Parliamentary Debates
(HANSARD)

FORTY-FIRST PARLIAMENT
FIRST SESSION
2021

LEGISLATIVE COUNCIL

Wednesday, 8 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.

CALEDONIAN AVENUE LEVEL CROSSING

Petition

HON DONNA FARAGHER (East Metropolitan) [1.03 pm]: I present a petition containing 254 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 are opposed to the State Government's plan to permanently block access for pedestrians and bike riders across the train line at Caledonian Ave in Maylands, after the level crossing is closed.
>
> We therefore ask the Legislative Council to urge the Government to change their concerning plans and provide such important access to many in our community, with a preference for a well-lit and safe underpass, using the funds that were promised as an election commitment.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 976.]

BIOSECURITY SCREENING

Statement by Minister for Agriculture and Food

HON ALANNAH MacTIERNAN (South West — Minister for Agriculture and Food) [1.05 pm]: Today we are sending a strong message to Western Australians: please do not let your Christmas online shopping become a biosecurity nightmare for our farmers. Many people are unaware that popular Christmas produce such as cherries, stone fruit, honey, walnuts in their shells and flowers pose a major biosecurity risk to our state, potentially carrying highly destructive pests and diseases into our community.

Our frontline biosecurity defences are focusing on the mail system to help stop the arrival of any unwanted Christmas gifts. A Quarantine WA inspector, appointed earlier this year, and a detector dog, Jasper, have been dedicated to undertaking screening of freight and mail at freight yards and Australia Post locations across the metropolitan area. Additional inspectors and detector dogs are also supporting the screening of freight and mail due to the reduced number of interstate passenger flights arriving into WA.

From 1 July to 30 September this year, almost 600 000 mail items were screened by Quarantine WA detector dogs, resulting in the interception of risk items, including 4.2 kilograms of mangoes, 15 kilograms of Asian cucumber and rockmelon, three bunches of lychees and two bunches of longans. The number of screened items is expected to increase significantly in December, with people sending presents through the mail and shopping online. Having a dedicated quarantine officer and detector dog screening our mail and freight helps us to stay on top of the fight against unwanted pests, diseases and weeds coming into our state.

Our government is committed to protecting WA's primary industries from invasive pests, and provided a $15.1 million boost to our biosecurity defences in this year's budget.

We urge all Western Australians to play their part and not bring quarantine-risk material into the state.

PAPERS TABLED

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

COMMITTEE REPORTS — CONSIDERATION

Committee

The Deputy Chair of Committees (Hon Jackie Jarvis) in the chair.

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

Resumed from 1 December on the following motion moved by Hon Dr Steve Thomas —

> That the report be noted.

Hon NICK GOIRAN: What has happened since last week is very interesting. This particular report, *Annual report 2020–21*, was considered by the Committee of the Whole House last week, on 1 December, and the debate was postponed. The reason I draw this to members' attention is that this is a matter that the Standing Committee on

Procedure and Privileges might want to consider in accordance with its ongoing remit to look at our standing orders and so forth. We are now operating under a new regime. Ordinarily, if a committee report has been considered for one hour, it is postponed and deferred under standing order 110(2B), which states —

> An order of the day postponed under (2A) shall be listed for further consideration after the orders of the day for the consideration of committee reports listed on that day's Notice Paper and not disposed of.

This report has been subjected to that standing order. The business program states that standing orders 110(2A) and (2B) were applied on two occasions—15 September 2021, and 27 October 2021. However, it was not applied last week when the postponement occurred. The reason that did not happen is that we did not debate the motion for a full 60 minutes; we debated it for approximately 40 minutes. I therefore seek your clarification at this point, deputy chair. Does that mean that today, we are entitled to debate the first report of the Joint Standing Committee on the Corruption and Crime Commission for a further hour, or are we able to debate it for only the balance of the hour that was not taken up last week?

The DEPUTY CHAIR (Hon Jackie Jarvis): Member, my advice is that we had 15 minutes for this debate. We now have 12 minutes left for consideration of this first report, and we will then move to the second item under consideration of committee reports.

Hon NICK GOIRAN: Thank you for that clarification, deputy chair. I make the observation that it would assist members, particularly on Wednesdays, if the amount of time remaining for a motion on a particular day could be listed on the business program. The indication is that the time remaining for this motion is one hour and 15 minutes. That is, indeed, correct. However, that does not apply for today. As you have kindly drawn to our attention, deputy chair, we do not have a full hour remaining; we have only 12 minutes left to debate this annual report. I just make those observations to assist the progress of these matters on further occasions, particularly next year.

With regard to where we left consideration of this report last week, members may recall that page 2 of the *Annual report 2020–21* lists the seventeenth report of the Joint Standing Committee on the Corruption and Crime Commission and states —

> Report 17, *Meaningful Reform Overdue: The Corruption, Crime and Misconduct Act 2003*, called on the government to undertake a comprehensive review the *Corruption, Crime and Misconduct Act 2003* …

Last week, I called on the government to provide a response to that report. Nothing has transpired in the interim. As per usual with this arrogant McGowan Labor government, it has been asked a simple question, "What is your view with regard to what a committee, which consisted of two of your own members, described as overdue reform?", and all we have had is nothing. All we have had is silence. All we have had is no action. All we have had is the standard arrogance. It is now a week later. The government has had the opportunity to provide some form of interim response and indicate that reforms are underway. Perhaps they are with parliamentary counsel. Maybe some form of consultation is being undertaken with the Corruption and Crime Commissioner or with Western Australia Police Force. Members may recall that last week, I drew to members' attention that appendix 2 of the seventeenth report lists a range of stakeholders who were asked for their views by the Joint Standing Committee on the Corruption and Crime Commission. They include WA Police Force; Sharyn O'Neill, the Public Sector Commissioner; the Ombudsman of Western Australia; and the parliamentary inspector, the now late Hon Michael Murray, who had provided a submission to the committee. In addition, a submission was provided by Civil Liberties Australia. I note that the Information Commissioner also provided quite a comprehensive submission on behalf of the Office of the Information Commissioner.

Then we had the Community and Public Sector Union–Civil Service Association of WA, the Corruption and Crime Commissioner and, of course, the Office of the Auditor General. All those entities provided some input to the Joint Standing Committee on the Corruption and Crime Commission, which ultimately led to a conclusion by that four-person committee in the fortieth Parliament to call on the government to progress these reforms, which it says are not only meaningful but overdue. Yet the McGowan Labor government has done nothing in respect of this matter, certainly not in the form of providing a response and an update on where we are with these reforms. It is no doubt inconvenient to have the consideration of committee reports on a Wednesday when these deficiencies are constantly drawn to its attention. They do not just fall away. They require a response of some sort by the senior members of government opposite, albeit this responsibility falls on the shoulders of Western Australia's Attorney General, who is a member of the cabinet and a member of Parliament in the other place. Nevertheless, he is able to send one or more of his representative ministers and colleagues here to provide some form of response.

What is happening with regard to this matter? Will we ever see any meaningful reforms, which are said to be overdue, to the Corruption and Crime Commission? Is the government's intention to bring a package of reforms to the forty-first Parliament? We know that the Corruption and Crime Commissioner said in his submission that he thinks there should be a complete rewrite of the act. That is one approach that could be taken. Is that the approach that is being taken by the McGowan government or is it taking a different approach? Is it seeking to make incremental changes of some form? We simply do not know because the government refuses to provide this information despite the comprehensive work undertaken by this committee in its report tabled in November last year, which is more than a year ago.

As I indicated last week, the government has had more than 12 months to do something about this matter. It is evident that whatever has been done, it certainly has not manifested itself in a bill before Parliament. The only thing that the McGowan Labor government has managed to achieve with the Corruption and Crime Commission since the election has been, in an unprecedented fashion, to name an individual and force them to be appointed as the commissioner despite various well-documented concerns. That is the only thing that has been achieved. That was the top priority. When it comes to these overdue reforms in a range of areas—whether it has to do with overseeing the police, the allegations of excessive use of force by police or other areas of misconduct within the public sector—there has been absolutely nothing from the government.

I once again ask the cabinet ministers responsible: this matter has a reasonable chance of appearing next week and, if that were to happen, would it be asking too much of the government to provide some response about what it is doing about the matters contained in the seventeenth report? That would be a good way to end the year; next Wednesday when we come back for consideration of committee reports, this matter might be listed at the top of the agenda. I simply ask the government to give that some strong consideration over the course of the next week. In the usual way, I am hoping if other members want to contribute at this time, they will. Maybe we will have a miraculous response from government with an update, but in the absence of that, I will seek—I will not move it just now—to postpone the debate till next week.

The DEPUTY CHAIR (Hon Jackie Jarvis): Members, the question is that the report be noted. Hon Nick Goiran.

Hon NICK GOIRAN: In which case, I move —

That consideration of the report be postponed to the next sitting.

Question put and passed.

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

Resumed from 1 December on the following motion moved by Hon Kyle McGinn (Parliamentary Secretary) —

That the report be noted.

Hon NICK GOIRAN: Thank you for the call, deputy chair. I am sorry to my learned friend Hon Pierre Yang, who is enthusiastically looking forward to contributing to the debate on this report. I look forward to hearing what he has to say. This is the continuation of my remarks from last week. The report before us is the annual report for the last financial year of the Joint Standing Committee on the Commissioner for Children and Young People. Members may recall that one of the various things that occurred during the last financial year was that the committee invited the commissioner to brief it. I must confess that since last week, I have not been able to verify whether it is now the former commissioner; I have a sneaking suspicion that the new commissioner has been appointed —

Hon Dan Caddy: He's got a few days to go. I spoke to him this morning.

Hon NICK GOIRAN: He has a few days to go; I thank the honourable member. Members will see at page 2 of the report that the current Commissioner for Children and Young People, Colin Pettit, was invited to brief the committee on his recent and ongoing work during the course of the financial year. Members may recall that one very substantial piece of work that he undertook was an independent review of the Department of Communities' policies and practices for the placement of children with harmful sexual behaviours in residential care settings. This matter was established during that financial year and culminated in a report tabled in September this year. It is a very serious report that concerns young people in the care of the Department of Communities—that is, young people who are so at risk in their ordinary environment that they have been taken into care by the Department of Communities. In effect, the state is saying that it has a responsibility and duty under law to take such children into care and to look after them in lieu of their ordinary family environment, and that it will be able to do a better job. In the commissioner's report, circumstances were outlined in which the Department of Communities was housing children with harmful sexual behaviours in the same residential care setting. It caused huge controversy last year when this was exposed through the brave evidence provided by a particular young person. That person is de-identified in the report and recognised by the pseudonym "Macie". The very troubling, and in fact distressing, evidence provided by that young person led to a review being ordered by the Minister for Child Protection, who directed that the Commissioner for Children and Young People undertake this report, which he did. The commissioner obviously briefed the committee during the course of the financial year and, in the end, we have this very substantial report.

I remind members that this report was of such concern to the current Commissioner for Children and Young People that he flagged his intention that these matters be under constant review by his office. As Hon Dan Caddy has kindly drawn to our attention, the current commissioner is in his final few days in that role, and we wish him the very best in the next season of his professional life and thank him for his service to the people of Western Australia. But one would very much hope that the incoming Commissioner for Children and Young People will also make it a priority to keep these recommendations under review. These recommendations are not just for the Department of Communities. Three recommendations are directed to the Minister for Child Protection. Once again, we wonder what the Minister for Child Protection's response is to these three recommendations, to say nothing of the further recommendations listed—another six for the Department of Communities. Once again, I call on the government to provide some form of meaningful, substantial response to this very important report.

Hon PIERRE YANG: I would like to make a brief contribution to this debate on the first report of the Joint Standing Committee on the Commissioner for Children and Young People. As I normally do when I start a new report, I looked at the terms of reference and the composition of the committee. Obviously, it is a joint committee between the Legislative Council and the Legislative Assembly. It is chaired by Ms Robyn Clarke, the member for Murray–Wellington. The member for Albany, Rebecca Stephens, MLA, is also a committee member from the lower house. From this place, we have Hon Neil Thomson, the member for Mining and Pastoral Region, and also, at the time of the report, Hon Klara Andric, who has been substituted with Hon Ayor Makur Chuot, MLC, who is currently a member of this committee.

I turn to the last page and look at the committee's functions and powers. It refers to the standing orders of the Legislative Assembly, which is mirrored in the standing orders of the Legislative Council in clause 8 of schedule 1. It outlines the composition of the committee's membership and also, more importantly, its functions, which are to —

i. monitor, review and report to Parliament on the exercise of the functions of the Commissioner for Children and Young People;

ii. examine Annual and other Reports of the Commissioner; and

iii. consult regularly with the Commissioner.

Mr Colin Pettit was the Commissioner for Children and Young People until November 2020. I had the opportunity to meet him during one of the Standing Committee on Legislation's inquiries in the fortieth Parliament. I recall that on the committee with me was Hon Dr Sally Talbot as chair, Hon Nick Goiran as deputy chair and Hon Colin de Grussa and Hon Simon O'Brien. I want to make some brief remarks about the working culture of the committee. Obviously, in Parliament, people prosecute their arguments and it is a contest of ideas. The Labor Party and the Liberal Party obviously have different points of view on different issues. When I first came to this place, the work that we did in the committee was refreshing and eye-opening. There was a lot more discussion and collegial interaction among the members of the committee, which was ably facilitated by the chair, Hon Dr Sally Talbot, and the deputy chair, Hon Nick Goiran. For me, as a new member, it was something different from what we normally see in Parliament. I have no doubt that it would be a pleasant surprise to many people on all sides of this place to learn that in the working of Parliament there is more consensus and collaboration among members from different parties; it is not just the politicking, attacks and questioning that people see during question time. There is more to the working of our Parliament, and, no doubt, it is the same for the federal Parliament. We work together to do the role that we have been assigned by the people who put us here.

I turn to the actual work documented in the *Annual report 2020–2021* of the Joint Standing Committee on the Commissioner for Children and Young People. In the fortieth Parliament, the committee concluded one inquiry, as stated on page 1 of this relatively succinct but comprehensive and informative report. The committee also tabled three other reports, held eight deliberative meetings and took evidence from two witnesses. If I recall correctly, Hon Dr Sally Talbot was also the chair of this committee in the fortieth Parliament, and it was really impressive for a new member to see an experienced member of this place chair two committees simultaneously. Let us face it, at times the workload of the Standing Committee on Legislation was pretty heavy. As we marched to November 2020, bill after bill was referred to the legislation committee and Hon Dr Sally Talbot ably handled the work of both committees.

The joint standing committee also held public hearings. On 16 September 2020, Mr Colin Pettit came in as a witness with Mrs Natalie Hall, the director for policy, monitoring and research, for the office of the Commissioner for Children and Young People. The actual reports tabled between 1 July to 7 December 2020 were *From words to action: Fulfilling the obligation to be child safe* tabled on 13 August 2020; *Annual report 2019–2020* tabled on 15 October 2020; and the third report was *In their own voice: The participation of children and young people in parliamentary proceedings* tabled on 26 November 2020.

As we understand, when Parliament is prorogued, Legislative Assembly committees are dissolved, whereas the committees of the Legislative Council can continue after the election but with a different composition of its membership. In the forty-first Parliament, the Joint Standing Committee on the Commissioner for Children and Young People was re-established on 26 May 2021, and from that date until 30 June 2021, the committee held three deliberative meetings and one briefing session.

In the time remaining, I want to thank Mr Colin Pettit for his work as commissioner. Although it is quite a few months since her appointment, I also congratulate Jacqueline McGowan-Jones as the new Commissioner for Children and Young People and wish her all the very best in her work as commissioner.

Hon DAN CADDY: I also rise today to speak on the first report of the Joint Standing Committee on the Commissioner for Children and Young People, *Annual report 2020–2021*. Members may recall I last had the opportunity to speak on this report on 10 November, but I did not complete my remarks. At that time I congratulated and wished all the best to Mr Colin Pettit for his tenure as Commissioner for Children and Young People. I assure Hon Nick Goiran that he is not mistaken, and Mr Pettit should have finished his tenure by now. This morning I was fortunate enough to be sitting with him at an event. Apparently there was an issue with his successor getting into the state, so Mr Pettit agreed to stay on until such time as she arrives, as he explained in his words, which I understand is a few days away.

Hon Nick Goiran: It will be interesting to know whether he is the acting commissioner or he is still the commissioner; I do not know.

Hon DAN CADDY: I could not answer that for the honourable member. I would not have a clue and I would not want to guess at that, but it is interesting.

This morning it was great to sit with the commissioner, or possibly acting commissioner, at the local government policy awards, which were specifically for local governments helping young people. I was in good company. I was there with Christina Pollard, and Mr Griffin Longley, the master of ceremonies, who spoke before me, which was interesting for me when I got to the microphone, given he is probably seven foot tall and I had to adjust everything so I could speak! Julia Knapton, Healthway's director of health promotion was there as well. It was a great morning. Before I go back to the remarks I was making earlier this year, I want to reflect on the pretty fantastic welcome to country at that event. We were at Kaarta Gar-up, which is Kings Park, on the banks of Derbarl Yerrigan, and Mr Shaun Nannup welcomed us to country. It was a long welcome to country by anyone's measure, but everybody in the room was captivated because he spoke directly to the hearts of the young people who were in the room—almost on a spiritual level, if that is your thing, but for people like me, on a pragmatic level. He spoke about the programs and the importance of everything we do, and the achievements of the Commissioner for Children and Young People. He spoke brilliantly to everybody in that room, and everybody was captivated. The whole time he was speaking, you could have heard a pin drop.

I return to the comments I made previously in this place. I referred to one of the reports of the Joint Standing Committee on the Commissioner for Children and Young People in the fortieth Parliament, the fifth report, *From words to action: Fulfilling the obligation to be child safe.* When we debated this report on the previous occasion, I reflected on some words. I will not go through the whole quote, because it is already in *Hansard* from last time, but I reflected on the stories about children getting left behind because of not only the perpetrators, but also the people who covered up the abuse. I think the line that stuck out to me the most, just to put it into a single line, is: "There are millions of stories of people who have not looked too hard." That is the key line out of the somewhat lengthy quote that I read into *Hansard* last time. I think I said last time, if I am not mistaken, that, to me, is the ultimate example of the saying: the standard you walk past is the standard you accept. I certainly struggle when it comes to these things. There will be perpetrators out there. They will eventually be caught. They will eventually be apprehended. I think everyone, as a society, needs to go further, and the government has been proactive in this space. Everyone needs to look at those who are in a position or have the ability to cover up these things and who do so actively or, I was going to say, passively, but I do not think it can be done passively. I think that once someone knows something, they have an obligation, and nothing ought to be covered up. Those people who are in those positions in any institution, and there are different institutions around the place, and who choose—it is a choice—to cover up such things really ought to always have the very full weight of the law thrown at them. I will say it again: the standard you walk past is the standard you accept. That applies figuratively to any member of society walking past someone who is in that position, but it applies directly to the people who are in that position as well.

I turn to another quote that I did not have a chance to get to the last time I spoke. This quote, from page 504 of the fifth report, *From words to action*, very much sums up what I am saying —

> The sexual abuse of children is intolerable in a civilised society. It is the responsibility of our entire community to acknowledge that children are vulnerable to abuse. We must each resolve that we will do what we can to protect them. The tragic impact of abuse for individuals and through them our entire society demands nothing less.

That quote in this report was taken from page 4 of the final report of the Royal Commission into Institutional Responses to Child Sexual Abuse in 2017.

