might be sitting next to is not vaccinated because they have quite lawfully got themselves one of these valid exemptions, which are forms of evidence approved by the Chief Health Officer. How is it suddenly safe? The argument put forward by the government is all about the fact that this is the safe thing to do and it is about leadership and setting the example. How is it suddenly safe to be sitting in the Parliament, in the chamber, in a lockdown situation next to a person who has not been vaccinated? It is apparently very safe, because they have these medical exemptions, but if a person did not have the medical exemption, he would be highly dangerous. That is the logic that is being applied here. Remember the three limbs of the test are that it has to be lawful and reasonable and there has to be consultation. There evidently has not been consultation. How is it reasonable to expect that a person who has not been vaccinated cannot sit on one of these chairs in a lockdown, but a person who has not been vaccinated who has one of these certificates can take a seat? It is very safe for the other 34 members then. Poor old Hon Tjorn Sibma, a long-suffering colleague of mine. On lockdown day when he is here, he will not know what my status is. Nobody else will know what my status is. All they will know is that the very annoying member from the South Metropolitan Region still managed to be here. They cannot get rid of him, no matter what. He is still here even in a lockdown. He must have provided some information to the Clerk, but they do not know what information he provided.

Hon Alannah MacTiernan interjected.

Hon NICK GOIRAN: Honestly, Minister for Regional Development, this is not the time. The minister knows that normally I would be happy to engage with her, but today is not the day for it. My point is that Hon Tjorn Sibma would not know the status of the member he is sitting next to. The Clerk cannot reveal it to him. What if the member has a medical exemption? They are allowed to sit in here. Does that suddenly make it unsafe for him? This is all about the test of reasonableness. This is why police officers are engaged in an industrial dispute with the police commissioner; it is because there are these three important tests. I think it was Hon Stephen Dawson in question time who was chastising one or more of my colleagues about not being able to have it both ways. It is a little bit like that now. If we want the test for the Parliament and we have to have the same system, we have to have the same rules here as everybody else in Western Australia, that is okay, but then we have to apply those same rules, and that is not what is happening now. There has been no consultation. There are question marks about reasonableness and lawfulness. Two of the three limbs are in question, and the third limb absolutely has not happened. Yet, members are told that we need to proceed with this because it is the safe thing to do and it is important to set the example.

Based on history, I know that there will be no engagement on any of these points. There will be no response on consultation, there will be no response on the issue of reasonableness and there will be no response to explain how it is suddenly safe. I welcome Hon Tjorn Sibma back to the chamber from his urgent parliamentary business. I will have a chat to him later about me using his name in vain in this debate. I was saying that the honourable member is in the difficult position that on lockdown day, he will not know the status of the member sitting next to him, whether there is a medical exemption or not and whether there is any safety there. None of these things will attract a coherent, or any, response from government to engage on this. Has there been consultation? In what form has that occurred? To what extent are there question marks around reasonableness and to what extent are there question marks around lawfulness? We should remember that the government—in particular, the Premier—had to get legal advice. Where is it? Why has it not been provided? Why is this not one of those circumstances when an extraordinary motion is before the house? It is not typical to put forward a set of medical criteria to members of Parliament. It is not typical to ask members of Parliament to provide their private medical history to the Clerk of the Parliament. I am sure we can at least agree that it is not typical. In those circumstances, why is this not one of those times when the government can provide the legal advice and table it? Is the government that concerned that the matters might be challenged in the courts that it wants to hang on to legal professional privilege, and it does not want to waive it? I would be surprised if it was that concerned about it, but maybe it is. If it is going to take an extraordinary measure with this, at least give members the comfort of all the information, particularly given that there has been no consultation. Alternatively, the Standing Committee on Procedure and Privileges could consider all these issues, but the government does not want to do that either.

I conclude my remarks on this motion moved by the Leader of the House by simply saying what some people will have heard before. I support vaccination. I have always supported vaccination. I encourage every Western Australian to have a confidential discussion with their medical practitioner before they provide their informed consent. That is a set of principles that I have associated my name with throughout this debate, despite the abuse and the rhetoric

from the Premier of Western Australia. I will not resile from that position. If he or any other member has a difference of opinion on that, that is fine, but I am nailing my colours very squarely to the mast of supporting vaccination in the circumstances of a person having a confidential discussion with their medical practitioner and, on the basis of that confidential discussion, providing their informed consent. If people do not want to associate themselves with those sets of principles, they should feel free to say so. I could do with a little less of the abuse that consistently comes my way on this matter, despite the fact that I have repeatedly said what I just said.