We get up in this place and talk about reports, as Hon Pierre Yang just did, and we acknowledge the people who are on the committee. We acknowledge the committee staff for putting together a good report and for the diligent work they do. But this particular report, given the subject matter—I notice Hon Dr Sally Talbot was the chair—would have been a mentally taxing report to put together, given the nature of everything that was being dealt with. I think it is probably more pertinent than in most cases to acknowledge not only the hard work, but also the toll that putting together this sort of report could have taken on the members of the committee at the time, which has obviously changed now: the chair, Hon Dr Sally Talbot; Hon Donna Faragher; and from the other place, my good friend Jessica Stojkovski, MLA, the member for Kingsley; and the former member for Kalgoorlie, Mr Kyran O'Donnell. When we read these reports, we should read them to not just further educate ourselves, but also give due consideration to the subject matter. We ought to acknowledge, more than we normally would, the committee members and the staff who helped put this report together.

Hon KLARA ANDRIC: As mentioned by Hon Pierre Yang, I am a former member of the Joint Standing Committee on the Commissioner for Children and Young People. I wish to make a contribution today on the committee's first report of the forty-first Parliament. In doing so, I congratulate Hon Ayor Makur Chuot for her appointment to the committee following my departure earlier this year.

The *Annual report 2020–2021* reporting period covers the first three meetings of the current committee of the forty-first Parliament and the activities of the previous committee from July to December 2020. However, it is worth noting that the committee was in operation for only one month before the end of the financial year, so there was a limited number of activities to report on at the time. During the course of the reporting period of the fortieth Parliament, the committee concluded one inquiry, tabled three reports, held eight deliberative meetings and took evidence from two witnesses. The committee's public hearings held from July to December included a hearing with the current, possibly still acting, commissioner —

Hon Dan Caddy: Hon Nick Goiran and I were trying to work that out. Let's just call him the current commissioner.

Hon KLARA ANDRIC: The current commissioner—I will take that on board, honourable member, and refer to —

Hon Dan Caddy: He was very relaxed this morning.

Hon KLARA ANDRIC: I am sure he was feeling very relaxed.

Commissioner Colin Pettit and Mrs Natalie Hall were part of a hearing on 16 December during the fortieth Parliament. The first report notes that between its establishment on 26 May 2021 and the end of the reporting period at 30 June 2021, the committee's activities were limited; however, during this period, which is when I was a member of the committee, it held three deliberative meetings and one briefing. As I have mentioned in this chamber before, an important first activity for the new committee, which I was a member of for the forty-first Parliament, was to meet with the Commissioner for Children and Young People. The meeting with the commissioner and Mrs Natalie Hall was earlier this year, on 23 June 2021. The commissioner provided an overview of the key projects he and his very capable and dedicated staff were working on, including an appreciation of the agency's important role in listening to the concerns of children and young people in this state and ensuring that we act on their needs.

As I mentioned very briefly last time I spoke about this report, Mr Pettit's tenure as commissioner was due to end in November. Hon Dan Caddy has told us that he is still in that position and it has been extended. But I will take this opportunity to thank him for the six years he has spent supporting children and young people and working to make the world a safer place for them. Something that has resonated with me from a very young age is that a society is a reflection of the way in which it treats its children. It is incredibly crucial, important and paramount that children and young people are always protected and that we as a government must ensure that that happens at all times.

I will follow with great interest the outcomes and progress of the projects and initiatives established by the Commissioner for Children and Young People. I also look forward to seeing what the committee will do in the next parliamentary sitting year.

Today I want to also acknowledge the former chair of the committee Hon Dr Sally Talbot. I have had an opportunity to read the previous reports and look at the work done during the period when Hon Dr Sally Talbot was chair of the committee. Earlier Hon Dan Caddy mentioned the Joint Standing Committee on the Commissioner for Children and Young People's report titled *From words to action: Fulfilling the obligation to be child safe*. I take this opportunity to thank Hon Dr Sally Talbot for the great work that she and previous committee members did on that report.

Finally, but certainly not least, I would like to once again thank my wonderful parliamentary colleague in this house Hon Ayor Makur Chuot. I know that she will do incredible work on the committee and that she is very passionate about these issues, as are all members of the committee. To be honest, and with no bias or favouritism, I could not think of anyone better to take my position on the Joint Standing Committee on the Commissioner for Children and Young People. I am very pleased to see that she is now on the committee. I know that she will make an absolutely amazing contribution.

I also want to thank the chair of the committee, Robyn Clarke, the member for Murray–Wellington; the deputy chair of the committee, Hon Neil Thomson, a member of this house and a member for the Mining and Pastoral Region; as well as the remaining members, Hon Ayor Makur Chuot, whom I have already mentioned, and Rebecca Stephens, the member for Albany.

The committee does some incredible work and the staff of the committee play an incredible role to ensure that we work to the highest of standards to get the best outcomes for children and young people in this state. It is very important that we do that, as I mentioned. It is a matter that I am very passionate about. I think how we treat our children is an incredible reflection of our society. In saying that, I take the opportunity to thank the principal research officer, Dr Sarah Palmer, whom I thoroughly enjoyed working with during my time on the committee, as well as the research officers, Ms Lucy Roberts and Ms Catherine Parsons, who do great work in informing us and making sure that the committee runs the way that it should and that we do exactly what we should do to get the greatest outcomes we possibly can with regard to the committee work.

This is a great opportunity to speak on this report. Once again, I want to thank the Commissioner for Children and Young People for his six years of very dedicated service to the committee, and I wish him all the best in his future endeavours, whatever they may be. I am sure he is on the cusp of retirement and looking forward to whatever adventure next awaits him. Thank you.

Visitors — Darlington Primary School

The DEPUTY CHAIR (Hon Jackie Jarvis): Members, I will interrupt proceedings briefly to welcome students from Darlington Primary School to the public gallery. Welcome!

Committee Resumed

Hon KYLE McGINN: I am pleased to stand once again to speak on the first report of the Joint Standing Committee on the Commissioner for Children and Young People, *Annual report 2020–2021*. Last time I spoke on it, I delved into the participation of children and young people in parliamentary proceedings. I mentioned to the chamber how I found the report quite interesting, particularly with regard to the lengths to which Parliaments in the United Kingdom go in putting together very engaging and easy-to-read guidebooks for children and young people attending hearings. They go into such details as identifying which doors to walk through, who they talk to, how they address people when they walk in and what they should expect. They include images of hearings, which I think is really good. These guidebooks help in breaking the ice and getting rid of some of the nerves that I am sure children experience when they encounter what must be to them like something from outer space. Committee hearings are not something that is experienced in everyday life, and I am sure it is daunting for people of any age, let alone people under the age of 18.

Today I would like to delve into a previous report of the Joint Standing Committee on the Commissioner for Children and Young People, *From words to action: fulfilling the obligation to be child safe*. I took some time to read through parts of that report and I found some quite interesting things that I want to touch on today. Previous speakers have already thanked the committee enough, so I will also say a brief thankyou to the committee, but then move on to some of the details of that report.

One of the things that instantly caught my eye was a quote in the foreword by Ms Blakemore, whose evidence confirmed that the inquiry was on the right track, with the focus and energy needed to complete the report. It states —

> The more transparent we can be the more we can learn from our mistakes. We all know stories of people who turned away when they shouldn't. There are stories of people who have actively covered abuse up, but there are millions of stories of people who have not looked too hard. If we are not clear about what is expected of us as individuals, and we do not support that process in a transparent way, we will continue to have child abuse because the perpetrators look just like the other people who are not trying to stop the situation. If we can be really clear and empower people and make them not be frightened, then they will do the right thing. Otherwise … many people will think—"I'll just stay in my lane."

Those are very powerful words, and very damning of what we are now facing right across the world, something that we are not immune to here in Australia: child sex abuse. It is frightening to think that in 2021 we are having a conversation and urging people to come forward. It is not accepted in society, and it should not be overlooked.

I came to this place in 2017, and that was my first exposure to the issues surrounding child sex abuse. It was not easy to meet with constituents who had been in situations like that. It was rewarding being able to assist them and find alternative pathways. Those pathways are needed because of the cycle of other issues that come up as a result of the initial incident when they were a child and, for some examples, it was multiple times. I do not think I will forget the first meeting I had and the trust that that person put in me to assist them through what was, as I discovered, a minefield of dead ends, underfunding and all sorts of things that, particularly from a federal level, were complicated for the victim to navigate their way through. Again, this was before all the recommendations came out from the massive royal commissions, following the findings. When I first experienced it, it was very new. In some situations, lawyers had taken advantage by utilising their ability to be appointed through the recommendations in the royal commission as open slather to sign someone up and start utilising all the funds coming in from the federal government without getting any outcomes. I found one of my constituents in that situation and it was a nightmare for them to get through it. They ended up having to relocate to Perth to utilise services in general, because services in the goldfields are scarce, but the lawyer's firm itself was not even in the state. The allocated law firm was in South Australia. It is just phenomenal to think that this person, who was already facing a mountain of troubles and dramas, was then left with a lawyer in South Australia who was just, from what I could see, cashing cheques. I thought it was disgusting. That was my first real experience seeing it in the flesh. Unfortunately, my experiences did not get any better.

I absolutely support the Commissioner for Children and Young People. I support us as a government, as a Parliament and as leaders within our community continually talking about and raising these issues publicly, and calling it out for what it is, rather than protecting abusers or assisting abuse to continue.

I digress a little. I will go back to one of the final quotes in the foreword of the report from the Royal Commission into Institutional Responses to Child Sexual Abuse. It states —

> The sexual abuse of children is intolerable in a civilised society. It is the responsibility of our entire community to acknowledge that children are vulnerable to abuse. We must each resolve that we will do what we can to protect them. The tragic impact of abuse for individuals and through them our entire society demands nothing less.

Those are powerful words that we, as a society, cannot rest on, but must use to drive further into what we do through all levels of government and all levels of leadership within organisations, whether it be sporting clubs or not-for-profit organisations. It is integral that we continue to call this out. An intriguing passage in chapter 1 about improving child safety caught my eye. I quoted it earlier, and it states —

> Australia is not immune to violence against children.

That shows how I absorb information —

> This has been confirmed by the evidence of several recent reports and studies. On the basis of this evidence, the assumption cannot be made that children are always safe, or that child safety is automatically …

I remember as child living out at Humpty Doo, which is in the middle of the sticks, and riding my pushbike around all day, going through side streets. We would go to Palmerston, which was a bit more suburban and a bit more dangerous, but there would always be signs with yellow houses on mailboxes indicating that they were safe houses. From what I remember as a child, that was something my parents would always identify for us, such as when they dropped us off at the park and told us that there were safe houses there and there. I am not 100 per cent sure whether that happens in Western Australia, but I know it is quite a big deal in the Northern Territory.

Consideration of report postponed, pursuant to standing orders.

Joint Standing Committee on the Corruption and Crime Commission — Second Report — If not the CCC … then where? An examination of the Corruption and Crime Commission's oversight of excessive use of force allegations against members of the WA Police Force — Motion

Resumed from 17 November on the following motion moved by Hon Dr Steve Thomas —

> That the report be noted.

Hon PIERRE YANG: I wish to continue my remarks about the second report of the Joint Standing Committee on the Corruption and Crime Commission. As I stated previously, this report obviously refers to a previous report of the Joint Standing Committee on the Corruption and Crime Commission, being the fifteenth report of the committee in the fortieth Parliament. In the debate on that report, I talked about the functions and roles of the CCC, the importance of the work our police force does and the need for a body with oversight of the police's functions.

Continuing on from where I left off on the last occasion that I was talking about this report, I found it amusing that in some parts of the world such an important public function is outsourced to private companies. Prior to doing that research, I thought that was a situation seen only in Hollywood movies, so it was quite a shock that when researching this topic, I found out that in some United States counties policing services had been outsourced to private companies. I cannot understand how that could happen. As I remarked on the last occasion, this is something we have to treasure and protect so that we can continue to have an upright and effective law enforcement agency in the WA police.

At the same time, as this report shows, the work that the CCC does is absolutely important. I refer to a remark made by the Chair of the Joint Standing Committee on the Corruption and Crime Commission, Mr Matthew Hughes, in the committee's first report of the forty-first Parliament. Referring to the role of the Corruption and Crime Commissioner and the Parliamentary Inspector of the Corruption and Crime Commission, he said that they "play a vital role in ensuring the integrity of the public sector for the benefit of all Western Australians".

Consideration of report adjourned, pursuant to standing orders.

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

POLICE AMENDMENT (COMPENSATION SCHEME) BILL 2021

Second Reading

Resumed from 30 November.

HON PETER COLLIER (North Metropolitan) [2.11 pm]: On behalf of the alliance, I stand to make some comments about the Police Amendment (Compensation Scheme) Bill 2021. I say at the outset that the alliance supports this bill, and does so willingly.

In turning to the bill itself, without a doubt, as far as police throughout Western Australia are concerned it will fill a gap that has been a void for decades. As I said, it gives me a great deal of pleasure to support the bill. Having said that, I put the minister on notice that I intend to use my contribution to bring down the government.

Hon Stephen Dawson: On this bill?

Hon PETER COLLIER: Yes. Because there is a bit of a gap that I will fill. It is 90 per cent right, but I will make it 100 per cent right. Fair cop. I have had discussions with the minister's office and the advisers.

Hon Stephen Dawson: Did you say "fair cop"? Boom, boom!

Hon PETER COLLIER: Very good. Did I say that?

Hon Stephen Dawson: Yes.

Hon PETER COLLIER: I did it intentionally!

This bill has pretty much uniform support amongst the police force across the board. Having said that, it has isolated some disaffected former police officers. The minister, his office and WAPOL are aware of that, and I will identify some of those issues a little later.

Even though police are eligible to be part of the current workers' compensation scheme, they are ineligible because joining the general workers' compensation scheme renders their current entitlements ineligible. This bill will fill that gap; it will be a standalone scheme that will provide compensation for police who have been injured, maimed or rendered unable to work as a direct result of something that has occurred at work. In the very complex society we have today, it is eminently sensible and long overdue. Successive governments—not a political statement—have not risen to the occasion, so I congratulate the government on filling that void.

I meet quite regularly with the WA Police Union, and it is supportive of the legislation. However, one element has not been filled, which I will talk about in a moment. The police would like that gap to be filled, particularly regarding the mental health issue. It is not a showstopper.

I have several questions that I have already flagged with the advisers, whom I thank for the very helpful briefing. Should those questions be responded to in a forthright fashion, I do not intend to go into the Committee of the Whole. I am not sure whether other members will want to, but I gave a commitment to the WA Police Union when I spoke at its conference last week that the opposition would do all it could to expedite this legislation. We do not intend to hold it up. Fundamentally, it is a good bill and it has the support of the police. If I am to have any credibility as the alternative Minister for Police, I need to do what that group, which I represent, wants, and this is exactly what it wants.

Addressing the issue of police officers in financial distress as a result of being injured or maimed at work, the second reading speech talks to the redress scheme that was introduced and that resolved some issues. It did not resolve all of them, but it was a positive step forward. I take that on board and I will comment on the redress scheme and its limitations as a direct result of the fact that this compensation scheme will not fill all the gaps that the redress scheme left open.

The bill seeks to reform the section 8 loss-of-confidence powers and provide a standalone scheme for medically retired, injured or ill officers to ensure that officers can retire without the stigma of leaving under a section 8 notice. Section 8 is associated with misconduct or integrity issues. We do not want police to retire under a section 8 notice when the implication is that it is an integrity issue, when in most compensation matters that is not the case.

The police have been calling for this bill for a number of years. Until now, the police have not been covered by the Workers' Compensation and Injury Management Act because that would have impacted on their current entitlements. This bill will overcome that issue. It will also make amendments to the Police Act 1892 to introduce the police compensation scheme. Additionally, a dispute resolution process will be introduced to deal with grievances over certain valuations carried out for the purpose of determining entitlements, and it will amend the Industrial Relations Act 1979 to provide additional regulation-making powers relating to procedural matters and issues necessary to give effect to the provisions of this bill.

I will identify and go through certain parts of the bill in a clinical fashion. It is important to do that because that will go beyond what is contained in the second reading speech and will be a more precise account of the provisions in the bill.

The changes to the Police Act 1892 include the introduction of part 2D, "Compensation scheme for medically retired members". Proposed section 33ZT will provide officers compensation even if the officer has previously received compensation for the incident, injury or medical condition; for example, motor vehicle injury compensation or victims of crime compensation. The Police (Medical and Other Expenses for Former Officers) Act prohibits that. Proposed section 33ZW will provide officers compensation for permanent impairment, permanent total incapacity to work, lost wages and vocational rehabilitation. Currently, the Police (Medical and Other Expenses for Former Officers) Act does not allow that; rather, it provides compensation only for medical expenses incurred. Proposed section 33ZV(3)(b) will limit the amount of compensation payable over any financial year to the officer's annual salary as at the date of the medical retirement. I will talk about the amounts in a moment. Proposed section 33ZV(4) limits the amount of vocational rehabilitation to seven per cent of the amount claimable under proposed section 33ZW(3). The union was pretty keen to include that in the bill, so I am pleased that it has been. Proposed section 33ZW, "Compensation for permanent impairment", will provide compensation for the injuries or impairments listed in schedule 2 of part 2 of the Workers' Compensation and Injury Management Act 1981. Proposed section 33ZZ, "Compensation for permanent total incapacity for work", will provide compensation for officers who are medically unable to work in any capacity. Proposed section 33ZZ will also allow claims for cumulative medical conditions and mental health conditions, unlike proposed section 33ZW. This is because eligibility is determined by assessment, not incident or accident. As part of the approval process, officers will need to be assessed by an approved medical specialist appointed by the Commissioner of Police. This will not prevent an officer from seeking their own medical opinions, treatment or choosing their preferred medical practitioner for treatment. The police commissioner's approved medical specialist will simply assess the officer and oversee or approve treatment.

Division 3 of the bill will give the Western Australian Industrial Relations Commission jurisdiction over disputes, including eligibility, calculation methods and compensation amounts. When exercising jurisdiction under the bill, the WAIRC shall be known as the Police Compensation Tribunal. For obvious reasons it will deal specifically with police matters. They are the proposed changes to the Police Act 1892.

Part 3 of the bill will insert the scheme into the Industrial Relations Act 1979, giving the Western Australian Industrial Relations Commission jurisdiction. Firstly, to report elements of compensation, a compensation payment will be capped at a prescribed amount, which is currently $239 179 as prescribed under section 5A(1A) of the Workers' Compensation and Injury Management Act 1981. Generally, this payment will be made up of a payment for permanent impairment and a salary amount payment of up to a maximum of 12 months of the officer's pre-retirement salary. The second element is a payment for vocational rehabilitation, which is currently $16 743. The potential also exists for an additional payment of up to 75 per cent of the prescribed amount, currently $179 384, which will take the maximum cap to $418 563, to be determined when an officer suffers permanent total incapacity, taking into account their social and financial circumstances. Finally, the maintenance of existing entitlements regarding work-related injuries will be retained.

The compensation scheme has been well received; however, one element is not covered. I have identified this in both the briefing and also a number of questions I have asked. It deals fundamentally with that cohort of officers who may be diagnosed post-retirement. As the term suggests, post-traumatic stress disorder is more often than not diagnosed years after the event. Those officers are ignored by this legislation, and that has been confirmed through questions I have asked. A number of other areas have been identified by officers who have come to me out of concern that they have been ignored by the bill. To me, it is not a showstopper. I understand that. There must be a line in the sand somewhere. But these officers need to have some certainty that their concerns will be addressed.

As the minister well knows, I have asked literally dozens upon dozens upon dozens of questions on mental health issues, in particular, and I have made numerous speeches in Parliament over the past six months about mental health issues that face serving and former police officers. A lot of the concerns are because Soldiers and Sirens, a service provider to address mental health issues for first responders and veterans, is no longer funded, but it goes beyond that. Soldiers and Sirens is but one service provider. The theme of the WA Police Union conference last week, at which I spoke, was the mental health welfare of police officers. That is how significant the issue is; it is massive.

We live in an extraordinarily complex society. The responsibilities that are bestowed upon serving police officers are nothing like their predecessors experienced. It is much more complex. We have issues relating to the methamphetamine scourge, the rabid illicit drug world, the breakdown of the family structure and the enormous negative impact of social media with obscene bullying. Bullies have become much more sophisticated in the twenty-first century, which has led to massive social issues in our community that affect the relationships et cetera of juveniles and adults. We see it constantly. Police have to deal with these complex issues.

As I said at the conference last week, if you do not control your mind, it will control you. The mind can be such a battlefield. There is a misguided notion in our community that a uniform means that the person who wears it is in control. If we look at a police officer, we assume that that police officer is in control, and that he or she has it all together. If you do not control your mind, it will control you. When "Old Jake" or negative energy starts putting seeds of doubt in our mind and we have to deal with extraordinarily complex issues, we still have to go home and look in the mirror. We still have to deal with our demons. The police, like all our frontline public servants such as teachers and nurses et cetera, still have to go home and deal with their demons. Unfortunately, a lot of those demons do not just decide to arrive before someone retires so they can get compensation. They do not do that. Jake arrives when we least expect him. We think we are in complete control but we are not. Something will trigger something, and bang. We are finding this more and more. It is more and more prevalent in our society.

What happened with the Vietnam veterans? Some of them did not get post-traumatic stress disorder until a decade after they returned. They were ignored. Do members remember what happened when the victorious soldiers came back from World War I and World War II and tickertape parades were held? That did not occur after Vietnam; the soldiers were ostracised and alienated. They dealt with those demons for years. What is happening with police officers now is very similar. This is not the gospel according to Pete. As members would know, I have probably read in this chamber a dozen accounts of police officers who are suffering in silence—some serving, some former. I did not contact them; they contacted me. We have a problem out there with our police and how they are coping. It is not an overall general problem. Members should not get me wrong; I am not saying that all police officers are in that frame of mind. It does not matter if only one police officer is suffering; that police officer is worthy of respect and consideration with regard to compensation. I am not talking about one police officer; I am talking about the couple of dozen who have contacted me. If a couple of dozen have contacted me because of questions I have asked in this chamber, we can bet our bottom dollar that hundreds more are suffering in silence.

When "Old Jake" emerges in five years and sees that some of his colleagues received compensation for something that happened to them because it, by good fortune, arrived before they retired, but he did not, how will he feel? Do we think that will improve his resilience, self-esteem and worth? Of course it will not; it will make him feel worse. I will talk more about that in a moment.

I will identify particular clauses of the amendment bill to show exactly why my concern is relevant. Proposed section 33ZS(1)(a) will limit eligibility for medical conditions the officer was diagnosed with before or at the time of their medical retirement. It will prevent officers from claiming for medical conditions that they are diagnosed with after they have retired. Review of the redress scheme for medically retired police officers and the Police (Medical and Other Expenses for Former Officers) Act 2008 claims identified that medical conditions that an officer was diagnosed with at the time of their retirement differed from their diagnosis post-retirement, particularly mental health conditions.

Proposed section 33ZS(1)(i) provides that the police commissioner, rather than a medical practitioner, will determine whether the medical condition is work related. Alternatively, under the Workers' Compensation and Injury Management Act 1981, a medical practitioner determines whether the medical condition is work related. This is particularly significant for mental illness, stress and other conditions that do not present physical symptoms.

Proposed section 33ZW, "Compensation for permanent impairment", does not provide compensation for mental health conditions. Proposed section 33ZW(3)(c) limits compensation for medical conditions caused by accidents. This will limit claims for conditions caused by a specific incident, thus removing eligibility for cumulative conditions. This is particularly significant to mental health conditions and hearing loss, but will also limit claims for cumulative muscle, joint and ligament injuries where it may be impossible to identify one single responsible incident.

It is evident from the questions that I have received, just on the mental health component at the moment, that officers who are diagnosed post-retirement will not be eligible for compensation. I would like this confirmed, minister. When I put this question to the Minister for Mental Health, I was told that they can access the redress scheme. However, the redress scheme is very confined. They can also access other opportunities through the medically retired officers' fund or something or other—I will get to that in a moment—but, again, that is limited. I am not complaining. I applaud the intent of the legislation. I applaud the proposed compensation. It is a long overdue initiative. A significant number of officers will benefit from that. But this is a massive void in the bill.

With regard to compensation, I would like to know, if possible, what the anticipated take-up of the compensation from officers will be, certainly in the next year or two.

Hon Stephen Dawson: Maybe I can tell you how many officers might be in the system at the moment and might take advantage of it.

Hon PETER COLLIER: How many what—sorry?

Hon Stephen Dawson: How many officers might be in the system at the moment and might be ready to take it up.

Hon PETER COLLIER: Yes—to be eligible. It does not have to be scientific; I do not care. The minister will probably have no idea and I imagine that his advisers will not be able to tell me, but the minister must have an estimation.

Hon Stephen Dawson: By way of interjection, I can tell you what is anticipated. I cannot predict what will happen over the next few months.

Hon PETER COLLIER: It is a movable feast. I get that. That is fine.

I will come back to the mental health component, but I have a couple of other issues. Proposed section 33ZZ(8) prescribes that the amount of compensation is determined —

> … having regard to the social and financial circumstances, and reasonable financial needs, of the medically retired member.

Claimants under the current Police (Medical and other Expenses for Former Officers) Act 2008 constantly raise issues about having to provide their personal financial information when making claims. This proposed subsection will require the same for claimants under this bill. I guess the question is: Why will an officer's personal financial standing impact the compensation payable for a work-related medical condition? I mean, is it means tested?

Hon Stephen Dawson: I was writing down the previous question. Can you ask that one again?

Hon PETER COLLIER: If it will be means tested, why is that the case? If an officer is entitled to compensation, surely they are entitled to compensation. Proposed section 33ZZ(9) will limit the maximum prescribed amount to 75 per cent of the prescribed amount stipulated by section 5A(1A) of the Workers' Compensation and Injury Management Act 1981. Why? I am asking the question: Why are medically retired officers less affected by work-related medical conditions than other employee types? Why will it be restricted to 75 per cent?

Proposed section 33ZV(3)(b) will not provide for changes to the cost of living, inflation, CPI et cetera if compensation is limited to the annual salary of the officer. The compensation claimable is capped indefinitely at the officer's annual salary at the date of medical retirement. I am not familiar with the precedent for this, but is this common? Surely, in terms of a finite amount, if it is restricted and it is not impacted by CPI et cetera, ultimately, of course, the older the claimant, the less they will receive.

Proposed section 33ZZB will require the lodgement of disputes with the Western Australian Industrial Relations Commission's Police Compensation Tribunal within 28 days of a notice being issued. This will prevent officers

from being able to lodge disputes with the WAIRC's Police Compensation Tribunal with jurisdictional powers if a dispute or concern is identified more than 28 days after the notice has been issued. The same time frame is applied to accepted claims, meaning that the amount of compensation payable cannot be disputed after 28 days has lapsed from the date the office was notified of the compensation amount by the police commissioner. Can I get some confirmation that it is finite after 28 days? They are some points to which I would like some responses, if the minister does not mind.

I will just go back to the issue of those officers who will miss out. I have those general questions to which I would like responses. Overall, I am pleased with the bill, but I will go back to the issue of the deficiencies, and I will identify why I think we still have a way to go here. When I asked that question, I was told that those officers could go to the redress scheme. I asked a couple of questions and I got some responses. But again, it shows that the redress scheme will be very, very limited in the way forward and, if anything, it was a bit of a bandaid. It was good, with $16 million. The police appreciated it. The recipients appreciated it, but it is finished now. I asked on 22 June this year —

> … how many applicants have there been to access the redress scheme?
>
> (2) How many applicants have been approved and how many have been rejected?
>
> (3) What has been the average payout?
>
> (4) What has been the maximum payout?

The answer was —

> (1) There have been 366.
>
> (2) Two hundred and sixty-five applicants have been approved and 101 rejected.

So 265 applicants were approved. That is it, in entirety—265. The agency was unable to provide a response on the average payout, and I understand that, but it ranged from $20 000 to $150 000. The maximum payout was $150 000. Of course, that is not anywhere near what an officer could receive through the compensation scheme. If an officer received a payout through the redress scheme, are they now also eligible for the compensation scheme? I think I had a brainwave there and I understand that they are not. I appreciate that. That is problematic, again, because it does not solve the problem. I asked that because I had been told that by officers and I wanted to confirm it. It has been confirmed that they are not eligible. They are not eligible once they get their $20 000 or $30 000 and if they are diagnosed with PTSD in five years.

Hon Stephen Dawson: Or your $150 000.

Hon PETER COLLIER: Or their $150 000, but, with all due respect, minister, under this scheme someone could get half a million dollars. There is a big difference between $150 000 and half a million dollars.

Hon Stephen Dawson: This is future looking. It is not past. It is not retrospective.

Hon PETER COLLIER: I get that, but unfortunately PTSD emerges just when one does not want it.

I then asked a follow-up question to confirm that the redress scheme was finite. I asked on 11 November —

> (1) How many applicants have accessed the redress scheme from 1 June 2021 until 1 November 2021?
>
> (2) How many applicants have been approved and how many rejected over the period …
>
> (3) What has been the maximum payment …

The answer confirmed what I already knew, but you never ask a question in these instances unless you know the answer. The answer was —

> (1)–(3) The $16 million police redress scheme provided payments of up to $150 000 to former police officers medically retired due to a work-related illness or injury. The Western Australia Police Force advises that the scheme closed on 29 May 2020.

That confirmed what I already knew—that the redress scheme had finished. That is fine. It served its purpose. I have to be honest: for the very first time, I was disappointed in a response I got from the Minister for Police. His office is normally very forthright; the responses I receive from the Western Australia Police Force and the minister's office are usually straight down the line and do not engage in too much politicking and all that nonsense. They are not the rubbish responses that go through various points that we get from some ministers. That was up until this point, but perhaps someone had a bad day when they gave this response. My question was —

> I refer the minister to his response to question without notice 963 asked on Thursday, 11 November 2021 and to the Police Amendment (Compensation Scheme) Bill 2021.
>
> (1) Will the minister confirm that police officers who are diagnosed with post-traumatic stress disorder or other mental health issues after their retirement will not be eligible for compensation under the bill?

His response was —

> (1) Yes, noting that following separation from the service, officers are provided access to the post-service medical benefits scheme.

I will come back to that in a moment. But this is the one. I asked —

> (2) Will the minister confirm that from 29 May 2020, no other police officers are eligible to access the redress scheme?

The response I got was —

> (2) On 13 October 2018, the Minister for Police announced the $16.1 million scheme to recognise and support former police officers medically retired due to a work-related illness or injury, the WA medically retired police redress scheme. The purpose of the scheme was to recognise and support former Western Australia Police Force officers who were medically retired as a result of a work-related illness or injury under section 8 of the Police Act 1892.

I know that! The response completely ignored the question, which was really disappointing. I was trying to be helpful; I had already told the minister and his office that I would support the bill. I came back two days later—I was always going to come back—and asked —

> (1) Will the minister confirm that no officer has received a payment from the redress scheme from 29 May 2020?
>
> (2) Will the minister confirm that no officer will be eligible to access a payment from the redress scheme into the future?

It was a simple question. It should not be anything for the minister or his office to be embarrassed about, which they obviously were with the previous question, to which I did not get a response. However, I did get a response in this instance. The answer was yes. I already knew that, but I wanted it to be confirmed. It just helps to reinforce the point I am making about a lack of access for officers post-diagnosis. The answer reads —

> (1)–(2) Yes, the police redress scheme for former medically retired police officers who were injured or became ill at work and were subsequently medically retired under section 8, was a once-off, unique $16 million initiative open for applications between 13 December 2018 and 8 April 2019. Subsequent to the police redress scheme, the Police Amendment (Medical Retirement) Act 2019 separated medical retirement from section 8 to ensure that injured or ill officers' service could end with dignity and not under section 8.
>
> The Western Australia Police Force advises that there have been no work-related medical retirements since the police redress scheme was finalised to ensure that officers who needed to be medically retired due to work-related injury or illness can access compensation under the police compensation scheme following the passage of the Police Amendment (Compensation Scheme) Bill 2021.

The redress scheme has finished and there will now be a compensation scheme.

I will go back to part (1) of the question I asked on 30 November about whether police officers who are diagnosed with post-traumatic stress disorder or other mental health issues after retirement will be eligible for compensation. The answer was —

> (1) Yes, noting that following separation from the service, officers are provided access to the post-service medical benefits scheme.

I then asked on 2 December —

> (1) What services are provided to officers via the post-service medical benefits scheme referred to in answer to question (1)?
>
> (2) Is there a limit to the time or cost of services provided for in (1)?
>
> (3) If yes to (2), what are these limits?

The answer provided was "The services that can be claimed are on a list of about 25 services", so the minister sought leave to incorporate the list into *Hansard*. That is fine. I get the point. For example, it lists anaesthetists, consultant psychiatrists, dermatologists, diagnostic imaging, general practitioners, medical procedures, physicians, surgeons—basically any health practitioner or service on the face of the earth. That is fine. They are restricted by the Workers' Compensation and Injury Management Act, so it is pretty much the same access as any other worker at this stage.

Hon Stephen Dawson: They can access clinical psychologists and allied health professionals as well.

Hon PETER COLLIER: Clinical psychologists and counselling psychologists are on here; I just read out some of them.

I am not going to use this to bag the government, but the plethora of questions I have asked on services that are provided for members of the Western Australia Police Force, both within the service and through external providers, show there are some serious deficiencies. For example, at one stage I asked about psychologists. One answer I got said that there were 10 psychologists, including a number of vacancies. When I asked for more specifics, I found that, in fact, there were four full-time psychologists, two part-time psychologists and four positions vacant. Two of those positions have now been filled, but the government was being a bit too cute by half. I also asked about the four chaplains. They are all in the metropolitan area. The reason I did that was to identify the deficiencies, but I also did it because WAPOL cannot do this alone. That is not a criticism. I mean that I do not expect WAPOL to provide all the services. That is why we have external, experienced providers in the field for those specialist services. That is why I was and remain so supportive of Soldiers and Sirens.

Soldiers and Sirens was an extraordinary and unique organisation. It comprised qualified clinical psychologists who also happened to have previously been serving police officers, nurses or frontline service officers. The horse has probably bolted on that now, which is a shame. I went to its final conference about a month ago and it was heart-wrenching. We have to have other service providers for officers who are suffering in silence. As I said, at the moment, WAPOL is trying to do all it possibly can. I know that. I have great respect for WAPOL, the Commissioner of Police, the executive and all the 7 000 serving officers. I really do. They do an extraordinary job in very challenging circumstances. However, we cannot ignore the fact that hundreds of officers today are struggling—hundreds. We have to do all that we possibly can. With that, "Old Jake" will get up and start having a crack again. He will continue when they retire. We do not want them leaving the force because they felt they did not have the services that were required. The compensation scheme is a really good system, but we have to look after those officers who are suffering in silence.

As I said, given the magnitude of officers who have spoken to me, either personally or via email, it is a real issue. When I left the conference the other day, for example, I had three or four officers come up and ask to talk to me. I had no problem with that. They were not doing it to undermine the force, undermine the system or undermine anyone; it was just a cry for help. But I am limited in what I can provide and wherever possible, as the minister well knows, if there is an issue at a personal level, I will go to the minister. I will not go to the media. I promise members that I will not. We get very few opportunities in life. We can treat them as a series of events or a series of opportunities, and this is an opportunity for me. I am on the way out, but I know that in this term of government I am going to do all that I possibly can to assist the mental health support mechanisms for police officers. That is what I will do. If there is any way that we as a Parliament can collectively look at this deficiency in this piece of legislation, I would like it to be done. It will not happen today, but what would it take in the year, two years or three years ahead for us to collectively get to a point where we say that we can include officers who are diagnosed post-retirement and who are worthy of compensation, because at the moment they are feeling abandoned.

To conclude on this issue, and I will be bringing my contribution to a close very shortly, minister—well, we will see how we go; I can talk underwater!

Hon Stephen Dawson: I wouldn't like you to put yourself at risk.

Hon PETER COLLIER: By talking underwater? Thanks, mate.

On 2 December, I asked a question of the Minister for Police with regard to what officers can access. The response was that they can claim the post-service medical benefits service, which I have mentioned. I said, "Well, this is interesting. I'd be interested to see what you can get for the post-service medical benefits service", so on 7 December I asked exactly that question —

> What criteria exist for an officer to claim the post-service medical benefits services that are listed in the first part of that answer?

The reason I asked that question was that I did not want to be shunted off here and told, "They've got this system", and then find that it does not provide anything. That is what happened when I asked, "What mental health support mechanisms are provided for police officers?" I received this great big long list and then I received all these emails et cetera from serving police officers because we did not know that they had all these services that were provided for them. Therefore, we just had to get the word out to them.

The response was —

> The Western Australia Police Force advises that former police officers and Aboriginal Police liaison officers who have suffered a work-related illness or injury are eligible to claim the post-service medical benefits provided for in the former police officers' medical benefits scheme after they depart the Western Australia Police Force. All reasonable medical expenses incurred since 1 July 2007 for a work-related injury or illness may be claimed. If the work-related injury or illness was not formally reported at the time, as long as the former officer can provide sufficient evidence for the WA Police Force to verify the claim, the claim should be accepted. Evidence may include witness details, detailed description of the incident and medical reports.

That is the sort of response I am used to from the Minister for Police. It is straight to the point. It gives me an answer so I can go off to whomever has contacted me and give them an answer. That is great; everyone feels happy. I do

not have to ask another three questions to get a response. Well done! I say that with all sincerity, minister, to the Minister for Police, and I do not mind if you pass this on. I am usually very, very happy with his responses. He and his office are very forthcoming.

Having said that, there is one officer whom I will mention, and I am mentioning this with his imprimatur, but he does not want his name mentioned. The minister's office is aware of this officer. I have spoken to him. He is a very, very credible individual, and he was very glowing of his praise of the force, his time in the force and of the Commissioner of Police, but not of his situation, and the situation is very similar. It is a physical injury that we are talking about here, which has had a traumatic impact on his life post-service, and he feels abandoned by this legislation. The minister's office will know about this individual because he has written to the minister's office a couple of times. Can I say to the minister's office that when I relay this information through the chamber: please get in touch with him. Treat him with some respect. He is a good man and I think his case is well worthy of consideration of the post-service medical benefit scheme, and possibly something else. As I said, as members of Parliament, we can work out the legitimacy or otherwise of complaints we receive. This is a very genuine complaint from this individual.