As much as I support vaccination in those circumstances of a private conversation between a patient and a doctor, and informed consent being provided, I am absolutely and firmly anti-dictatorship and anti-coercion, and I make no apology for that. I detest dictatorships and I detest coercion. Some members will remember that we have had other controversial debates in this place. One of the big issues that I was discussing at the time was around informed consent and coercion. So, it is not a new principle; in fact, for 13 years in Parliament, I have indicated as a pro-life member of Parliament, and proudly so, that I support first-rate health care being provided to every Western Australian, first and foremost because life is important and life is precious. Nothing has changed. But I detest coercion and dictatorships. I also detest concocted rage and abuse that is provided by senior members in government to other members of Parliament.

I am quite happy to engage intellectually with the principles and with the debate every day of the week. We are going to have an extra sitting week; that is no problem for me. I would be happy to have an extra sitting month. I had a joke with another member of Parliament—not from my party—earlier today and said that I would be quite happy to be sitting every day. The response was, “We know you would!” That is true—nothing has changed about that. I will not stand for vile abuse and concocted rage or be bullied by the Premier of Western Australia. When I talk about abuse, it also applies to those people who have absolutely wrongfully and disgracefully abused the Premier and his family. I understand that some special security measures have been put in place. That is shocking. It should not happen to the Premier of Western Australia, whether it is Hon Mark McGowan, Hon Colin Barnett or any of them. They have a job to do. At times I violently disagree with the Premier of Western Australia and I make my points known in this chamber, but he is still entitled to go home safely at night and be with his family, and his family absolutely do not deserve any of that. The garbage that has been put out, including by the Leader of the House in a recent speech in this chamber, about me doing what is apparently called “dog whistling” is rubbish, garbage and concocted. I do not support the abuse against the Premier but I also will not support him abusing me or anybody else.

What I will always support is the rule of law. Some of those principles need to be thought through; it is not as easy as saying, “We’ll just slavishly follow the advice of the Chief Health Officer. Unless he tells us to do something, we don’t know what to do.” He has not been elected as a member of Parliament. He has not been elected as the Premier of Western Australia. He has had an incredible job to do over the last couple of years, along with the Commissioner of Police, and I would not want to trade places with either of those two gentlemen. I cannot imagine how difficult it has been for them, but that does not mean they are infallible or that theirs is the only advice that the government can take. It is all very cute for the government to come along, as the Leader of the House has done today, and quote ad nauseam from Dr Andrew Robertson’s health advice of 22 October this year. It is all very good to do that, but the government did not then provide the legal advice it has received. The government is selective about the information that it provides. As I say, I support the rule of law and I always will. I will demand of the government continuously that it provides responses on these important issues.

Finally, because time is running out and I know the Leader of the House would like an opportunity to respond, which is entirely fair and reasonable, I once again make the point to members that if they still have not worked it out, there is absolutely no chance that I will not be taking my seat in this Parliament. It is an enormous privilege to be elected as a member of Parliament. That has always been my view—nothing has changed about that. I do hope that the cooler heads at least will understand that there are some important principles that need to be thought through, considered and, at the very least, debated, rather than simply using a bulldozer approach, which is applied from time to time. It is no wonder in those circumstances that people in Western Australia get frustrated and feel like they are living in a dictatorship.

I know what the result of the vote on the motion will be. As I indicated earlier, I am sorry to Hon Sophia Moermond that this government does not have an appetite to do something about the eminently sensible suggestion she put forward that secure online means for participation be investigated for use—in extreme circumstances, it needs to be noted. It was not suggested that it be done so that everybody can sit at home in their board shorts and participate in Parliament on any particular day; it was suggested that it be used only during a lockdown or under similar restrictions or when there are regional border closures. Those are the unique circumstances that I think merit those things being considered. But, regrettably, this government has no appetite to listen to those things—that is clear. No matter what the Leader of the House is about to say, let me tell members that if the government wanted to do it, it would happen. It would have already happened today. It has not happened.

HON SUE ELLERY (South Metropolitan — Leader of the House) [6.14 pm] — in reply: I thank members for their contributions—for the most part—to the debate. Hon Martin Aldridge actually addressed the matter before the house. He asked questions about some of the background and assumptions and practical implications going forward, and I can provide him with some information. I can also tell him that I will refer the questions he raised around

the efficacy of relying on one and two vaccinations, consideration of a third booster shot and whether consideration has been given to a testing regime to the Chief Health Officer. I will ask him for a response and provide that to the honourable member when I get the opportunity to do so.