I will read part of an email he sent to me; I will not read the whole lot. As I said, I am reading this into *Hansard* with his imprimatur, on the understanding that I will not identify him. His email reads —

> Just to recap, I am a former 27 year veteran of the WA Police Force, I served in GD Uniform, Traffic Branch, the CIB and also the State Protection Group.
>
> I was badly injured during my service on a number of occasions but most significantly in 1997. It has been 23 years since that unfortunate incident and I am still confronted with life threatening medical situations as result of the original injury.
>
> Just to be clear, I did not retire as medically discharged nor have I engaged the redress scheme as that was only prescribed for certain individuals who had exited on that particular pathway.
>
> In my situation I was nearly killed at the time of the incident, I suffered grievous bodily harm and sustained lifelong injuries and endured a massive haemorrhage after surgery. The situation was so serious that before they put me under general anaesthetic again to try and stop the bleeding they brought both my parents and my wife into the operating theatre to see me due to the high likelihood I would not survive the operation. As luck would have it, I did pull through & I am obviously very much still here. That was in 1997 and I still experience these massive haemorrhages from my original injuries which simply put, just terrorise my wife & children on each and every occasion. This issue is something that I refuse to give in to but has caused many serious problems recurrently over the years and could ultimately take my life prematurely if advanced medical care is not available when it happens. Frustratingly, I have seen several unsworn staff that worked for my areas in the Force receive payments for injuries such as ligament strain from typing and the like and these payments can exceed the possible cap for what Police Officers can receive. Please note that I do not begrudge these people one cent of what they have been paid, nor do I begrudge those who opted for medically unfit retirement, however those of us who served quietly & faithfully and also refuse to make protests at the government or our very fine Police Commissioner probably now owe it to our families to seek fair compensation, should it become available.

I ask the Minister for Mental Health to relay his case to the Minister for Police, and I would appreciate it if someone from his office would contact that former officer. I do not mind providing his contact details behind the chair, but I am sure those in the minister's office will know whom I am referring to because they will have received information from him.

With that, I bring my comments to a close. I will not rehash the whole thing again, but just to conclude, I will say that this is a good piece of legislation. It is long overdue. Successive governments have promised to do this, but have not delivered. I congratulate the government on getting us this far. The bill has the overwhelming support of the WA Police Force. It is needed, but there is a gap, and that gap, even though it may appear minuscule, is massive. If we fill that gap—I do not want this to sound corny—I genuinely think we can save lives. I genuinely think that we can prevent a similar situation occurring in five to 10 years' time of officers who cannot access this compensation scheme, sitting at home, alone and in a dim, dark place, both physically and mentally. If we fill that gap, those officers will think that we care about them, and that we do understand that when they saw that child who was run over or that wife who was beaten to within an inch of her life that that is having an impact on them and that someone cares about them. We can show that we have understood them by providing a compensation scheme.

As I said at the conference last week and in this chamber a couple of weeks ago, we all relished the glow that came from finding Cleo Smith six or eight weeks ago. It was a wonderful, wonderful story of that beautiful little girl who was saved by those heroic police officers. Quite legitimately, the police glowed in the glory that came their way. It was very well deserved. Probably, those officers who were directly involved will never again experience professional hype such as they did at that time. But on the very same day that Cleo was found, a three-year-old boy was run down by an out-of-control car driven by an 18-year old without a licence—a hit-and-run driver. A number of officers would have had to go to that scene and witness the death of a three-year-old boy and the trauma of his family. Unfortunately,

the latter occurs every day in some shape or form. Every single day, officers across the length and breadth of Western Australia have to deal with trauma. Whether it be a car accident, house fire, domestic incident or child or sexual abuse—you name it—they have to deal with it in our increasingly complex society. Inevitably, the uniform is not going to ensure that they have control. Inevitably, "Old Jake" will start playing games with the minds of some of those officers. It might sit there in a very latent and subtle fashion and not re-emerge until years later, but something will prompt it. At the moment, there is nothing to support those officers if they need financial support.

This is something that I like to think we as a Parliament and a community can resolve. Having said that, I am not diminishing it at all, but I do not see it as a circuit-breaker. I do not want to impede the passage of this legislation. For that reason, the opposition will enthusiastically support the bill.

HON DR BRIAN WALKER (East Metropolitan) [3.01 pm]: I rise to support the Police Amendment (Compensation Scheme) Bill 2021 on behalf of the Legalise Cannabis WA Party. We know that this bill has caused headaches for many years. There have been negotiations on both sides of the government, and, as Hon Peter Collier has pointed out, this government has succeeded in bringing out a bill that meets the needs of the Western Australia Police Force itself, so I am very happy that we can support something that the police actively want and support.

We also consulted Mick Kelly and his team at WA Police Union in the run-up to this debate. In our short careers here, we have not really ever seen such enthusiasm for the passage of a bill, so I think it would be very foolish of us to do anything to interfere with that. In fact, I also support the words of Hon Peter Collier in that I would be happy to forgo the Committee of the Whole stage, because the questions at the briefing—I have to thank members for this—were very, very full.

With that being said, I echo the words members just heard regarding the mental health of members of the police force and the gaps that have been exposed. I anticipate that further questions will be raised in the future and solutions will be sought, but I want to point out a couple of my concerns.

One word in particular was used quite frequently in the speech we just heard—and that was "reasonable". It was a reasonable assessment, a reasonable understanding, a reasonable conclusion et cetera. What does "reasonable" actually mean? Generally, we find that the reason is being applied by someone who has not been affected by the problem. It has been my experience as a frontline doctor that I might see something in the community that is devastating, but a specialist who has no skin in the game might look and see something that a reasonable person might find other ways of dealing with. If we take two very different people, we might find very different understandings, capacities, capabilities and lifestyles—so the same problem may affect them very differently. I can think of one particular case of a woman who has enormous pain. She has splints on both her hands and legs. We are trying to find a cause for the pain. We cannot find a cause for the pain, but she is in pain. Her life is miserable. One could say that it is all in her head and she will get nothing for this. I think that would be a reasonable assumption by a reasonable examiner, but it does not actually meet the needs of someone who is experiencing pain.

How, then, do we assess the reasonable outcome for someone with mental health issues? If I have a patient who witnessed—was not involved in—a robbery at a servo and as a result was diagnosed with post-traumatic stress disorder and has the classical symptoms of flashbacks and nightmares and is unable to go out during the day because something might happen to them, I would find that unreasonable, because I have witnessed worse things and it has not affected me. From my point of view, that reasonable approach is actually wrong, because it does not depend upon what we think; it is what the patient in front of me feels and experiences. Someone is judging how someone else should respond to, say, seeing someone shot. Thinking back to a recent event, there was in the front seat of a car a young man whose life was ebbing way, and I was asked, "Do we want to call out the rescue helicopter?" The rescue helicopter, of course, will require a significant input of time and money for fuel to come out. The question really being asked was: "Doctor, is it going to be worth the time, effort and expense of sending out a helicopter to fix someone who is not fixable? You, doctor, make the decision." I made the decision. I said, "Basically, this man has no chance of survival. We will not call out the helicopter."

I could reasonably be expected to have nightmares about having taken the choice to not do the utmost to save someone's life, could I not? But being trained for this situation—interestingly, a month before, I had been in the very same training scenario—I found it relatively easy, so PTSD does not come into the picture for me. Is it reasonable to apply that to someone else? Possibly. We have a situation whereby other people might decide whether it is reasonable for a person to be treated and to have his condition accepted as valid.

I will move on to the quality of people who make the decisions. I cannot assess the abilities of the Western Australia Police Force commanders and senior officers, but I can cite my opinion about some of the doctors who will be making these decisions. To be frank, although there are some excellent colleagues, there are others whom I would not give the time of day. Arrogant, ignorant specialists who do not care a whit for their patients will be in a position to make decisions about how much their condition is compensatable. I think that needs to be taken into account when we are assessing this bill. It is a matter for a future administration to deal with.

The real point I want to make is about PTSD. The current treatments for PTSD are a uniform failure and I think we can back that up with experience, can we not? We accept that patients with PTSD are prescribed medication that

at times turns them into zombies and can cause them to have diabetes or suffer from premature cardiovascular death due to the metabolic consequences. The psychological therapies and approaches are, in my experience, having treated many people with PTSD, basically hand-holding and time wasting. They hold things at bay. Yes, they successfully hold suicide at bay, but do they give people life? If there are 100 patients distributed to the various services that Hon Peter Collier cited, the next year there will be another 100 patients, and in 10 years there will be 1 000 patients. Do we have services available for that ever-increasing flood of people whose conditions are simply not treatable by current methods? We are, in fact, pre-programming a failure of a system, unless we employ more psychologists and psychiatrists to deal with a problem that has not been treated. We are holding things at bay while a tidal wave of patients is coming. The system will creak, groan and break.

We have the option, however, to effect a cure. I mentioned last night during members' statements a trial that is using MDMA, which is having wonderful potential success with an 80 per cent immediate cure rate. If we were to apply that to the 1 000 patients who have now accumulated, there would be only 200 remaining out of the 1 000 who would be very much improved but still have post-traumatic stress disorder. Would the system not be more tolerant of the numbers that are coming in? Would we not see an improvement in the outcomes? We certainly would. We deny that at the moment because people think that MDMA is a dangerous drug. I have pointed out before that Panadol can kill you; it is a dangerous drug. Alcohol can kill you; it is a dangerous drug. Street MDMA, with illicit substances added to it, could well kill you, but its clinical use under supervision can be safe. We should allow that; in fact, there is a program underway right now that assesses this in Perth and elsewhere in Australia and throughout the world. I recommend that the government consider this very strongly in supporting the treatment of those who are putting their lives and minds at risk by serving our community. I refer to not just the police force, but also the armed forces and to all people who suffer violence or threats of violence in our society today. We live in a very complex society. It is a stressful society; a society in which people's mental health is impacted and impinged on every single day. We ought to open up our minds to approaches that will help society without limiting ourselves. I counsel the government to take this excellent bill, which we support, a step further in the near future to allow for adequate treatment of those who have sacrificed for our benefit.

HON NICK GOIRAN (South Metropolitan) [3.11 pm]: Briefly, I rise to add my support for the Police Amendment (Compensation Scheme) Bill 2021. I have already given the minister representing the Minister for Police notice of a few questions that I have. In essence, it is beneficial that members and the government, but particularly police members or members of this scheme, are confident that there will be no gaps in this new compensation scheme. In other words, we need to compare and contrast the workers' compensation entitlements that are available to an ordinary worker—that is, a person who is not a member of the Western Australia Police Force—with the entitlements of a member of the police force once this scheme is put in place. That is, in essence, the nature of my queries.

I have given notice to the minister of six questions. They are as follows. The first is: once this bill passes, will an ordinary worker be entitled to any compensation that a police officer will still not be eligible for? In other words, is a worker in Western Australia—not a police member—entitled to one category of compensation for which a police member will not be eligible? I note that the second reading speech sets out the four elements of the police compensation scheme. The second question is: once the bill passes, will police officers be eligible for any compensation that ordinary workers are ineligible for—that is, will they have an element of the compensation that an ordinary Western Australian is not entitled to? There may be very good reason for that, including the unique duties being performed by police officers, but if there is such a category, it should be articulated. My third question is: why was the Industrial Relations Commission chosen as the arbiter for police compensation under this scheme and any disputes, instead of WorkCover, which handles disputes for every other Western Australian workers' compensation case? The fourth question is: what compensation is currently available to the dependants of a deceased police officer? If a police officer dies and compensation is available to a dependant, what does that look like at the moment in Western Australia? The fifth question is: what compensation will then be available to such dependants once this new scheme passes once the Police Amendment (Compensation Scheme) Bill 2021 becomes law? Lastly, will those dependants be eligible to the same entitlements as though their loved one was an ordinary worker—that is, will the compensation that flows to a dependant person of a person who dies in a workplace accident, and they are not a member of the police, be the same for dependants of police members? I note that "member" is defined in clause 4 at page 5 of the bill.

They are the six questions that I gave the minister notice of. He kindly indicated that he may be in a position to provide a response to them during his second reading reply, which would, thereby, facilitate the passage of the bill without the need to go into Committee of the Whole House.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Mental Health) [3.14 pm] — in reply: I thank honourable members who made a contribution this afternoon, particularly Hon Peter Collier, shadow Minister for Police, who today indicated the alliance's support for the Police Amendment (Compensation Scheme) Bill 2021. I thank Hon Dr Brian Walker for his comments. I will bring them to the attention of the Minister for Police, which is probably all I can say in relation to his request. I also thank Hon Nick Goiran for talking to me behind the chair and providing notice to me of the questions he wanted answers to. It is certainly my intention to provide answers to those questions now and put them on the record.

Hon Peter Collier, in announcing his support for the bill, asked a number of questions, so I will start off with those. They may not be in the order he asked them, but in the order on the paper before me! Hon Peter Collier asked whether police are covered under the Workers' Compensation and Injury Management Act 1981 for death. Police are covered under that act if they die, and that also relates to a question Hon Nick Goiran asked.

Government policy has been to limit medical conditions that contribute to a decision to medically retire police. Western Australia Police Force expenditure on external psychological services to police officers has tripled in recent years, and work has also been done to reduce the stigma of mental health issues in police officers. More is being done to support officers to stay in the job, when they can. If they retire they have the post-service medical benefits scheme available to them, as the honourable member read out in the answer I gave to one of his previous questions. I make the point that Western Australia Police Force also recently appointed its inaugural chief psychologist.

The honourable member asked why the scheme covers what it covers. A commitment was made following a 2017 pre-election budget submission from the WA Police Union in which it sought bipartisan support for a workers' compensation–style scheme for medically retired police officers, in addition to existing entitlements, including that the state government establish an ongoing compensation scheme that adequately and appropriately financially compensates medically retired police officers. The Labor government agreed that access to workers' compensation for medically retired police officers was needed, and we committed to addressing that concern. That is what was requested at the time, and this is what we are delivering. The member has raised issues about the realm of this bill, but nonetheless, these are very important issues, and I will certainly bring them to the attention of the minister. That does not preclude other things happening in future, but the bill before us relates to the request that was made of the government and the commitment the government gave at that time to the police union. The member asked how many officers might be affected. I am told that the take-up may be in the region of 20 per year. It has been indicated to me that there are approximately 10 people in the system now who are ready to be considered for compensation as soon as the legislation takes effect. There are 10 at the moment, but over a year, about 20 is the estimate.

There was a question about total, permanent incapacity and the determination of 75 per cent. That reflects the maximum provided under the workers' compensation scheme. Compensation amounts under this legislation are indexed every year, in line with the workers' compensation scheme. In relation to the question about the 28-day period, that reflects the ability to lodge an appeal against a decision to medically retire an officer. The bill applies only to officers who are medically retired post-commencement. With regard to the question about the compensation being means tested, the test for total permanent incapacity is based on the personal financial circumstances and reasonable financial needs of the person. This, again, reflects the worker's compensation legislation. The provisions of section 217 of the Workers' Compensation and Injury Management Act have been in place, I believe, since 2004. Section 217 of the workers' compensation legislation is about determining the final liability of a workers' compensation claim. However, the process and the maximum cap under these provisions have been adopted under the police compensation scheme.

Why does the bill exclude those officers who are diagnosed with a condition after their retirement? The scheme is designed for officers who can no longer perform the duties of a serving officer and are compelled to medically retire. Will police officers who are diagnosed with post-traumatic stress disorder or other mental health issues after retirement be eligible for compensation? No, they will not be entitled to compensation under the bill, but, as I indicated previously, officers are provided access to the post-service medical benefit scheme.

There might be some more matters for Hon Peter Collier, but I have Hon Nick Goiran's questions here. Will an ordinary public servant be entitled to any compensation that a police officer will not? Hon Nick Goiran, the answer is no. Public servants are entitled to receive a compensation payment for injury in accordance with the standard workers' compensation scheme. During this time, they remain employed and return to work once able. Police officers will receive compensation under the scheme once they have been medically retired. Will a police officer be eligible for any compensation that an ordinary public servant will not? Police officers have an entitlement to the post-service medical benefit scheme. The police compensation scheme provides for a lump sum payment. There is a salary component and a lump sum vocational rehabilitation payment. Other public servants do not have access to the medical benefit scheme or the lump sum payments.

In relation to the question about dependants—will any compensation be available to dependants under the bill?—the police compensation scheme does not extend to dependants, noting that in the event of a death, an officer's dependants are entitled to compensation under the Workers' Compensation and Injury Management Act 1981, which is the case with other public servants.

Why was the Industrial Relations Commission chosen instead of WorkCover for disputes? I am advised that the WA Industrial Relations Commission is the body most familiar to police and with which they have most experience as they deal with appeals against removal or medical retirement. A separate bespoke tribunal is being established that will reinforce the specific nature of the scheme. That course was chosen because police are used to dealing with that.

I am just checking whether there was another question from Hon Nick Goiran. The last question was whether those dependants will be eligible to the same entitlements as though their loved one were an ordinary worker, and I think the answer to that was yes; I provided that answer earlier in a different way.

I am going back over Hon Peter Collier's questions to make sure I have answered everything that he asked me. He read out an email from an officer who had been in contact with him. I give a commitment to request of the Minister for Police's office that they read the *Hansard* of this debate, and I will bring the member's request that they make contact with that officer to their attention.

Hon Peter Collier: I'm waiting for a response; that's all.

Hon STEPHEN DAWSON: A member of the minister's staff is with me today, but the chief of staff is also watching this, so I take it that they are now aware of that request. I will also follow up to make sure that I say that to them formally.

I again thank honourable members who made a contribution. I think members have all indicated that this is a much-needed scheme and it is certainly supported by the WA Police Union. This legislation was promised and is something that we are keen to deliver. Hon Peter Collier raised some important issues that are not covered in this bill.

Hon Peter Collier: They are relevant to the bill.

Hon STEPHEN DAWSON: They are certainly relevant, but they are not dealt with in the current bill. What I mean to say is that I will certainly have that conversation with the minister and make sure that he is aware of the member's comments and contribution to the debate today.

I think that probably answers all questions asked. I again thank honourable members for their support of the bill, and I commend the bill to the house.

Question put and passed.

Bill read a second time.

[Leave granted to proceed forthwith to third reading.]

Third Reading

Bill read a third time, on motion by **Hon Stephen Dawson (Minister for Mental Health)**, and passed.

ABORIGINAL CULTURAL HERITAGE BILL 2021
ABORIGINAL CULTURAL HERITAGE AMENDMENT BILL 2021

Cognate Debate

Leave granted for the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021 to be dealt with cognately.

Second Reading — Cognate Debate

Resumed from 30 November.

HON NEIL THOMSON (Mining and Pastoral) [3.25 pm]: I rise on behalf of the opposition, the Nationals WA–Liberal Party alliance, to speak on the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021. At the outset, the National–Liberal alliance will not oppose the bills, but we would like to raise serious concerns on a number of issues related to them, particularly the way in which these bills were put through the other place and brought into the Legislative Council. I acknowledge the complexity of this task. The challenge for the government in bringing these bills to this place has been substantial, so I acknowledge the government on that front. These are not easy bills to bring before this place.

I also acknowledge that the Aboriginal Heritage Act, which is currently in play, requires updating. There are a number of shortcomings in the Aboriginal Heritage Act that have been apparent for some time. Before I go through the few points I would like to make, I note that there was a version of the Aboriginal Cultural Heritage Bill in circulation last year. Some 100 amendments have been made to this version of the bill, and they are certainly not insignificant. A number of elements to this bill are unprecedented in their presentation to the regulatory environment in Western Australia.

I also acknowledge the concerns of traditional owners and Aboriginal people across Western Australia. That is a massive issue for the people of Western Australia and Aboriginal people who seek to have their culture and heritage protected. This is a very noble aspiration of the government and one that we support.