The honourable member asked some questions about the use of forms and what would constitute reasonable demonstration of completion of vaccination. I draw his attention to this document, which I will table, headed “Mandatory vaccination FAQs”—meaning frequently asked questions. It sets out —

What evidence do employees need to demonstrate their vaccination status?

The Chief Health Officer has approved the following forms of evidence as proof of vaccination against COVID-19:

- an Australian Government COVID-19 vaccination certificate or an Immunisation Statement ...
- written confirmation by the WA Department of Health of the COVID-19 vaccination ...
- an International COVID-19 Vaccination Certificate issued by the Commonwealth Government

People will need to provide that certificate if they come from overseas.

The exemption process is also set out in that document, but it is a bit long for me to read now, so I will table that document and provide it to the honourable member and any other member who might be interested in it.

[See paper [949](#).]

Hon SUE ELLERY: I thank everybody else for their contribution to the debate.

With respect to the comments of Hon Nick Goiran, we heard the dog whistle blow again when he said words to the effect of: “No wonder people get frustrated and feel like they are living in a dictatorship.” Be under no illusion: that is the same language used by those people outside who try to threaten and intimidate members of Parliament going about their due business. It is the dog whistle!

Hon Nick Goiran interjected.

The ACTING PRESIDENT (Hon Steve Martin): Member!

Hon SUE ELLERY: Be under no illusion that it is anything other than that.

Hon Nick Goiran interjected.

The ACTING PRESIDENT: Member, please! The Leader of the House has the call.

Hon SUE ELLERY: I also make this point—members will see a pattern here. When Hon Nick Goiran needs to pad out his contribution, he goes to the fact that he—what was the expression he used? I quite liked it; it was “concocted rage”. He is the master of it! He has concocted rage that the government has deemed this particular matter, whatever it is, the priority of the day. It is rage, it is faux, it is fake and he is the master of it. Support the motion, members.

Division

Question put and a division taken, the Acting President (Hon Steve Martin) casting his vote with the ayes, with the following result —

Ayes (23)

Hon Martin Aldridge	Hon Sue Ellery	Hon Steve Martin	Hon Matthew Swinbourn
Hon Klara Andric	Hon Peter Foster	Hon Kyle McGinn	Hon Dr Sally Talbot
Hon Dan Caddy	Hon Lorna Harper	Hon Shelley Payne	Hon Dr Steve Thomas
Hon Peter Collier	Hon Jackie Jarvis	Hon Stephen Pratt	Hon Wilson Tucker
Hon Stephen Dawson	Hon Alannah MacTiernan	Hon Martin Pritchard	Hon Pierre Yang (<i>Teller</i>)
Hon Colin de Grussa	Hon Ayor Makur Chuot	Hon Tjorn Sibma	

Noes (2)

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

WORLD AIDS DAY

Statement

HON PETER FOSTER (Mining and Pastoral) [6.22 pm]: Today is World AIDS Day. It marks the fortieth anniversary of the HIV–AIDS pandemic. It raises awareness across the world and in the community about the issues surrounding HIV and AIDS. It is a day for people to show their support for people living with HIV, and to commemorate the people who have died. UNAIDS, the United Nations program for ending HIV, estimates that since the start of the pandemic, 36.3 million people around the world have died of AIDS-related illnesses, and 79.3 million have been infected. As of 2020, 37.7 million people were living with HIV.

Those statistics are saddening and frightening at the same time. I do not know what it must have been like to live at the peak of the AIDS pandemic. The cohort of gay men who bore the brunt of it were, in large part, part of the generation before mine. I was only a year old when the first case was announced. I do not pretend to know exactly what it would have been like, but there are many accounts that can be read or watched, such as the TV show, *It's a Sin*, written by Russell T Davies and set in London, about young gay men living through the pandemic. It shows how fear and prejudice left many of the stories from that time untold—kept between those who experienced the pandemic firsthand. It was a community that must have felt like it was under siege: the fear, the stigma, the judgement, and funeral after funeral after funeral, week after week after week.

What must it have felt like as some, while laying dying on their beds, were calmly told by others that what was happening to them was some divine judgement. On today of all days, I think it should be said very clearly that there was never any justification for saying something so cruel. Nothing makes that right. There is certainly no way that such statements deserve to be protected under commonwealth legislation. Thankfully, things are now different and progress in the fight against HIV is clear. That progress shows the difference that good, evidence-based public health policy can make and the importance of combating ignorance and stigma with education, putting facts over fiction. Around the world, 28.2 million people are living with HIV and accessing antiretroviral therapy, which is drastically improving their life expectancy and quality of life. Treatment as prevention has drastically reduced transmission. Globally, HIV infections have halved since 1997. In Australia, infections went down by 37 per cent from 2016 to 2020.