In the context of this second reading debate, I would like to say that these bills have not been easy tasks. We know the task has been difficult politically because a number of views are held, but there has been a significant issue with consultation, especially in its limitations and the number of groups that have been consulted with in recent times, particularly on this version of the bill. The Liberal Party received a copy of the final bill only hours before it was read into the other place. With 353 clauses and a significant amount of work still to be done on the regulations, there is an element of the government saying that we should trust it. That is providing significant challenges because of the impact the legislation will have on both Aboriginal people and businesses. The mining sector has been engaged to a large extent through consultation and support has been shown by the Chamber of Minerals and Energy and others in the mining sector. However, a large sector of the business community has not had the same level of engagement, particularly small-to-medium enterprises. They probably do not fully understand the legislation—nor could they understand the impact this bill will have on them. That is partly due to the impact on people in the community with

landholdings of more than 1 100 square metres, and that cannot be properly understood until the regulations are prepared. That poses a significant risk to the people of Western Australia. In presenting our case, the opposition has taken the view not to oppose the bill. We understand and reiterate the challenges of presenting something like this to the house. However, it poses risks to Western Australians going forward, given the sense coming from the government of, "Trust us; we will deliver."

We understand that, I guess, at the heart of all this are the fundamental elements of belief in culture for Aboriginal people in the state, as has been the case since long before European settlement. The purpose of the bill is to protect elements that are pertinent to Aboriginal culture, particularly those in the existent landscape. That is a challenge due to our culture of digging, constructing and making things happen, and people in our society undertaking their day-to-day business. I reiterate that the interface required to present any kind of legislative framework will be significantly difficult.

From 2014 to 2017, I worked in the land area of the Department of Aboriginal Affairs. I must say that that experience was a tremendous opportunity for me to get to know a lot of Aboriginal people, and I developed a number of deep and enduring friendships with Aboriginal people. While I was in that role, the Port Hedland dredging issue came up and we saw Justice Chaney present his decision in 2015, which required decisions made under section 18 of the Aboriginal Heritage Act to be reassessed. Although I am certainly no expert at assessing matters within the framework of the Aboriginal Heritage Act, I had the task of chairing a committee—it was more an administrative role—that was established to reassess in the order of 121 decisions made by the Aboriginal Cultural Material Committee relating to section 18 of the act. The only reason that I made that point is that I understand the incredible difficulty that stems from the particularly narrow definition taken by the then department to proceduralise the issue of assessing what a "place" is. When tested in court, that definition was found to be deficient, which laid the foundation for the reassessment that had to be undertaken. That reassessment has continued to pose a problem under the existing act because it was made clear that a particular place could not be defined based on the existence of some sort of past or existing activity but had to be considered more broadly, and that has been the challenge for the minister. I acknowledge the challenges that my colleague Hon Stephen Dawson faces in this bill. I make that point to him because I certainly understand the difficulty he is faced with.

Notwithstanding that, we have a job to do because we believe that although this bill purports to do certain things, maybe it will do other things. The bill purports to provide Aboriginal people with the ability to determine which Aboriginal cultural heritage sites should be protected. It will give some degree of control to Aboriginal people, more so than is currently the case. It also seeks to allow greater transparency, protection and penalties in the Aboriginal cultural heritage space. However, that may not be the case for certain elements of the bill. In the short time I have, given the complexity of the bill, I hope to raise some of those concerns in my second reading contribution. It is noted that the bill also seeks to keep Aboriginal people involved in decisions about their heritage at the local level. We acknowledge the structure that will be put in place, particularly with the local Aboriginal cultural heritage services. However, that structure will be potentially problematic insofar as the bill will impose a new regulatory structure that has not been in place before. The codification of activities within that structure is yet to be fully presented, but they will become apparent, in the fullness of time, through the regulations. Certainly, I would like to put those comments on the record.

I will go through a number of other issues, including the mandating of consultation. There certainly is no argument about the formalisation of the roles of Aboriginal people and organisations and the alignment with native title. One of the good things that we have seen over time has been the unfolding of native title and the finalisation of native title determinations across our state, which is providing certainty for Aboriginal people, notwithstanding some of the angst and pain endured throughout that process for Aboriginal people and the general population. The determination of native title is at least providing a much more solidified framework over land use and future acts under which people can negotiate and form a consensus. We see an intention in the cultural heritage space to have a much stronger alignment, noting, of course, that the Aboriginal Heritage Act 1972 preceded the issue of native title by a long way.

In principle, this bill is an excellent attempt. However, the proposed amendments to section 18 of the Aboriginal Heritage Act are significant matters in the context of the comments in the media from Aboriginal people through advocacy groups like the Kimberley Land Council, the Yamatji Marlpa Aboriginal Corporation and other land councils across Western Australia.

The amendments will replace the section 18 process with a tiered approach to land use and, as members have no doubt heard, that is controversial. There is also the matter of decision-making through the local Aboriginal cultural heritage services framework.

That is my introduction to my second reading contribution. I will go through in a structured way some of the elements that I think would be worthy of further debate and deliberation, and I will seek a reply from the government on the following eight points that I will raise. In preparing this presentation, I have attempted to provide some structure. I feel a level of inadequacy in doing this because of the complexity of the legislation and the time available. I acknowledge that what I will present is certainly not the end of it, and I am sure members understand the need to proceed through to the committee stage and attempt our best to provide some input to this bill, and at least attempt to flag those matters that are of concern and hope that the government, noting the numbers in this place, will take them away.

Later in my presentation, I will move that this matter be referred to the Standing Committee on Legislation, and there is good reason to do so. In flagging that, I implore the government to consider this matter. It may have made up its mind not to support it—that is my expectation—but I am at least flagging that. Noting that we are six months into the government's second term, we have some time and I think there is a broad level of support from all sides for a more detailed consideration. In my view, it would be a feather in the cap of the government to agree to that. We will get to that discussion at the end of my presentation.

The first point I raise is the complexity of this bill. It is extraordinarily complex. It is 260 pages long. That does not necessarily equate to complexity in itself, but a number of new elements come into this bill. It contains 353 clauses and it will create a whole new regulatory regime in the codification and management of the tiers of Aboriginal heritage. That in itself makes it extraordinarily complex.

The bill contains a number of consequential amendments to other legislation. It is probably not as complex as some bills that have been before this place, but it contains significantly complex issues for the appeals process and the role of the State Administrative Tribunal and matters of recourse, particularly the impact that could have on smaller operators in our economy. That is probably where the major concern exists. I understand that between the introduction of the 2020 bill and the 2021 bill, the government conducted extensive consultation with the larger operators in our economy that, by and large, are comfortable with the proposal. However, there is a significant challenge for those who do not fully comprehend the impact of this legislation on them.

That is aptly presented in a document produced by the Department of Planning, Lands and Heritage, which I have before me. It is a significant document, containing a table that is several pages long. It sets out the clauses of the bill, notes on the consultation, the changes that have been made and the reasons for the changes. It goes through the clauses that have been changed. I certainly will not consume huge amounts of my time by reading it all, but I have identified a couple of sections that I would like to read out, if only to make the point that we are now faced with certain complexities when debating and discussing this bill. For example, a change was made to proposed clause 14, "Act binds Crown". The paragraph following subclause (1) was deleted. It stated —

> Nothing in this Act makes the State, or the Crown in any of its other capacities, liable to be prosecuted for an offence.

The idea of the shield of the Crown is fairly largely accepted on a range of fronts in relation to various regulatory requirements. The document states that in this case, the change was made —

> … in response in Aboriginal stakeholder concerns that the provision provided that the State or Crown is not liable to be prosecuted for an offence under the Act. The amendment means that State or the Crown is now liable for prosecution for an offence.

That may be all well and good, but it highlights the need for this bill to be referred to a committee. There is a significant knock-on impact. It was not in the first bill but now it appears in this bill. I will give a hypothetical example, the premise of which I am yet to have explained. A manager within Main Roads might be responsible for some land clearing as part of a road widening project. They may inadvertently or otherwise find themselves being prosecuted before a court. The question is how that would affect that person in the employ of the state and who would be responsible: the minister, the accountable officer or someone else? No doubt we will get to that as part of our more detailed discussion.

Another complexity, which is of equal significance, is this issue of the interface with the Environmental Protection Act. For example, clause 90 —

Tabling of Paper

Hon KYLE McGINN: The member has been referring to a table in a document that he is reading. I ask that he table that document.

The DEPUTY PRESIDENT: Member, can you identify if the document is confidential?

Hon NEIL THOMSON: No, it is not.

The DEPUTY PRESIDENT: I assume you just have one copy of it?

Hon NEIL THOMSON: I am happy to table it; I have no problem with that.

The DEPUTY PRESIDENT: Members, just for clarity, the type of point of order that has been raised by Hon Kyle McGinn is typically addressed at the end of a member's speech, asking for a document quoted during the debate to be tabled. If it is the wish of Hon Neil Thomson to table that document now, he may seek leave of the house, but the appropriate time for the member to raise that point of order would be at the end of Hon Neil Thomson's second reading contribution.

Hon STEPHEN DAWSON: Mr Deputy President, I am not sure but I think a member can ask for it to be tabled at any stage. However, Hon Neil Thomson, if you are happy to continue with your contribution and perhaps if you are happy to table it at the end, I think Hon Kyle McGinn would probably be happy with that.

Hon NEIL THOMSON: Yes.

The DEPUTY PRESIDENT: Members, I draw your attention to standing order 59(2), which says —

> At the conclusion of a speech in which a Member has quoted from a document, the document shall be tabled upon the request of any other Member, unless the Member states the document is a confidential document.

I put to Hon Neil Thomson that he may at this point seek leave to table the document; or, at the end of his second reading contribution, he can offer that document for tabling at the request of Hon Kyle McGinn.

Hon NEIL THOMSON: Thank you, Deputy President. I will table it at the end of my presentation. It is a government document, by the way. It is available on the website, Hon Kyle McGinn.

Hon Stephen Dawson: Don't mention a website!

Hon NEIL THOMSON: Yes, do not mention a website.

Hon Kyle McGinn interjected.

Hon NEIL THOMSON: The member is welcome.

Debate Resumed

Hon NEIL THOMSON: I will not dwell on this, but in the limited time I have, I want to mention that there was an exemption category in relation to land tenure, for example, when an approval had been provided under the Environmental Protection Act, and this has been changed. One of the challenges we see in a general sense is the integration of certain environmental elements with this legislation. We are also seeing at the same time that certain Aboriginal cultural elements have been integrated into, for example, the Conservation and Land Management Act and others, about which we have had some discussion. The understanding of the complexity and the interaction between those elements is very important. One thing we should not be doing is creating a level of duplication in our regulatory processes, because that will cause considerable difficulty for people in interfacing with that.

On that point, I will say, as a person who is just getting on with their life and interfacing with this regulatory regime, that when persons go about their business, they generally seek planning approval to undertake certain activity. They might need a building approval under the Building Act. That is usually interfaced with local government, which has an established approval process that people are able to utilise and apply and everyone is clear about what is required of them. There are also mining approvals for the mining industry. I am sure people involved in the mining industry understand the mining approvals requirements. However, I reiterate that the challenge and the complexity that will be faced are the risks that will be posed to the establishment of a new regulatory process and interaction. As somebody who has been involved in the consulting industry in the Kimberley, for example, I can see that if I had not been elected to this place, I probably would have looked at this bill and thought what an incredible opportunity it will be for someone like me and for others. I know that for others in the consulting industry, it has in fact been a massive opportunity to make a significant amount of money because of the establishment of the approvals processes, the IT, the guidelines, the approach and the integration with potentially up to 60 or 70 regulatory bodies, being mainly the local Aboriginal heritage services. We know that currently, there are approximately 70 native title determinations with a prescribed body corporate, each of which has the option of becoming effectively a regulatory body. There will be a huge opportunity for some enterprising person who wants to get into the business of providing an interface between persons and companies doing things on our landscape and those involved. In fact, that was raised with me by a number of Aboriginal people, who were concerned about the possibility that their culture would effectively be hijacked through a bunch of, in their terms, "white fellas" who would do quite nicely out of the process and create what they said would be a very bureaucratic process that they would lose control of. I think that needs to be considered in the establishment of this process. That is the complexity.

I know I will have to run through this fairly quickly, but the second issue I would like to raise is the degree to which the legislation is contentious. This is a highly contentious bill. We have seen significant concerns raised. We have seen the open letter to the Premier. I am availing myself here of the documents. I will table all the documents I have in my possession. Members are most welcome to read them as we go through this discussion, but again I draw members' attention to something that was in *The West Australian*, which starts —

> Dear Premier Mark McGowan
>
> Open Letter—Opposition to Aboriginal Cultural Heritage Bill

It is signed by a number of very distinguished people and outlines their concerns about this matter. I will read only the first paragraph —

> We bring to your urgent attention widespread Aboriginal opposition to the Government's proposed *Aboriginal Cultural Heritage Bill*, 2021 and notify you of its serious breaches of Australia's international human rights commitments.

The names on there are significant. The leadership there is significant. I think it is a highly contentious bill. Again, I say to the minister that I am not critical; I understand the difficulty and the challenge, but I think as a reasonable step, within the confines of the contentious nature of the bill, it would be good if we had the matter referred to committee. In fact, that is a recommendation of the Kimberley Land Council. I have another letter that was sent

on 24 November by Mr Anthony Watson, chairman of the Kimberley Land Council, to the elected members of the Parliament of Western Australia. I am sure Hon Kyle McGinn has a copy of this in his possession. This letter was sent to all members of Parliament and it is titled "Urgent request—Vote no to the Aboriginal Cultural Heritage Bill". I said at the outset of my presentation that we will not vote no to this. We will not stand in the way of the government on this matter. We are not opposing the bill, but we are raising our grievances because we agree with the second recommendation of the Kimberley Land Council —

> Refer the Aboriginal Cultural Heritage Bill for further investigation by the appropriate Standing Committee.

I again implore the minister and the government to heed the concerns. I trust the people seated in this place, and particularly the Standing Committee on Legislation, which would be able to consider this matter in detail, because I think a major issue is the lack of consultation. A number of matters were raised in this letter, under the headings "Failure to embed Free Prior and Informed Consent", "No right to say no", "Rebranding Section 18", "Burdensome agreement making", "Protected Area limitations", "Loss of rights of review", "Ineffective consultation" and "Unclear regulation process". There are concerns.

I have another letter, from the Amalgamated Prospectors and Leaseholders Association of WA, which again raises concerns, in particular about unknown sites. Again, I am happy to table this letter, which contains concerns from the people who represent the smaller prospecting part of our community. They are an important part of our economy. They refer to the lack of clarity and understanding of how the legislation will impact on them. A letter from the Australian Association of Consulting Archaeologists raises a number of concerns and its three key points are: "Unequal rights for review", "Insufficient support and funding provided for Aboriginal Cultural Heritage Services" and "Inadequate definitions". We know the major issue is that this legislation will establish a whole regulatory process that could involve up to 70 different organisations providing approvals when there is no funding to provide ongoing support, apart from the $10 million that has been allocated for their establishment. Certainly, in my experience of matters of Aboriginal cultural heritage services in my region, I have been told that to run a service to the competency that might be required could involve a cost of $3 million a year for each service. When the department was asked about this, it had a figure of about $200 000, which seems extraordinary. Members can see that this is an issue. Of course, the other matter raised was the inadequacy of the definitions, and I will table those at the end of my presentation. It is highly contentious.

The other element of contention—it is probably more so because this matter of contention has not been raised—concerns all those people and services that do not know how this will impact them. I had some conversations with the Pastoralists and Graziers Association. It had some early consultation on the first draft of the bill, but it certainly has had no time to digest the bill that is currently before us. What about the Western Australian Farmers Federation? We might ask, for example, about the Construction Contractors Association of WA and the Housing Industry Association. What about small landowners in peri-urban areas—people who run orchards and undertake certain activities? Maybe there will be an element of protection. However, there are some concerns about what their obligations will be and their risk of prosecution through inadvertent actions or otherwise. There are also some risks in relation to costs, and I will get to that. This matter of contention gives us reason to refer the bill to a committee for further consideration. Such a committee might seek further input on the bill from a much broader range of people and groups and could assess it with a much more incisive view of specific clauses and the impact they might have.

The third point I would like to raise is what I suggest is an insufficient regulatory impact statement. As members know, I asked a question on this matter in Parliament yesterday. I must say that the answer was insufficient.

Hon Stephen Dawson: With the greatest respect, honourable member, the answer was the answer.

Hon NEIL THOMSON: The answer was the answer; however, my view is that it was insufficient. The answer gave the perception that there might be a regulatory impact statement in the public domain. I do not know whether I am not looking properly, but as far as I can see, there is no regulatory impact statement entitled "Aboriginal Cultural Heritage Bill 2021". The answer stated that somehow this regulatory impact statement was made public in August 2021. The bill was not even presented until the last few days; it was only recently presented. We see there is a great process for regulatory impact statements. Why am I focusing on this issue? It is because if an independent regulatory impact assessment were undertaken by Treasury or the line agency and then reviewed by the Better Regulation Unit, it could actually objectively assess the effects on our economy. It could objectively weigh up the costs and benefits of the said legislation or regulatory controls. It is very difficult to weigh intangible benefits, but we should at least know the costs. My back-of-the-envelope calculation is that this could cost in the order of $100 million a year in direct regulatory costs, approval costs, licence costs and application fees—the costs to get things done and go through the process—once each of the local Aboriginal cultural heritage services is in operation. They will need to operate within the constraints of their budgets and will fund themselves through application fees. It might be $300 million or $500 million a year.

We do not know, because nobody on the other side appears to have spent the time to assess it. Who knows the impact it will have on proponents who are required to undertake due diligence and, even in cases in which due diligence is undertaken, they could get a permit and still find themselves exposed to this law. In itself, that will mean a boon for consultants. I am clearly in the wrong business now but it is going to be a boon for consultants. We are going to see a significant industry created around this process. We know how it will work. People will outsource

consultants. It will be fine for the large mining companies that have consultants all lined up to go through the process and tick the boxes to make sure everyone is happy, but will it be effective and will it improve outcomes for Aboriginal people? There is a lot of cynicism in the Aboriginal community about it. We have seen how this process will work. Members of the advocacy and environmental movements will potentially use this legislation as some form of weaponisation, which I think is a real risk. The structure and design of the regulations should be very thoughtfully considered. I have seen it firsthand, particularly with the embedding of both environmental and cultural values into legislation. It does not appear that the government has gone through this process, which will have such a significant impact, and undertaken a regulatory impact statement.

The next associate point I would like to raise is red tape. Without repeating myself, there could potentially be an incredible increase in red tape. I will refer to another document that was provided—a table. It is available, but I will present everything I have here for the sake of *Hansard*. There is going to be a multi-tiered approach to land use approvals under the Aboriginal Cultural Heritage Bill. There are categories of exempt activities, including small-scale residential, emergency services and recreational activities, for example, that do not require approvals. Tier 1 activities are identified as activities that will be specified in the regulations, so what those activities will be has not been specified. We need a degree of faith to take on this bill, at least for this place to vote on it. Tier 1 activities are defined as activities with minimal ground disturbance. There seems to be an absolute fixation on ground disturbance. I am not quite sure why that is, given the intangible and complex nature of Aboriginal culture expressed by Aboriginal people. Why is there an absolute fixation on ground disturbance alone and the impact it might have, especially with minimal ground disturbance activities? Tier 1 activities will not require approval but will require proponents to take all reasonable steps possible to avoid or minimise the risk of harm. Tier 2 activities will cause the most problems under this bill. The large end of town—the Rio Tintos and BHPs of this world—have considerable resources at their disposal, legally, archaeologically, in consultation and in joining with Aboriginal people in their discussions about both native title and cultural heritage. They have considerable resources and they can deal with the transaction costs that will be required to engage with these laws when they come to fruition.