The ongoing investment in community-led HIV organisations such as the WAAC has paid huge dividends. Founded in 1985, WAAC, formerly known as the Western Australian AIDS Council, delivers essential community services, such as the M Clinic, which supports the sexual health of men. M Clinic provides an easily accessible, supportive, confidential and non-judgmental environment for the prevention, testing and treatment of HIV and other sexually transmitted infections. Being able to access that service without stigma or judgement means that more infections are prevented, detected and treated early.

The Australian Federation of AIDS Organisations reports that as of 2021, Australia has virtually eliminated HIV transmission among sex workers and people who inject drugs. Every dollar spent on needle and syringe programs has saved the community \$27 per person in healthcare costs later down the line. This combination of dedicated community-led organisations and commonsense evidence-based policy means that we are on the cusp of something remarkable. The elimination of HIV in Australia is not only possible, it is within reach. We can do it by 2030.

This morning, the Minister for Health, Roger Cook, signed Perth up to the Fast-Track Cities initiative, making Perth the first Australian city to do so. The initiative commits to ending the HIV epidemic in cities and municipalities by 2030 through a 90-90-90 target; that is, 90 per cent of people living with HIV knowing their status, 90 per cent of people who know their HIV-positive status on antiretroviral therapy and 90 per cent of people on antiretroviral therapy. I congratulate the minister for recognising and committing to the Fast-Track Cities initiative. Congratulations also to the WAAC for doing so much to bring us within striking distance of a massive victory for public health. Thank you also to the WAAC for hosting a community breakfast this morning in Yagan Square in honour of World Aids Day. The event was attended by the Governor of Western Australia, Honourable Kim Beazley, AC, Western Australian Senator Louise Pratt and the United States Consul General, David Gainey.

There are still challenges to overcome. People living with HIV still experience discrimination and stigma. There is still ignorance and misunderstanding and barriers to accessing health care and treatment. While treatment for HIV is continually improving, at present there is still no cure. But if we look at how far we have come and at what is now possible, we should know that bringing down those barriers lifts us all up. Today let us honour those lives lost. Today let us stand with those living with HIV. Today is an opportunity for us to come together and advocate for positive healthy people in inclusive, connected communities. In the spirit of the United Nations 2021 theme, let us end inequalities, let us end AIDS, let us end pandemics.

ROTARY JACARANDA FESTIVAL

Statement

HON STEPHEN PRATT (South Metropolitan) [6.28 pm]: At the weekend, I was fortunate enough to attend the Rotary Jacaranda Festival, which was hosted by Applecross Rotary, with the hardworking member for Bateman, Kim Giddens, MLA. The Jacaranda Festival, for those who are unaware, is an annual festival in Applecross that celebrates the beautiful purple flower of the Jacaranda tree and the fantastic community spirit in Applecross. There were over 150 stalls that range from food trucks such as Brendan Pang's Bumplings to charities and organisations such as Sea Shepherd in attendance. They lined Ardross Street as thousands of local people enjoyed the festival and the sense of community that it brings. For the past 21 years, the picturesque festival has been organised primarily by volunteers who, despite the scorching heat on the weekend, worked hard to continue this tradition. The festival is the major fundraising event for the Applecross Rotary Club, which allows Rotary to financially support a range of community projects and organisations. I would like to thank those involved with the Applecross Rotary Club, especially Mr Kenn Williams, the Jacaranda Festival coordinator, for his countless hours behind the scenes organising and facilitating this event.

Many of the events that we enjoy in our community would not be possible without the tireless work of volunteers. I would like to take this chance to publicly thank them for their hard work. I would also like to make mention of the City of Melville for its contribution towards the success of the event and look forward to attending in years to come. Thank you.

CORONAVIRUS — POST-QUARANTINE TRAVEL ARRANGEMENTS

Statement

HON TJORN SIBMA (North Metropolitan) [6.30 pm]: In my second term, I have chosen to selectively make members' statements rather than set a record as I attempted to do in my first term. I want to make it very, very clear that there are absolutely no partisan politics in this matter at all. In fact, I am seeking to try to divine a solution to a problem. It is probably a problem that can be unpicked between jurisdictions and perhaps also involve the private sector to some degree. I have been a little reluctant to raise the issue because it involves a friend of mine, but because it also affects dozens of other Western Australians, I have chosen to bring it to the attention of the house. I want to make it very clear that the Minister for Police's office is also aware of this situation. My previous experience with that office on COVID matters, border matters and seeking clarification around arrangements has been extraordinarily helpful. My compliments, once again, go to the staff in Minister Papalia's office.