The tier 2 activities will be specified, again, in regulations. We do not know whether they will be in respect of building a farm dam, making a track, digging a foundation or extracting a tree from an orchard. Maybe exemptions will apply to already disturbed land or maybe an exemption will apply just through the regulations. We do not know. We can possibly take that on faith. My concern is that once we set this architecture in place, with its raft of consultants all sitting behind those LACH groups, we will see something of an industry built up, which will create something of a potential problem, particularly for those who might inadvertently do something to harm Aboriginal people in some way. Again, this is about transparency of information. The history of the government in providing information to the public is extremely poor. In my experience as assistant director general of the Department of Planning, Lands and Heritage and as the secretary of the Western Australian Planning Commission, there is difficulty in providing information on public geographic information systems, and there has been significant work done over the years.

Tier 2 activities will be specified in regulations but are defined in the bill as low-level ground disturbance activities. If we go to the DPLH information sheet, we see that there is not much information about what those activities are, but there is a symbol of a spade. According to the information provided by the department, if Aboriginal cultural heritage is present, the activity will require an Aboriginal cultural heritage permit. The bill will require proponents to take all reasonable steps possible to avoid or minimise the risk of harm to ACH. There will be a discussion around some of the due diligence obligations that will be upon people who are probably completely unqualified and ill-equipped to undertake that due diligence. I think that this part of the bill poses the greatest problem. This part of the bill is where our community is running blind, as it has such little information, and where the government has failed in its consultation. This issue could be corrected, to some degree, by referral of the bill to a committee for proper consideration. The committee could make recommendations to guide the drafters of the regulations so that we end up with a workable bill that will not result in punitive outcomes for unwitting members of our community. I think that this is a significant issue that should be considered.

Tier 3 activities will be specified in regulations. As I said, the industry at the big end of town does the moderate to high–level ground disturbance activities. The proponent and an Aboriginal party can reach agreement with the Aboriginal Cultural Heritage Council, which approves an ACH management plan. As well-equipped as these groups are to undertake this transaction—they can prepare the documents, engage the consultants and ensure that there is compliance—this is in fact the area in which Aboriginal groups like the Kimberley Land Council would like to see a greater say among Aboriginal people and a greater power of control over the process than what is currently presented here today.

Although I do not necessarily have a view on that specifically, it is a worthy reason to refer this to the Standing Committee on Legislation for further consideration. If someone falls foul of the law for tier 3 activities, which involve a higher level of activity, it can probably be more easily addressed by those people who are equipped to deal with such things as compensation, negotiations and legal ramifications. It may be those unwitting parties, who are probably at the smaller end of town, who have the lowest risk of doing harm. The government has an obligation to consider that matter with due concern and diligence. I raise the lack of transparency and the red tape this bill will impose, and the effect it will have on our economy. Will it cost a billion dollars a year? Will it result in significant delays

in some of the most basic and simple applications? We do not know. Will it create a degree of confusion? I think there will be confusion around the transition requirements once this bill is proclaimed. I understand that a prescribed body corporate is not obliged to be a local Aboriginal cultural heritage service. The answer provided by the department in this discussion was less than satisfactory, because if there is some confusion about who will apply for a permit and there is no process to apply for a permit, who will be liable for any harm that might be caused? How will this be managed? What will happen in the simple act of someone undertaking a tier 2 activity in the situation that a LACH service does not apply? Maybe the minister can provide an answer to that in his response.

My fifth point relates to compliance, which is a massive issue. The flip side to compliance is enforcement. This bill contains some significant enforcement powers. For example, once it is established, the inspectorate will be able to enter premises. The history of governments generally in managing inspectors, not only this government but across the board, has been poor. We have seen that in the area of safety. This bill will effectively outsource inspectors with significant powers—powers to stop cars, to check things and to open things. I would like to discuss this in further detail, but, noting the time, I will not go into the clauses of the bill. However, clauses 238 to 245 certainly provide some incredible powers. A regulatory impact statement would have dealt with what is lacking in this bill, such as how it will deal with enforcement. The bill will give someone the power to stop and search and to initiate prosecution, yet in this situation, rather strangely, there is a lack of impartiality in that aspect because the outcome of a prosecution resulting in a fine will be that the funds end up in a trust account disbursed to the people who are, effectively, undertaking these prosecutions.

When we look at the principles in the Doha Declaration, which is an international declaration of enforcement bodies, we see that there are three simple principles. I am not sure that this government has gone through and run the ruler over this and looked at these three principles. They are necessity, proportionality and proportion. That bothers me greatly, again, for those unwitting persons who might find themselves at the coalface of some sort of prosecution in which a less than impartial decision might be made. I am not saying this of all potential LACHS. In my experience, I know many prescribed bodies corporate that will want to work cooperatively, but when there are 70-odd, there is the possibility that some will not. At the Committee of the Whole stage, I will have many questions about the accountability of these bodies, whether it be through the Ombudsman, the Corruption and Crime Commission or others, when some partiality might be applied and, again, there is some risk of unwitting persons finding themselves at the wrong end of this. I add three other principles that should be considered—privacy, oversight and impartiality. The lack of separation of roles, the identification of potential noncompliance, the investigation, the prosecution, and the issue of the receipt of benefits from fines I think pose some significant risk to this new regulatory regime that will be established.

Noting the time, I will not go into further major discussion on that, because this is very complex. As I said at the outset, I appreciate the complexity and I sympathise significantly with the minister. I think it is—I am trying to think of a term that is not unparliamentary—perhaps people can say a sandwich. We will not go into that in detail, but it is a difficult job.

Hon Stephen Dawson: Given there are many starving people in the world, I think many people would love to have a sandwich to eat.

Hon NEIL THOMSON: That is right. The government has a very difficult job. I acknowledge the government for the work it has done in presenting this bill, but I will not use unparliamentary language in the description of this particular sandwich. I understand the significant amount of work that has to be undertaken. The structure of the body that is going to be involved in that regulation-making process needs some consideration. The breadth of it is problematic and I hope that the breadth of input will be significant, because there is an issue about the transitional arrangements that will need to apply once the bill takes effect.

In wrapping up, I say that we do not like to be where we are at with this bill at this time. I would have appreciated a much lengthier opportunity of several months for detailed consideration of the final bill that has come before this place and a much wider consultation with all those impacted, including those who are not supported by a well-funded advocacy body. I think that is a symptom of this government's single-minded focus on those groups, one could say, that might have put some accelerant onto this issue. I am obviously referring to the thing that everybody talks about—the incident at Juukan Gorge. This is not just about Juukan Gorge; this is about landowners with 1 200 square metres, of which, in the metropolitan region and peri-urban area alone, there are something like 50 000.

I do not think those 50 000 people have any idea of what is coming their way, and, quite frankly, I do not either. We are not yet privy to the regulations, so we do not know how the legislation will impact on people or what their obligations will be. I am not even sure the middle managers who will make those decisions know. I hope the minister will bring some clarity to how those underpaid and overworked persons who operate within our public service undertaking a number of activities for the good of our state will be impacted. I hope they will not be. I hope that it will go to the top if there is any breach. We have, effectively, been asked to take on trust this whole issue and come to this place and vote on the matter. Really, it is on the government's head.

It may seem harsh—it is not my intention to be so—but this bill has been shoved through this Parliament in an unseemly way to this point. My concern is the reason for that is that the government does not want ongoing criticism.

We have seen protesters on the steps of Parliament House. I am sure the colourful and even articulate protests will continue. The last thing the government wants is for those protests to gain any kind of momentum and for a wider coalition of people, both Aboriginal and non-Aboriginal, to somehow join together in their concern about the structure of this bill. I think the bill suffers from a deficiency of bureaucracy and design. The legislation is probably good on paper, or as a whiteboard diagram, but it will be quite a complex law that will potentially have a negative impact and not achieve the outcomes that we hope it will achieve—that is, that we never again see another Juukan Gorge incident. We have had a lot of discussions about that and I have made some points about the dismantling of the former Department of Aboriginal Affairs. I will end on this point. Although I think that department and the act had some serious deficiencies, I must say, overall the rolling of Aboriginal heritage into the Department of Planning, Lands and Heritage has had very negative outcomes. I know firsthand from persons involved in the heritage area, particularly a number of Aboriginal employees —

The DEPUTY PRESIDENT: Order, member. I am sorry to interrupt your speech at this point, but I understand that you indicated during the course of your contribution to the debate that you would do two things. One is that you would move a motion to refer this bill. You also indicated on a number of occasions your intention to table a number of documents. You will lose the opportunity to do so if you do not seek leave. If you do seek leave, I ask that you give consideration to Hon Kyle McGinn's request so that he does not have to rise under standing order 59 at the end of your contribution.

Hon NEIL THOMSON: Thank you, Deputy President. I seek leave at this point to move a motion without notice —

The DEPUTY PRESIDENT: Member, I interrupted your contribution because you indicated that you wanted to seek leave to table a number of documents. I ask that if you are going to do that, you also give consideration to Hon Kyle McGinn's request.

Hon NEIL THOMSON: Just so that I am clear on the procedure here, if I seek leave, I can do that, and then I will move the motion.

The DEPUTY PRESIDENT: Then you will have 29 seconds to move a motion, yes.

Hon NEIL THOMSON: I seek leave at this point to table a number of documents for Hon Kyle McGinn.

[Leave granted. See paper 977.]

Discharge of Order and Referral to Standing Committee on Legislation — Motion

HON NEIL THOMSON (Mining and Pastoral) [4.29 pm] — without notice: I move —

> That the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021 be discharged and referred to the Standing Committee on Legislation for consideration and report by 7 April 2022.

Division

Question put and a division taken with the following result —

Ayes (9)

Hon Martin Aldridge	Hon Dr Brad Pettitt	Hon Wilson Tucker
Hon Peter Collier	Hon Tjorn Sibma	Hon Dr Brian Walker
Hon Donna Faragher	Hon Neil Thomson	Hon Colin de Grussa *(Teller)*

Noes (18)

Hon Klara Andric	Hon Sue Ellery	Hon Kyle McGinn	Hon Dr Sally Talbot
Hon Dan Caddy	Hon Peter Foster	Hon Shelley Payne	Hon Darren West
Hon Sandra Carr	Hon Lorna Harper	Hon Stephen Pratt	Hon Pierre Yang *(Teller)*
Hon Stephen Dawson	Hon Alannah MacTiernan	Hon Martin Pritchard	
Hon Kate Doust	Hon Ayor Makur Chuot	Hon Matthew Swinbourn	

Pairs

Hon Nick Goiran	Hon Samantha Rowe
Hon Dr Steve Thomas	Hon Jackie Jarvis
Hon Steve Martin	Hon Rosie Sahanna

Question thus negatived.

Second Reading Resumed — Cognate Debate

Debate interrupted, pursuant to standing orders.

[Continued on page 6237.]

QUESTIONS WITHOUT NOTICE

NATIVE FOREST — LOGGING — INDICATIVE VOLUMES

1117. Hon Dr STEVE THOMAS to the minister representing the Minister for Forestry:

I refer to the government's announcement of 8 September 2021 on ending most native timber harvesting in Western Australia, and to the government's reported commitment to release the indicative levels of timber that will be available from clearing for bauxite production and from ecological thinning designed to improve forest health under the *Forest management plan 2024–2033*.

(1) Will these figures be released before the end of this year?

(2) If no to (1), why not?

(3) What level of sawlogs will be available annually from 2024 from clearing for mining, including bauxite production, under the new plan?

(4) What level of sawlogs will be available annually from 2024 from clearing to improve forest health, including ecological thinning, under the new plan?

(5) When will the timber industry be informed about what level of resource will be made available so that it can make genuine business decisions?

Hon ALANNAH MacTIERNAN replied:

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

(1)–(5) The state government intends to provide indicative volumes of the timber that will be made available from mine site clearing and ecological thinning for forest health under the next forest management plan before the end of the year. The indicative volumes are illustrative only, with the final volumes post-2024 being published as part of the *Forest management plan 2024–2033*.

SPORT CLUB CANTEENS — FUNDING — HEALTHY OPTIONS

1118. Hon Dr STEVE THOMAS to the minister representing the Minister for Health:

I refer to the media statement released by the Minister for Health yesterday titled "Funding helps increase healthy options at WA sport clubs", which includes several references to increasing healthy food and drink options.

(1) What defines healthy food and drink options at sporting clubs, and will the minister table a list outlining these products?

(2) What defines unhealthy food and drink options at sporting clubs, and will the minister table a list outlining these products?

(3) Will unhealthy products still be allowed to be sold at sports clubs that are recipients of this funding?

(4) Are there any products that sporting clubs must stop selling in order to receive this funding grant?

Hon STEPHEN DAWSON replied:

I thank the honourable Leader of the Opposition for some notice of the question.

(1) Healthy food and drink options are defined in accordance with the WA School Canteen Association's Fuel to Go & Play traffic light system for rating foods as green and/or amber, based on their nutritional value. No product list is available. Products are defined through the individual assessment of each club canteen menu.

(2) Unhealthy food and drink options are defined in accordance with the WA School Canteen Association's Fuel to Go & Play traffic light system to rate foods as red, based on their nutritional value. No product list is available. Products are defined through the individual assessment of each club canteen menu.

(3) Yes.

(4) No.

GOLD CORPORATION — 2021–22 STATE BUDGET

1119. Hon COLIN de GRUSSA to the minister representing the Minister for Mines and Petroleum:

I refer to *The Australian Financial Review* article today titled "Perth Mint's Hayes leaves after blowout", which references a $100 million blowout of costs to the enterprise resource planning project.

(1) Since the Legislative Assembly estimates with the Gold Corporation on 23 September 2021, has the minister investigated the issue of the cost of the ERP project and the subsequent One Future program; and, if yes, what investigation has taken place; and, if no, will the minister immediately initiate an investigation?

(2) If the minister will not immediately initiate an investigation, why not?

(3) Have there been any allegations of bullying lodged against the former CEO Mr Hayes?

(4) Is the $100 million blowout figure accurate; and, if not, what is the actual cost blowout?

(5) Can the minister confirm whether the ERP project or the One Future program are fully operational, partially operational or not operational?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided by the Minister for Mines and Petroleum.

(1)–(2) The project is complete.

(3) No bullying complaints against Mr Hayes during his time as CEO have been lodged with the Gold Corporation.

(4) No, that figure is not accurate. The scope and budget of the project have been adjusted over time, and the project was completed within its board-approved budget.

(5) It is fully operational, in a staged manner.

JOBS, TOURISM, SCIENCE AND INNOVATION — CREDIT CARD USE

1120. Hon TJORN SIBMA to the minister representing the Minister for State Development, Jobs and Trade:

I refer to the *Annual report 2020–21* of the Department of Jobs, Tourism, Science and Innovation and the unauthorised credit card use referred to on pages 131 and 132.

(1) What system or systems used by DJTSI allowed for the detection of this corporate credit card misuse?

(2) What average period of time elapsed between the alleged misuse of the credit card and the detection of that activity?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for State Development, Jobs and Trade has provided the following information.

I have been advised that further time is required to answer this question. The information will be provided to the member by 9 December 2021.

CRIMINAL LAW (UNLAWFUL CONSORTING AND PROHIBITED INSIGNIA) BILL 2021

1121. Hon NICK GOIRAN to the minister representing the Minister for Police:

I refer to notice given on 7 December 2021 during the Committee of the Whole House's consideration of the Criminal Law (Unlawful Consorting and Prohibited Insignia) Bill 2021.

(1) What is the total number of declared drug traffickers recorded in the Western Australia Police Force's incident management system?

(2) What is the total number of section 557K(4) Criminal Code warnings issued by WA police to a child sex offender under the age of 18?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. I have an answer, but I am not happy with it, so I will take it away and perhaps provide the honourable member with an answer tomorrow, if that is available.

SCHOOLS OF THE AIR

1122. Hon DONNA FARAGHER to the Minister for Education and Training:

I refer to Schools of the Air and the services it provides to students. How many teacher home visits are Schools of the Air students currently entitled to receive throughout each school year?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. The answer is that there is no prescribed entitlement. If there was something in particular that the member was looking for, I would be happy to give her a briefing behind the chair or something like that.

CORONAVIRUS — VACCINATIONS — POLICE

1123. Hon PETER COLLIER to the minister representing the Minister for Police:

I refer the minister to questions without notice 926 and 937 asked on Wednesday, 10 November 2021.

(1) How many of the 316 police officers remain unvaccinated?

(2) How many of the officers referred to in (1) have indicated that they will remain unvaccinated and therefore leave the police force?

(3) How many of the 192 police staff remain unvaccinated?

(4) How many of the staff referred to in (3) have indicated that they will remain unvaccinated and therefore leave the Western Australia Police Force?

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 —

(1) There are 90.

(2) There are 25. The disciplinary process will determine the appropriate sanction, which may include cessation from the WA Police Force.

(3) There are 60.

(4) There are 17. The disciplinary process will determine the appropriate sanction, which may include cessation from the WA Police Force.

SCARBOROUGH LNG PROJECT

1124. Hon Dr BRAD PETTITT to the minister representing the Minister for Environment:

In May 2021, the International Energy Agency said that no new oil and gas fields can be developed if the world is to meet the goal of net zero emissions by 2050 and keep global warming to 1.5 degrees. In November 2021, following WA government approvals, the $16 billion plan by Woodside—described as Australia's biggest new fossil fuel investment in nearly a decade—was given the go-ahead.

(1) What are the expected total scope 1, scope 2, and scope 3 greenhouse gas emissions respectively of the entire Scarborough–Pluto project, including its associated and interlinked projects?

(2) Is the Scarborough–Pluto project expected to result in increases in WA's domestic emissions?

(a) If yes, by how much are WA's domestic emissions expected to increase —

(i) by 2030; and

(ii) over the lifetime of the project?

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; Climate Action. These questions are requested to be taken on notice to enable an accurate response to a detailed issue. Further, I suggest that the premise of the question in relation to the Scarborough–Pluto project is incorrect as the Scarborough offshore project is regulated outside the Western Australian jurisdiction.

ABORIGINAL CULTURAL HERITAGE BILL 2021

1125. Hon WILSON TUCKER to the Minister for Aboriginal Affairs:

(1) Has the government received feedback from stakeholders since the release of the final draft of the Aboriginal Cultural Heritage Bill 2021?

(2) If yes, can the minister please identify —

(a) how many pastoral, grazing and farming land use stakeholders have provided feedback on the final bill;

(b) how many mining, exploration and resource land use stakeholders have provided feedback on the final bill; and

(c) how many Aboriginal stakeholders have provided feedback on the final bill?

Hon STEPHEN DAWSON replied:

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

(1)–(2) The Department of the Premier and Cabinet has been engaging with stakeholders throughout the development and passage of the Aboriginal Cultural Heritage Bill 2021. A consultation draft of the bill has been available since September 2020, with a total of 176 submissions received from a wide range of stakeholders including Aboriginal organisations, industry, government, land users and heritage professionals. A table with a breakdown of the submissions received by stakeholder group is below. It lists the stakeholder group and the number of respondents. I seek leave to have the response incorporated into *Hansard*.

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

Stakeholder Group	Number of respondents
Aboriginal organisations	23
Associations	9
Government	13
Heritage professional	12
Individual persons/organisations	82

Industry	18
Pastoral/landowner	3
Prospector	16
TOTAL	**176**

Further, a table detailing the changes made to the bill since the release of the consultation draft has been available to the public on the WA government website since August 2021.