The issue I wish to address in the time available is one that is emerging in the Howard Springs quarantine facility in the Northern Territory. Dozens of Western Australians, and potentially up to 50, are presently serving out the final days of their mandatory quarantine period, which should come to its conclusion, I understand, on 4 December. I might get some of the details slightly incorrect, although I have attempted to make sure they are accurate, so I will go there very sparingly. The nub of the issue is that each of these Western Australians has a plan to transit through that quarantine facility and return to Western Australia on Saturday. Their capacity to do that, however, has been imperilled by the decision taken by major airlines in this country not to schedule the Darwin to Perth service on Saturday, 4 December. There is a service on 3 December, which, unfortunately, will happen before they fulfil their quarantine period, and one on 5 December. The service on 5 December is problematic because there is a 12-hour grace period between leaving a quarantine facility—leaving a green zone—and boarding a flight to enter Western Australia.

These Western Australians have sought permission—I reinforce that they are paying for this privilege—from the Northern Territory government, which manages the facility, to stay for an additional evening so that they do not, potentially, breach this regulation and then be obligated, if they are granted a G2G PASS to re-enter Western Australia, to serve another two weeks' quarantine after they have already served two weeks. This is effectively the dilemma they are in. Unfortunately, the advice from the authorities, the management of the Howard Springs quarantine facility, has been inconsistent and inaccurate, so absolutely no clear guidance has been provided to these people about their capacity to stay in quarantine at their own volition, out of necessity really, for an additional night. I also understand that those authorities have had another issue to deal with today. However, this has been building up over some time. As of about 2.30 or three o'clock this afternoon, this group had not been provided with sufficient clarity.

There are solutions to this issue, and they are threefold. The most desirable would be for the Northern Territory authorities, as it relates to the management of the Howard Springs facility, to provide more clarity and certainty to our Western Australian brothers and sisters who are currently serving their quarantine period. Another alternative is to compel commercial corporate Australia, particularly the airlines, to reconsider their decision to cancel the 4 December service from Darwin to Perth. The third alternative is the one I am seeking clarity on. This is not a performance; rather, I am advising the house of an issue and attempting to seek a solution. Is it possible for the Western Australian authorities to take a more flexible view of a cohort of Western Australians returning to Western Australia after they have served their two-week quarantine period in the Northern Territory when, for reasons beyond their control, they have had to spend time outside the so-called green zone before they can re-enter Western Australia?

I cannot possibly know the circumstances of every individual involved in this issue, so I am guarded against making broad, sweeping statements, but I think it is a reasonable assumption that each of those people has been double vaccinated, they have not been mixing with the broader community in the Northern Territory and they are all likely to be COVID-negative before they are allowed to board a plane to Western Australia. In my very humble view as a human being, not as a medical practitioner, and certainly not as one who enjoys executive authority and the privileges and responsibilities that come with that, should those other two options that I have identified fall over, would there be some means to be more flexible and nimble with our arrangements in this jurisdiction, especially since we are on the cusp, in the Premier's words, of reconnecting with Australia and the world?

I hope I am in a position to advise the house tomorrow evening of the progress in this case. I reinforce that I can only but raise the issue in an attempt to connect some of the dots and proffer some potential solutions, but the actual means of remediating this issue are obviously beyond my capacity as a member of the Western Australian opposition. I hope that the people who have the ability to implement rules, to be flexible and to show judgement, compassion and reason might be compelled to do so in this instance. I do not know whether it is online, but if members want a synopsis of this matter, I advise them to listen to a radio interview that my friend Kate McInnes did with Nadia Mitsopoulos this morning on ABC radio that sets out the circumstances very eloquently. I hope to be in a position to advise members of a happier, or at least a more certain, outcome tomorrow evening.

METRONET — RAILCARS — ALSTOM CONTRACT*Statement*

HON NEIL THOMSON (Mining and Pastoral) [6.38 pm]: I rise tonight to express my frustration and concern with the hypocrisy of the McGowan government, particularly in the transport portfolio and the lack of accountability around the contract with Alstom to build railcars in Western Australia. The reason I am frustrated and feel this is worthy of some discussion in the 10 minutes that I have is that the Minister for Industrial Relations in the other place recently made a very strong call —

Point of Order

Hon STEPHEN DAWSON: The Minister for Industrial Relations is actually in this house—that is me.