ELECTRICITY — FEES AND CHARGES

1126. Hon Dr BRIAN WALKER to the minister representing the Minister for Energy:

I refer the minister to the article in *The Sunday Times*, dated 5 December 2021, entitled "Electricity bills shock battlers", which detailed the $121 million owed in overdue power bills, up from $106 million in May, suggesting that this winter has been especially hard on struggling WA families. I note that power bills have gone up by an astonishing 130 per cent since 2008.

(1) Is the McGowan government still committed to annual power bill increases until at least 2024–25?

(2) If yes to (1), how does the government react to claims in the article that more than 1 000 Western Australians were forced to rely on hardship grants from charities to pay their electricity, gas and water bills in the past month alone?

(3) With Christmas fast approaching, what, if anything, is the government doing to make essential services more affordable for the average family?

Hon ALANNAH MacTIERNAN replied:

It is a lengthy question, and I have a lengthy answer here compiled from information provided by the Minister for Energy.

(1) The McGowan government is committed to continuing to keep power bills as low as possible. From 1 July 2021, the household basket of fees and charges rose by 1.6 per cent, below the projected consumer price index of 1.75 per cent in 2021–22. The McGowan government has delivered on its commitment to ensure increases to household electricity and water charges are capped at inflation across the forward estimates. This counters the 90 per cent increase over the two terms of the Barnett Liberal–National government, which had an average of 8.4 per cent each year.

(2) The McGowan government has significantly increased support available to families experiencing difficulty paying electricity bills, including through implementing new evidence-based approaches. For example, in 2020, in recognition of the impact of COVID, the government doubled the energy assistance payment, with a one-off boost of $305.25. This meant that, including the household electricity credit, a total of $1 210 was provided to assist around 300 000 households. It has also delivered several pilot programs: the $13 million household energy efficiency scheme, the $6 million smart energy for social housing program and Synergy's case management program with tailored access to dedicated financial counsellors. Other innovative improvements include the creation of a dedicated portal for financial counsellors to make it easier to assist clients with managing their Synergy bills. Those experiencing financial hardship can also access other assistance, including the hardship utility grant scheme and the account establishment fee rebate. In the first half of this year, HUGS alone has contributed more than $1 million towards the electricity bills of customers in hardship. Around 300 households a month receive a combined amount of about $200 000.

(3) The McGowan government acknowledges the additional stress at Christmas time and the holiday season. Any person experiencing financial hardship is encouraged to contact their electricity retailer directly for assistance.

CORONAVIRUS — MANDATORY VACCINATIONS — FIRE AND EMERGENCY SERVICES VOLUNTEERS

1127. Hon MARTIN ALDRIDGE to the Leader of the House representing the Minister for Emergency Services:

I refer to Legislative Council questions without notice 1105 of 7 December 2021 and 1081 of 2 December 2021, noting the minister's inability to advise how many Department of Fire and Emergency Services employees have been impacted by the Fire and Emergency Services Worker (Restrictions on Access) Direction (No 2) and also noting the state government has provided a response to the media on similar questions. I ask, for a third time —

(1) How many DFES employees are yet to present evidence of being vaccinated against COVID-19?

(2) How many DFES employees have been suspended, stood down or terminated as a result of noncompliance with the directions?

(3) How many DFES firefighters have been suspended, stood down, or terminated as a result of noncompliance with the directions?

(4) Are any DFES employees in contravention of these directions continuing to access a Fire and Emergency Services site?

Hon SUE ELLERY replied:

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

(1) Of the Department of Fire and Emergency Services workforce, 96.03 per cent have had at least one vaccination. There are 50 staff who have not provided vaccination evidence or proof of an exemption. This is across the entire workforce and includes firefighters and administrative and non-frontline personnel. Seventeen more staff are on leave. They will be required to provide evidence of their vaccination upon their return to work next year. This positive result from the DFES workforce demonstrates how committed they are to protecting the community and limiting the spread of COVID-19.

(2)–(3) Nil.

(4) No.

BANNED DRINKERS REGISTER TRIAL — GOLDFIELDS

1128. Hon NEIL THOMSON to the parliamentary secretary representing the Minister for Racing and Gaming:

I refer to the upcoming implementation of the banned drinkers register in the goldfields.

(1) Is a start date confirmed for the banned drinkers register trial to commence in the goldfields?

(2) If yes to (1), on what date and in what locations will it operate?

(3) (a) What is the expected total financial cost of the goldfields trial;

(b) what total and/or expected financial contribution will be made by local government to this trial; and

(c) what total and/or expected financial contribution will be made by licensed premises to this trial?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question. I note that this answer was correct on Wednesday, 1 December. This information has been provided to me by the Minister for Racing and Gaming.

(1)–(2) A date for the complete rollout of the goldfields' banned drinkers register is not yet confirmed; however, stakeholder engagement has commenced, with a soft launch planned for December 2021. This soft launch will focus on the northern goldfields.

(3) (a) The two-year trial is budgeted at $2.52 million.

(b)–(c) Nil.

SIR CHARLES GAIRDNER HOSPITAL — WATER CONTAMINATION

1129. Hon STEVE MARTIN to the minister representing the Minister for Health:

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

(1) Which wards have been impacted by the bacterial contamination?

(2) Have all patients who have been on those wards since the contamination was detected been tested for *Legionella* bacteria?

(3) Have autopsies been carried out on other patients who passed away during the contamination period and who stayed in these wards to verify whether they also contracted *Legionella pneumophila*; and —

(a) if not, why not; and

(b) if yes, what was the outcome of those autopsies?

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) Wards G73 and G63 have been impacted.

(2) No.

(3) (a) In accordance with the North Metropolitan Health Service's Sir Charles Gairdner Osborne Park Health Care Group policy, all reportable deaths are reported to the coroner's office. The decision to undertake an autopsy is made by the coroner and the NMHS does not have access to the post-mortem reports.

(b) Not applicable.

All health service providers are expected to have a robust and current water management plan in place as part of their infection control program. As *Legionella* bacterium is commonly found in the environment, Australian Standards require routine water testing and management, including decontamination procedures, to be regularly undertaken in all buildings. The director general of Health has sought assurance from all HSPs that they have the appropriate water management plans in place, as per the relevant Australian Standard.

NATIVE FOREST — LOGGING — PROCESSORS

1130. Hon Dr STEVE THOMAS to the minister representing the Minister for Forestry:

I refer to the government's announcement of 8 September 2021 on the ending of most native timber harvesting in Western Australia and to the commitment the government made to the industry that contracted timber supply levels to processors would be honoured for the entire 2021–22 financial year.

(1) Can the minister confirm that processors have been receiving correspondence breaching that commitment?

(2) Can processors have faith in the government that their supposedly guaranteed volumes under their 2021–22 contracts will be supplied?

(3) If no to (2), why not?

(4) When will the proposed volumes to be made available under the government's new plan be made public?

Hon ALANNAH MacTIERNAN replied:

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

(1) No.

(2)–(3) With the exception of one contract, all processors receive volume over the calendar year.

(4) The available volumes post-2024 will be published as part of the next forest management plan 2024–2033.

PORT HEDLAND VOLUNTARY BUYBACK SCHEME

1131. Hon COLIN de GRUSSA to the Leader of the House representing the Minister for Ports:

I refer to the Port Hedland voluntary buyback scheme.

(1) As of 7 December 2021, how many properties have now —

(a) accepted offers through the Hedland Maritime Initiative; and

(b) settled offers through the Hedland Maritime Initiative?

(2) Of those properties in (1), how many were purchased by the former owners in 2016 or more recently?

(3) Of those properties in (1), how many were mortgagee in possession?

(4) Is the Hedland Maritime Initiative monitoring whether properties in the scheme are being bought back above or below their 2016 value ?

(5) Can landowners in the Port Hedland West End Improvement Scheme No 1 catchment area claim compensation for injurious affection; and, if yes, how many landowners have made such a claim?

Hon SUE ELLERY replied:

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

The information requested is not available in the time provided. An answer will be provided by 14 December 2021.

HEALTHCARE-ASSOCIATED INFECTIONS

1132. Hon TJORN SIBMA to the minister representing the Minister for Health:

I refer to healthcare-associated infections.

How many cases of healthcare-associated infections have been recorded across Western Australian hospitals for the three completed quarters of 2021?

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 Health.

For the reporting period 1 January 2021 to 30 September 2021, 385 healthcare-associated infections were reported by the Healthcare Infection Surveillance of Western Australia program.

CHILDREN IN CARE — WHEREABOUTS UNKNOWN

1133. Hon NICK GOIRAN to the parliamentary secretary representing the Minister for Child Protection:

I refer to the parliamentary secretary's answer to question without notice 1098 asked on 7 December 2021 in which he informed the house that one child had been found and that two other children in care were recorded in a placement type "unknown" and not in regular contact with their caseworker.

(1) On what date was the child found, whose whereabouts as of 11 November 2021 had been recorded as unknown for 259 days?

(2) How long have the two children in the care of the CEO had their placement type recorded as "unknown"?

(3) Has either child been placed on the Australian missing persons register?

Hon KYLE McGINN replied:

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

(1) The child was found on 17 November 2021.

(2) As of 8 December 2021, one child has been recorded in a placement type "unknown" for 27 days and one child was recorded in a placement type "unknown" for nine days. This has since been updated on 2 December 2021 to "unendorsed placement".

(3) The child still recorded in a placement type "unknown" has been formally reported to the WA Police Force as missing.

CHILD SAFETY WORKING GROUP

1134. Hon DONNA FARAGHER to the Minister for Education and Training:

I refer to the answer given to question without notice 1047 provided on 30 November 2021 that stated that the working group between the Departments of Education and Communities and the WA Police Force to review and improve interactions and information sharing between the agencies in relation to child safety matters in WA was led by the education department and had met on multiple occasions.

(1) Has the working group completed this review?

(2) If yes to (1), will the minister table a copy of the review outcomes?

(3) If no to (1), when is the review expected to be completed?

Hon SUE ELLERY replied:

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

(1)–(3) The review is ongoing and is expected to be completed in the first half of 2022.

POLICE — G2G PASS APPLICATIONS

1135. Hon PETER COLLIER to the minister representing the Minister for Police:

I refer to the government's G2G PASS system.

(1) How many G2G PASS permits have been requested since 1 January 2021?

(2) How many G2G PASS permits have been approved since 1 January 2021?

Hon STEPHEN DAWSON replied:

I thank the honourable member. I do not have that in my file.

Hon Peter Collier: It was redirected. I actually sent it to Aboriginal affairs, which was wrong, but it was redirected to the Minister for Police.

Hon STEPHEN DAWSON: Now that I think about it, because the member said "Aboriginal affairs", I did see it, but I have not seen an answer here, so we will track it down and give it to the member.

BIODIVERSITY CONSERVATION ACT — REVIEW

1136. Hon Dr BRAD PETTITT to the minister representing the Minister for Environment:

Section 277 of the Biodiversity Conservation Act 2016 states —

Review of Act

(1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after every 5th anniversary of the commencement of this section.

(1) When does the Minister for Environment propose to commence undertaking a review of the Biodiversity Conservation Act 2016; and, if the minister is unable to state a date, why not?

(2) Who will undertake the review of the act?

(3) When will the review of the act be completed and a report laid before each house of Parliament; and, if the minister is unable to state a date, why not?

Hon STEPHEN DAWSON replied:

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

(1)–(3) Section 277 of the Biodiversity Conservation Act 2016 requires the Minister for Environment to carry out a review of the operation and effectiveness of the act as soon as practicable after every fifth anniversary of the commencement of that section. As the commencement of some parts were dependent on the making of regulations, two commencement proclamations were made.

The provisions not already covered by the former Wildlife Conservation Act 1950 or the Sandalwood Act 1929 became operable on 3 December 2016. The remaining provisions of the act, other than part 9, did not commence until 1 January 2019, to coincide with the commencement of the Biodiversity Conservation Regulations 2018. At that time the Wildlife Conservation Act and the Sandalwood Act were repealed.

Given its staged commencement, carrying out a comprehensive review as soon as practicable after the five-year anniversary of the full commencement of the act—that is, after 1 January 2024—is considered the government's preferred approach. A review on all parts of the act is likely to deliver more useful recommendations on how the act is performing in its entirety and be of greater value to stakeholders and the Department of Biodiversity, Conservation and Attractions. This approach is also considered a better use of resources.

HORIZON POWER — DISCONNECTIONS

1137. Hon WILSON TUCKER to the minister representing the Minister for Energy:

Since 30 June 2021, how many Horizon Power customers have had their service disconnected due to non-payment? Please provide figures for each region within Horizon Power's network.

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided by the Minister for Energy. The table below shows the number of customers disconnected, by the Horizon Power service region, since 30 June 2021 to date. I seek leave to have the table incorporated into *Hansard*.

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

Service Region	**Disconnected Customers**
Kimberley	508
Pilbara	617
Gascoyne/Midwest	180
Goldfields/Esperance	156
Total:	1,461

I note that this includes residential and business disconnections for non-payment, and may include premises that are no longer occupied. More than 90 per cent of those have been reconnected.

WOOROLOO BUSHFIRE — REVIEW

1138. Hon MARTIN ALDRIDGE to the Leader of the House representing the Minister for Emergency Services:

I refer to the state government–initiated Australasian Fire and Emergency Service Authorities Council inquiry into the Wooroloo bushfire and I note that the report was due for completion by 30 October 2021.

(1) Has the government received the report of the reviewers?

(2) If yes, will the minister please table the report?

Hon SUE ELLERY replied:

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

(1) No, the AFAC independent operational review of the Wooroloo bushfire of February 2021 has not been formally presented to government.

(2) Not applicable.

QUESTION ON NOTICE 333

Paper Tabled

A paper relating to an answer to question on notice 333 was tabled by **Hon Stephen Dawson (Minister for Mental Health)**.

POLICE — G2G PASS APPLICATIONS

Question without Notice 1135 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Mental Health) [5.02 pm]: Earlier today Hon Peter Collier asked a question of me as minister representing the Minister for Police on the G2G PASS system. I provide the answer now.

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

The Western Australia Police Force advises —

(1) The number of G2G permits requested since 1 January is 1 437 596.

(2) The number of G2G permits approved since 1 January is 1 173 520.

I note that the G2G PASS system numbers include test application data. In addition, an individual may make multiple applications for entry to Western Australia on a G2G PASS and many persons who make application do not travel to Western Australia for various reasons. Individuals may also enter Western Australia on more than one occasion on the same G2G PASS approval, such as "freight", and multiple people—for example, accompanied children—may be on the same approval.

ABORIGINAL CULTURAL HERITAGE BILL 2021
ABORIGINAL CULTURAL HERITAGE AMENDMENT BILL 2021

Second Reading — Cognate Debate

Resumed from an earlier stage of the sitting.

HON DR BRAD PETTITT (South Metropolitan) [5.03 pm]: I rise on behalf of the Greens to indicate that we will not be supporting the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021. I say that with disappointment. Undoubtedly, we recognise the importance of protecting Aboriginal cultural heritage, but it is with frustration and sadness that we say, in our view, the legislation fails to do that. I think we all agree that legislation of this type is necessary, but, unfortunately, these bills will not do what is necessary to prevent another Juukan Gorge disaster from happening.

I have spent the last few months listening to traditional owners, knowledge holders and land councils across Western Australia, including representatives from the Kimberley, the Pilbara, the goldfields, the wheatbelt, the south west regions and metropolitan Perth. I have spoken with cultural heritage experts and lawyers. Unfortunately, their message is clear: they do not support the bill in its current form and have been disappointed and let down by the consultation process and the final bills that are before us today. We had a real opportunity to make changes with this bill, and I am worried that this opportunity has been lost.

I am aware of only one Aboriginal organisation in WA that has come out publicly in support of the bills. Although I respect its decision and reasons for doing so, I want to share with the chamber the countless others that have reached out to me to share their devastation and disappointment with these bills. I want to share the voices of the community that have said to us time and again that they feel that the McGowan government has not listened to the voices and is instead ramming this legislation through as quickly as possible. Of course, the reality is that we in this Parliament cannot do much to stop that, with our limited checks and balances, but we can make sure that those voices are heard and recorded in this place.

Let me start with a letter that I received in September from a delegation of elders across WA, including Slim Parker, a Banjima elder; Clayton Lewis, a Nanda Widi elder; Dr Anne Poelina, a Warrwa elder; and Kado Muir, a Ngalia cultural leader. They wrote —

> There is a broad agreement from Indigenous groups, cultural heritage experts and legal experts that the Bill contains no greater protections than the AHA —

The Aboriginal Heritage Act 1972 —

> and may in fact contain less.

Last month, in an open letter to the Premier, a large number of academics, religious leaders, artists, cultural heritage experts and lawyers urged the government to withdraw the bills. I would like to read that letter in full. I note that Hon Neil Thomson also referred to this letter. It states —

> **Dear Premier Mark McGowan**
>
> Open letter—Opposition to the Aboriginal Cultural Heritage Bill
>
> We bring to your urgent attention widespread Aboriginal opposition to the Government's proposed *Aboriginal Cultural Heritage Bill*, 2021 and notify you of its serious breaches of Australia's international human rights commitments.
>
> We do not believe that the Bill will 'recognise, protect and preserve Aboriginal cultural heritage'. The Bill does not allow for Aboriginal people to ensure heritage and site protection—without the agreement of the proponent and/or the Minister for Aboriginal Affairs.
>
> Aboriginal people have repeatedly requested improved legal protection of heritage sites, but the Bill is weighted against Indigenous custodians in all processes involving heritage applications to conduct activities that disturb or destroy areas of cultural heritage.
>
> We consider that the Bill breaches our commitments under the United Nations *Declaration of the Rights of Indigenous Peoples*. It fails to meet the protection of the rights that Indigenous Peoples have under the

> UNDRIP to access and enjoy their cultural heritage. It is also incompatible with Australia's obligations under the *Convention on the Elimination of All Forms of Racial Discrimination* and is now the subject of an *Early Warning and Urgent Action* before the UN Committee for the Elimination of Racial Discrimination for their review of the Bill.
>
> We draw your attention to the Senate Inquiry *A Way Forward* report into the destruction of Juukan Gorge which called on the WA Government to improve heritage protections to a standard appropriate to the national and global value it holds.
>
> Respectfully, we request you to withdraw the Bill and ensure the law is co-designed with Aboriginal people to respect human rights and ensure a 'best practice' system to protect Aboriginal cultural heritage in our state.
>
> **Yours faithfully**

Those members who saw this letter would know that it lists an extraordinary number of people. I will start to read the names; I am not sure I will get to the end. It includes Slim Parker, Banjima Native Title Aboriginal Corporation; Hannah McGlade, UN Permanent Forum for Indigenous Issues; Anthony Watson, Kimberley Land Council; Kado Muir, National Native Title Council; Clayton Lewis, Aboriginal Heritage Action Alliance; Brendon Moore, South West Aboriginal Land Council; Tyronne Garstone, Kimberley Land Council; Kay Goldsworthy, AO, Anglican Archbishop of Perth; Emeritus Professor Carmen Lawrence, Conservation Council of WA; Professor Fiona Stanley, AC, Telethon Kids Institute; Sam Walsh, AO, Banjima Native Title Aboriginal Corporation; Professor Megan Davis, UN Expert Mechanism on Rights of Indigenous People; Janet Holmes à Court, AC, HonFAHA, HonFAIB; Professor Bill Hare, Climate Analytics; Greg McIntyre, SC, Law Council of Australia; Professor Marcia Langton, AO, University of Melbourne; Ronald Lameman, International Indian Treaty Council; Professor Stephen van Leeuwen, Biodiversity and Environmental Science, Curtin University; Adjunct Professor James Fitzgerald, Australasian Council for Corporate Responsibility; Dr Anne Poelina, Martuwarra Fitzroy River Council; Professor Peter Veth, Head of Archaeology Discipline, University of Western Australia; Tony McAvoy, SC; Father Frank Brennan, SJ, AO, University of Melbourne; Hon Robin Chapple; Dennis Eggington, Aboriginal Legal Service WA; Ernie Dingo, AM; and Jamie Lowe, National Native Title Council.