Hon NEIL THOMSON: Sorry, minister.

Statement Resumed

Hon NEIL THOMSON: The minister representing the Minister for Industrial Relations in the other place made this comment, which is recorded in *Hansard*. I will paraphrase a little and then I will give the quote exactly. The minister made the point that, basically, exclusions in the current legislation will require reform. That is all very well, but then *Hansard* shows he said —

The commonwealth government has identified these antiquated exclusions as a barrier to Australia ratifying the International Labour Organization’s Protocol of 2014 to the Forced Labour Convention, 1930. This important protocol aims to support the global fight against forced labour, people trafficking and modern slavery.

That is all well and good, but the situation in Western Australia, for those who have taken notice, was outlined in an article dated 28 June titled “Perth’s billion-dollar train deal linked to exploited Uighur workers in China” by Marta Pascual Juanola, who has now moved to *The Age* in Melbourne. She wrote a very informative article about this contract between Alstom and the KTK Group, and I raised some questions about this with the minister in question time. The journalist had made the effort and lodged freedom of information requests with the minister for correspondence concerning the KTK Group and Alstom’s contract; she sought all the communications on that matter. She obtained a table—I appreciate that she passed this on to me—outlining the correspondence that occurred over time. The first item provided is an email from the office of Minister Saffioti dated 24 July 2020, at 10.42 am. Further correspondence dated 19 October was provided. Then there is a briefing note. The first briefing note that comes up on the list is not dated, and it stated that the reason access had been refused was that the information, if disclosed, would reasonably be expected to have an adverse effect on a third party’s business and affairs. That is all well and good, but I asked when the minister was made aware of these concerns and I received a very terse and I think unsatisfactory answer. The people of Western Australia deserve to know more about what the minister knew and what advice was provided. It is not fair to the people of Western Australia, particularly given these very important issues of slave labour, people trafficking and modern slavery, which we all abhor and detest, and we all want to oppose. This government seems to have this double standard.

Hon Kyle McGinn interjected.

Hon NEIL THOMSON: We do not have —

Hon Kyle McGinn interjected.

The PRESIDENT: Order!

Hon NEIL THOMSON: We have the minister representing the Minister for Industrial Relations in the other place saying how important it is to block this loophole in the industrial relations law. If the Industrial Relations Legislation Amendment Bill 2021 does that, I am fully supportive of it but the measure of the government’s hypocrisy is quite stunning.

The reason for my concern and why this issue has piqued my interest is that I absolutely abhor, as I would hope most members in this place would, any issues related to human rights abuses, particularly to slavery. I will read to members a statement from the Department of Commerce.

Hon Kyle McGinn interjected.

The PRESIDENT: Order! Hon Neil Thomson has the call.

Hon NEIL THOMSON: Thank you, President. This is a very important matter. I just hope the other side listens and respects this issue, because it is a vital issue. I want to read some of what the Department of Commerce in the United States has said —

The Department of Commerce’s Bureau of Industry and Security ... added to the Entity List 11 Chinese companies implicated in human rights violations and abuses in the implementation of the People’s Republic of China’s ... campaign of repression —

Just think of these words —

mass arbitrary detention, forced labor, involuntary collection of biometric data, and genetic analyses targeted at Muslim minority groups from the Xinjiang —

I think that is how you say it —

Uyghur Autonomous Region ...

There is more in that. I seek leave to table this document.

The PRESIDENT: Can you just name the document, honourable member?

Hon NEIL THOMSON: The document is from the US Office of Public Affairs and is titled, in part, “Commerce Department Adds Eleven Chinese Entities”. It is from the website of the US Department of Commerce.

[Leave granted. See paper 950.]

Hon NEIL THOMSON: It is important that people familiarise themselves with this. We have a situation in Western Australia when the minister just sees fit to say, “I have sought assurances from Alstom on this matter; therefore, I do not need to answer or even inquire or give consideration to what is going on.”

I want to read one last point from the freedom of information document that was provided, which really highlights the issue of why we ended up with KTK Group being in a subcontract situation with Alstom. Obviously, these concerns were rumbling around the minister’s office. In fact, emails were going to and fro. There were not too many, but I have one that is very important. I will read it to members. Some matters have been redacted. It is dated 23 December 2020. It says —

Gents,

I have spoken with ... —

This is outside the ambit; we cannot see the name —

from Alstom this afternoon who confirmed the following;

1. Impact to Train Delivery Dates if Direction Given Not to Use KTK ... —

The name is blank —

noted that provided such a direction was given soon there would be very little impact. Alstom have identified replacement suppliers in the main on the east coast and stated that whilst they may deliver slightly later than KTK the time would not impact significantly on railcar production as Alstom could slot the installation of the components into their assembly point without much impact on final completion dates.

We have a situation whereby the Department of Commerce in the United States, which is our closest ally, almost, you would say—I assume the US is our closest ally, maybe along with the United Kingdom; they are our two closest allies—has made a very damning finding in relation to that particular company. We do not know the basis for that, but I am sure it has more intelligence than the Western Australian government. It has seen fit to bar that company from trading in the United States by the look of it and, as far as I can tell, that continues to this day. The only reason that the minister did not direct Alstom was that it might result in some small delay. There is further commentary, which I will not read, that there might also have been some cost—cost for the assurance of avoiding the despicable potential. In the absence of any proper inquiry and in the absence of any assessment, I would have thought that the safe course of action would have been for this government to use Australian suppliers on the east coast, or even, as this email goes on to say, in Western Australia. It is an absolute disgrace that I then get answers that are completely opaque and devoid of any detail, because I have had the temerity to ask, for example, about the size of the subcontract component to KTK. I did not even get an answer on that because it is somehow commercial-in-confidence.

House adjourned at 6.48 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

GERALDTON HEALTH CAMPUS — STAFF

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

I refer to claims from the Australian Nursing Federation regarding staff shortages in the Mid West region, as reported by ABC News on 25 October 2021 in an article titled *Nursing union says inexperienced staff are working in understaffed Geraldton ED*, and I ask:

- (a) what is the authorised nursing FTE level for Geraldton Regional Hospital;
- (b) what is the current nursing FTE level for Geraldton Regional Hospital;
- (c) how many staff at Geraldton Regional Hospital have been rostered for more than 80 hours in the last fortnight, and have any been rostered for greater than 100 hours; and
- (d) noting the State Government's \$5.8 billion budget surplus, what specific measures is the Minister taking to increase staffing levels at Geraldton Regional Hospital?

Hon Stephen Dawson replied:

I am advised:

- (a)–(b) Please refer to Legislative Council Question on Notice 364.
- (c) In the fortnight 27/09/2021 to 10/10/2021, 88 staff were rostered for more than 80 hours, 7 of which were rostered for more than 100 hours.
- (d) WA Country Health Service continues to actively monitor staffing levels and the management of workload across all of its health facilities, including Geraldton Hospital. There are a range of strategies which continue to be actively pursued to enhance and streamline recruitment and retention across all staffing disciplines.

The State Government is investing an additional \$2.3 billion in WA health system this financial year, a record level of funding. Since January 2021, over 1158 nurses and 440 doctors have been recruited to work in the WA public health system. An additional 1,200 graduate nurses are expected to be employed in 2022.

A significant part of this new investment is to employ more doctors, nurses and midwives across the WA health system to address workforce shortages arising from COVID-19. Furthermore, local and international advertising campaigns across multiple platforms including television, radio, outdoor, digital and print are underway. Other measures also underway include a dedicated refresher program to support enrolled nurses, registered nurses and midwives requiring recency of practice to return to the workforce.

POLICE — OFFICER VACANCIES

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

- (1) What were the officer vacancies in each of the eight districts in the metropolitan region on 1 July 2021?
- (2) What were the officer vacancies in each of the seven districts in regional Western Australia on 1 July 2021?

Hon Stephen Dawson replied:

- (1)–(2) The McGowan Government is delivering 950 extra police officers over four years, the single largest increase in police officer numbers. Over 400 new officers will have graduated this year.

FTE are deployed by the Commissioner of Police to address areas of greatest operational need. To enable this, vacancies are carefully managed across the Western Australia Police Force.

The Western Australian Police Force advise, data identifying officer numbers can vary daily due to a number of factors, including; natural attrition, leave without pay, officers attending training, and transfers between districts, and officers being attached to specific operations.

The data includes all positions which are not substantively filled (ie; an internal vacancy) and which are still subject to advertisement/selection process. The Police Officer Deployment Unit issue transfer notices to successful applicants, following which an officer's physical arrival in a new position can take up to six weeks in Regional Western Australia. The data does not reflect officer numbers undertaking operations, or for those providing support functions, nor targeted deployments, such as Operation Clay, which regularly boost local capacity.

The Western Australian Police Force advise, at 1 July 2021, thirteen in the Armadale District, nineteen in the Cannington District, seventeen in the Fremantle District, fifteen in the Joondalup District, twenty-four in the Mandurah District, fifteen in the Midland District, sixteen in the Mirrabooka District, thirty in the

Perth District, twenty-five in Goldfields–Esperance District, twenty-three in Great Southern District, sixteen in the Kimberley District, twenty-three in the Mid West–Gascoyne District, nineteen in the Pilbara District, seven in the South West District, and twelve in the Wheatbelt District.

MINISTER FOR FINANCE — PORTFOLIOS — PURCHASING CARDS

341. Hon Tjorn Sibma to the minister representing the Minister for Finance:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Stephen Dawson replied:

I refer the Honourable Member to Legislative Council Question on Notice 338.

MINISTER FOR LANDS — PORTFOLIOS — PURCHASING CARDS

342. Hon Tjorn Sibma to the minister representing the Minister for Lands:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Alannah MacTiernan replied:

I refer the Honourable Member to Legislative Council Question on Notice 338.

MINISTER FOR SPORT AND RECREATION — PORTFOLIOS — PURCHASING CARDS

343. Hon Tjorn Sibma to the Leader of the House representing the Minister for Sport and Recreation:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Sue Ellery replied:

I refer the Honourable Member to Legislative Council Question on Notice 338.

MINISTER FOR CITIZENSHIP AND MULTICULTURAL INTERESTS —
PORTFOLIOS — PURCHASING CARDS

344. Hon Tjorn Sibma to the parliamentary secretary representing the Minister for Citizenship and Multicultural Interests:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Samantha Rowe replied:

I refer the Honourable Member to Legislative Council Question on Notice 338.

MINISTER FOR MENTAL HEALTH — PORTFOLIOS — PURCHASING CARDS

349. Hon Tjorn Sibma to the Minister for Mental Health; Aboriginal Affairs; Industrial Relations:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Stephen Dawson replied:

Please refer to Legislative Council Question on Notice 338.

MINISTER FOR REGIONAL DEVELOPMENT — PORTFOLIOS — PURCHASING CARDS

350. Hon Tjorn Sibma to the Minister for Regional Development; Agriculture and Food; Hydrogen Industry:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Alannah MacTiernan replied:

Please refer to Legislative Council Question on Notice 338.

MINISTER FOR DEFENCE INDUSTRY — PORTFOLIOS — PURCHASING CARDS

354. Hon Tjorn Sibma to the minister representing the Minister for Defence Industry; Veterans Issues:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Alannah MacTiernan replied:

I refer the Honourable Member to Legislative Council Question on Notice 338.

MINISTER FOR MINES AND PETROLEUM — PORTFOLIOS — PURCHASING CARDS

355. Hon Tjorn Sibma to the minister representing the Minister for Mines and Petroleum; Energy; Corrective Services:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Alannah MacTiernan replied:

I refer the Honourable Member to Legislative Council Question on Notice 338.

MINISTER FOR TRANSPORT — PORTFOLIOS — PURCHASING CARDS

356. Hon Tjorn Sibma to the Leader of the House representing the Minister for Transport; Planning; Ports:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Sue Ellery replied:

Refer to Legislative Council Question on Notice 338.

MINISTER FOR WATER — PORTFOLIOS — PURCHASING CARDS

358. Hon Tjorn Sibma to the minister representing the Minister for Water; Forestry; Youth:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Alannah MacTiernan replied:

I refer the Honourable Member to Legislative Council Question on Notice 338.

MINISTER FOR HOUSING — PORTFOLIOS — PURCHASING CARDS

360. Hon Tjorn Sibma to the Leader of the House representing the Minister for Housing; Local Government:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Sue Ellery replied:

I refer the Honourable Member to Legislative Council Question on Notice 338.

MINISTER FOR DISABILITY SERVICES — PORTFOLIOS — PURCHASING CARDS

361. Hon Tjorn Sibma to the parliamentary secretary representing the Minister for Disability Services; Fisheries; Innovation and ICT; Seniors and Ageing:

Please list, in tabular form, the 10 most expensive items purchased via credit card/purchasing card by each portfolio agency for the financial years 2019–20 and 2020–21?

Hon Kyle McGinn replied:

I refer the Honourable Member to Legislative Council Question on Notice 338.