That list is very long. That was just the names in big text. There are a lot of other names here. I am very tempted to read them all in, but I realise that I may use up some of my precious time in doing so. The hundreds of others who sit below the names I have just read include Melissa Parke, chair of the Western Australian Museum Boola Bardip, and elders like Uncle Ben Taylor and Aunty Mingli. There are so many people here whose voices need to be heard and acknowledged. It is of great sadness and disappointment to me that we have such an overwhelming list of people of great stature in our community—so many that I do not dare read them all out—and, as I indicated before, only one group of Aboriginal people who have publicly come out in support of this bill.

We have to say: how did we get to this point? This is a once-in-a-40-year opportunity to get this bill right. What is common to everyone who is involved in this process is a sense that this has been rushed through. The government has not taken with it the very community that it should have taken with it on this journey.

It is extremely frustrating. My federal Greens colleague Dorinda Cox wrote an opinion piece in *The West Australian* of Tuesday, 30 November 2021. I want to quote from that. It says —

> … The current 1972 Act has been stripping the rights of First Nations people for nearly half a century—and longer, let's be honest.
>
> We saw that play out with the destruction of the 46,000 year old Juukan Gorge.
>
> To their credit, this Government has been the one to end the appalling 1972 Act.

This is very important. We all agree that the 1972 act needs to be changed. Dorinda Cox goes on to say —

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

The Yamatji Marlpa Aboriginal Corporation presented the Premier with an open letter from their co-chairpersons, Mr Peter Windie and Mrs Natalie Parker, on 19 November. I want to quote part of this letter also. They said —

> This isn't about politics for us, this is about us protecting our cultural heritage.
>
> While you may want to leave a legacy by being able to claim you got the bill through Parliament; the legacy we want to leave behind is ensuring our sites of significance, our cultural heritage, our spiritual connection to Country, is protected for our future generations. You can replace an act, but we can't replace our cultural heritage.

A Kimberley Land Council media statement said —

> The Kimberley Land Council has warned of a 'cultural catastrophe' as the WA Government push forward with its heritage bill after repeated calls for change remain ignored.

KLC CEO Tyronne Garstone said in the media release —

> … by ignoring our concerns the McGowan Government has treated Aboriginal people beneath contempt.
>
> "Fundamentally, this Bill will not protect Aboriginal cultural heritage and will continue a pattern of systematic structural racial discrimination against Aboriginal people."

KLC chair Anthony Watson stated —

> "Aboriginal people are 'included' in the process, only to be left without any influence over the outcome," …
>
> "The Aboriginal Cultural Heritage Bill 2021 is whitewashing. Aboriginal concerns about Aboriginal heritage have been ignored.
>
> "Once again, decisions about heritage will be made by non-Aboriginal people."
>
> "This legislation was supposed to be a reform. We cannot see how it improves protection of sites that cannot be replaced."

I also received a letter at the beginning of this month from the Western Australian chapter of the Australian Association of Consulting Archaeologists Inc. I understand it has written to my fellow MPs in this place as well. The chair Jo Thomson wrote —

> The ACHB 2021, in its current form, will not adequately protect Aboriginal heritage, nor will it incorporate a meaningful Aboriginal voice in the process. … The ACHB 2021 will thus fail to address the root causes of the Juukan Gorge disaster and will not prevent it from happening again.

I would also like to note the recent submission to the United Nations Committee on the Elimination of Racial Discrimination made by Slim Parker, Kado Muir, Dr Anne Poelina, Clayton Lewis and Dr Hannah McGlade, with the assistance of the Environmental Defenders Office, requesting a review of the draft Aboriginal Cultural Heritage Bill 2020. It was the 2020 draft because, of course, the 2021 draft was not made available to any of these groups. I think that is part of the outrage about this. What kind of process do we have when a bill goes to Parliament and the very people who are meant to have been part of its co-design did not even get to see it? The two key issues that were raised in this submission remain with the 2021 bill; namely, the traditional owners will ultimately be unable to say no to activities that will destroy significant cultural heritage and the minister administering the proposed legislation is the final decision-maker when there is a dispute between traditional owners and the proponent of an activity proposing to harm Aboriginal cultural heritage.

The McGowan government has chosen to ignore repeated calls from the community to slow down and listen to and address the concerns of the community before introducing this bill to WA Parliament. Along with the voices I have shared above, it is also important to note that former Rio Tinto boss Sam Walsh has publicly backed calls to rework the proposed heritage laws, saying "white people don't really get" sacred Indigenous sites and revealed plans to lobby the WA government for a conscience vote. It is sad that that conscience vote will not happen today, because I think that would be a small step in the right direction. Furthermore, a coalition of international institutional investors representing $461 billion in assets under management also called on the WA government to delay the passing of the Aboriginal Cultural Heritage Bill and to partner with Indigenous people to co-design a new version of the legislation. Mary Delahunty, the head of impact at HESTA superannuation fund, said the proposed new law would not do enough to stop another incident such as Juukan Gorge. She said —

> "They had such a great chance to make a real difference and make sure that a disaster like Juukan Gorge never happened again and we don't think this bill does that," …

I understand that Australia ICOMOS—the International Council on Monuments and Sites—also wrote to the Premier earlier this month with an urgent request for the government to withdraw the Aboriginal Cultural Heritage Bill. It is an extraordinary list of groups and individuals who are all demonstrating their strong opposition to the bill, and one that I am proud to get up today to give voice to in this Parliament.

What are the issues with this bill? The first, of course, is the overreach of ministerial powers. Despite being told in my briefings that this is better legislation because Aboriginal people will be empowered to determine what Aboriginal cultural heritage will be protected, this bill will nevertheless allow the minister to have the final say on matters of Aboriginal cultural heritage. Although the minister keeps saying that he will use his power sparingly, and I believe that—I respect this minister and I think he would do so—this legislation is not about this minister, who is a good minister; this legislation is about future ministers. We design legislation not just for this government, but for all future governments and ministers. This reminds me very much of what we no longer do in another area. Giving the minister all the power to decide is something that we got rid of in planning a long time ago. The planning minister used to be able to make decisions on planning matters. I am talking about built-environment development applications, for buildings and the like. Having a minister decide that is not right. That power gets misused. We saw that under previous governments and previous planning ministers; they absolutely misused that power. They rammed through approvals and the like in the dying days of government. One would think that we had learnt nothing from that. There was a reason to not do that. We do not do that anymore. The State Administrative Tribunal now makes those decisions; it

is an impartial group that can do that. That was the system in the 2020 bill, but it was taken out of the 2021 bill. The minister says it is okay because we can trust him, but, as I said, it is not about this minister; this is actually about a process. Like the Aboriginal Heritage Act, this bill will be around for 40 or 50 years, and we need to make sure that it is safeguarded against all types of ministers and contains all kinds of protections. Unfortunately, we are seeing a reversion to pretty poor governance and things that we would not allow in other sectors. We no longer allow the Minister for Planning to determine planning matters unilaterally, and nor should we. That is the kind of thing that should not happen anymore.

I again want to quote from the piece by Dorinda Cox in *The West Australian*. She wrote that this bill —

> … still favours the miners and developers because if the two sides can't agree, the minister will get the final say on "what is in the social and economic best interests of the State".
>
> In the last four years, the minister of the day has rejected one application to overturn a Section 18 approval, out of 143.
>
> We know where the best interests of the State sit.
>
> We are not fools to see it is not with First Nations people and their rights to country.
>
> In the past 10 years, 463 ministerial consents have been given to mining companies alone in WA. We do not know how many sacred sites like Juukan Gorge have been destroyed because the system is not transparent.

A way forward: *Final report into the destruction of Indigenous heritage sites at Juukan Gorge* mirrored these sentiments. It said —

> The perspective of Aboriginal organisations is that the due diligence process, and the powers it gives to proponents, the ACH Council and the Minister will, in practice, circumvent the capacity of traditional owners to make decisions about their cultural heritage at all stages of the processes provided for in the Bill. In the words of the PKKP, 'the ultimate power still rests with the Minister to make decisions about the destruction of sites'.

Let us just play this through. Imagine that a mining company really wants to see a site mined, but it will involve cultural heritage being destroyed. It knows that it has a minister who will back it, so why would it come to an agreement? Why would it not just hold out? If it holds out long enough, the minister will decide.

In fact, this undermines the idea that it is about allowing an agreement, because now the power will absolutely sit with the company that wants to see the Aboriginal heritage destroyed. The company can simply say, "Sorry, we couldn't come to an agreement", knowing full well that the minister will back them. I have said again and again that this will set a huge precedent for ministerial overreach. I would go so far as to say that it will actually open us up for potential corruption. That is why we got rid of these kinds of things in the planning system, and there is no way they should be introduced for Aboriginal cultural heritage. That is one of the key bits that I think needs to change.

The next part of the Aboriginal Cultural Heritage Bill that is problematic is it lacks the provision of free, prior and informed consent and self-determination for First Nations people. The United Nations Declaration on the Rights of Indigenous Peoples clearly spells out the principle of free, prior and informed consent. First Nations people have the right to maintain, control, protect and develop their own heritage.

In a recent conversation with Senator Dorinda Cox, she highlighted that she understood Aboriginal cultural heritage to be like an inheritance of First Nations people. She said they have a right to manage it and pass it on to future generations to preserve culture. However, First Nations people are not being given this right in the bill. Dorinda also highlighted the lack of free, prior and informed consent in her letter to Minister Dawson on 4 November. I would like to quote from that letter. It says —

> … Free, Prior and Informed Consent means that the outcome is not predetermined, occurring prior to any exploration—including an independent assessment of proposed works and their impacts on the proposed area and evidence that consent was obtained without coercion. The Minister's ability to approve the destruction of Cultural Heritage where parties cannot reach agreement does not meet the principle of Free, Prior and Informed Consent.

So, it is not possible that the McGowan government's legislation will allow free and informed consent to be obtained because the minister will ultimately have the power of veto over all decisions. Of course, the fact that the minister will have veto power means that traditional owners will not. By definition, self-determination should mean that First Nations people have the right of veto on matters of cultural heritage.

The Kimberley Land Council wrote a letter to all state MPs that said —

> Free Prior and Informed Consent means that Traditional Owners can say "no" and this will be respected.

I could not agree more. First Nations people, not the minister, should have the final say over matters of First Nations heritage. This government has made it abundantly clear that it does not support a veto right, but it is a critical underpinning of First Nations self-determination.

There is a precedent for better rights in other places in Australia. The Northern Territory is a really interesting example of this. The Aboriginal Land Rights (Northern Territory) Act gives traditional owners the right to say no to mining companies on matters of cultural heritage. If traditional owners say no, the proponents must wait another five years before they can apply again. Of course, the Northern Territory's legislation is not perfect, but it is a much better model because it underpins free, prior and informed consent. In the Northern Territory, First Nations people have a right to preserve their heritage by saying no and they cannot be coerced. Unfortunately, these rights will not be afforded to traditional owners in Western Australia. I quote again the Kimberley Land Council's letter to state MPs on 24 November —

> The *Aboriginal Cultural Heritage Bill* will give every other party, other than Traditional Owners, the control over decision making about Aboriginal cultural heritage. The Aboriginal Cultural Heritage Bill gives Traditional Owners the right to say "yes" to impacts on cultural heritage but no right to say "no".

The KLC also highlighted —

- Proponents control decisions about cultural heritage if they assess their proposal as "exempt" or "tier 1".
- The ACH Council controls decisions about cultural heritage if proponents assess their proposal as "tier 2".
- The Minister ultimately controls decisions about cultural heritage if proponents assess their proposal as "tier 3".

Where is the opportunity for traditional owners to be the primary decision-makers on matters of cultural heritage and withhold consent when they want to, as the Juukan inquiry recommended?

The next point that I want to highlight about the limitations of this bill is that there is no right of appeal for First Nations people on ministerial decisions. The United Nations Declaration on the Rights of Indigenous Peoples states —

> … States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

As Senator Dorinda Cox points out —

> … Aboriginal Affairs Minister Stephen Dawson removed any rights for First Nations people to appeal to the State Administrative Tribunal from early drafts of the Bill.
>
> He said the buck stopped with him, claiming that "it would end up in long court processes" …

This quote is from Dorinda Cox's opinion piece in *The West Australian*. It continues —

> The minister said in the rare instance that parties cannot agree, the "minister will make a decision".
>
> Well, we say in the even rarer instance that First nations people don't agree with the minister, they should have a right to appeal.
>
> First Nations people must have the right to say no. We feel devastated, disappointed and disrespected.

In a recent article in *The Conversation*, Joe Dortch, Anne Poelina, Jo Thomson and Kado Muir highlight, and I quote —

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

Therefore, mining companies can appeal to the SAT, but traditional owners cannot. I do not see how that is not discriminatory.

I will now talk about the Aboriginal Cultural Heritage Council. This is the council that will make recommendations to the Minister for Aboriginal Affairs on cultural heritage. It will require only a majority of First Nations membership, which means it needs more than 50 per cent of members to be First Nations people. It is my belief, and the belief of many of the First Nations people whom I speak to, that the board should have 100 per cent First Nations membership to ensure that the decisions on cultural heritage are made entirely by First Nations people, without influence or coercion from other parties.

The minister has made comments that the ACH council will require certain industry expertise, hence why non–First Nations people are needed on the council. I think this is a problematic assumption, and there are other ways of bringing in the expertise, if required. The truth of the matter is: plenty of First Nations people have the technical and industry skills to inform this committee. Another problem for the Aboriginal Cultural Heritage Council is that its members will be appointed by the minister and not elected. This provides, I think, further avenues for bias and undue influence. Even if the council did have members who were elected and not appointed, the Aboriginal Cultural Heritage Bill will allow the minister to overturn whatever decisions the council makes anyway.

Again, I want to contrast this bill with the Northern Territory legislation. In the Northern Territory, a board of First Nations people oversees the protection of sites, maintains a register and decides whether to issue an authority

for permission to alter. Authority tickets can be issued only when the board considers that there is no substantive harm to sites. The board is made up of 10 First Nations representatives and two government representatives. The 10 First Nations people are elected by an administrator who is independent of the state minister. Again, we have a sense here of proper separation and proper accountability, which is the kind of legislation that we should have. As we change the act for the first time in many decades, we are losing this opportunity.

One of the other things that I wanted to raise, and certainly would have raised earlier, was how quickly we have got to where we are today in this process. There has been a real frustration that this bill is being rammed through the Parliament. This is not just the feeling among the Greens, as pretty well most of us here have been very disappointed to see a bill that no-one got to see until the day before it was introduced in the other place and that spent a whole three days being debated in that place—a bill that was received in this place only last week, and that we are told will go through all stages and be dealt with in this place in coming days. It is hard not to see this process as rushed or being pushed through. I will quote the words of the chair of the South West Aboriginal Land and Sea Council, Brendan Moore, who, according to my notes, said —

> Aboriginal people and the wider public have all been unable to read and consider the Bill until it was released less than 24 hours before being tabled along with an urgency motion. We consider it to be an unjustified use of the powers and majority this government has been entrusted with by the people of Western Australia. There is simply no reason to rush this bill through without oversight, and against the wishes of the majority of Aboriginal people.

It certainly goes against the spirit of co-design that we have heard so much about in this place, which I will discuss a bit later. Over 100 changes were made to the 2020 bill, which the First Nations people did get to see, compared with the bill before us today, which no-one got to see. There has been no opportunity for this bill to be properly scrutinised and given the oversight it deserves.

This is a really important bill. We have heard the concerns of other members in this house, coming from a different angle to me. Our concerns remain. The hub of my concern is the lack of co-design. We heard a lot of talk about co-design, but when I asked a question in this place a few weeks ago about the number of consultations conducted by First Nations people or in their languages, I inferred from the answer that there had been none. I find this extraordinary. If the government is serious about co-design, it needs to have a proper co-design process, which is about doing things with First Nations people, in their languages and in their places. First Nations people will not have input. A lot of the mining industry want to work alongside First Nations people. I will read, in part, a letter dated 18 November from the Yamatji Marlpa Aboriginal Corporation to the government, which states —

> We want to talk to you (and industry), so *together* we can develop a law that we can all work with. But you don't want to talk to us. You keep saying you've "consulted", but we keep telling you that there is still work to be done. But you ignore us. We don't think we are being unreasonable—isn't this something worthy enough of wanting to get it right?

Dorinda Cox wrote —

> Over the past five years, First Nations people have been walking that pathway with the WA Government in what we thought were "good faith" talks and engaged in a government-led process to "co-design" a new law to protect our cultural heritage": the Aboriginal Cultural Heritage Bill.
>
> So imagine our shock and disbelief … when the McGowan Government introduced the Bill into the WA Parliament without giving traditional owners the respect to see the final version.
>
> Many traditional owners from all corners of the State have told me they are angry, they are hurt and feel betrayed to read a law that contains many provisions that will continue to facilitate the destruction of cultural heritage places.
>
> …
>
> We requested that we be allowed to negotiate the terms of this law in good faith, but that was ignored. We asked for a seat at the table, instead we were talked at.
>
> Some groups have been "consulted", it's true. But we reject the ongoing statements of the Aboriginal Affairs Minister and Premier relating to consultation, because our advice and requests never made it into the Bill.

Co-design is not informing; co-design is working together to create a bill together. They are very, very different things. Co-design is everyone working together in a space where they can work properly. I do not think I have heard one of the First Nations people who were involved in that process say that they felt they were involved in a proper process of equal co-design. Again, I think that is a huge lost opportunity.

Of course, we have talked about Juukan Gorge. *A way forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge* only came down a few weeks ago, and there is no way that the recommendations of that report could have been included in the 2021 version of this bill. This is a very important report. In fact, an

entire section of the Juukan Gorge report is dedicated to WA legislation, and one of the key findings in that section is that there is widespread doubt among First Nations groups that the McGowan government's bill will do anything to prevent an incident such as Juukan Gorge from happening again. The committee wrote —

> Submissions from Aboriginal organisations conveyed deep scepticism about the Bill. They indicated a lack of trust that the proposed legislation would improve the management and protection of Aboriginal heritage, even extending to concerns that the Bill would make things worse and be 'a step backwards'. Criticisms of the Bill challenged the conceptual foundation of many provisions, while also arguing that the practical application of the Bill would, like the existing legislation, lead to the destruction of Aboriginal cultural heritage.

Although the government continues to spout that this legislation is world-class and strongly aligned with the findings from the Juukan Gorge inquiry, several critical recommendations from the Juukan Gorge report are clearly not included in the bill that is before us. For example, the inquiry recommended —

- decision making processes that ensure traditional owners and native title holders have primary decision making power in relation to their cultural heritage

This recommendation from the Juukan Gorge inquiry's final report is not in the bill. The inquiry recommended —

- an ability for traditional owners to withhold consent to the destruction of cultural heritage

Again, that is not in this bill, even though it was a recommendation of the Juukan Gorge inquiry. The inquiry further recommended —

- mechanisms for traditional owners to seek review or appeal of decisions

Again, that is certainly not in this bill. The list goes on. One of the most important inquiries in this space brought down its recommendations just over a month ago, and those recommendations are not reflected in the bill that is before this Parliament. Again, that is a lost opportunity. I ask: why are we rushing this legislation through when that report and its recommendations should have actually been at the very heart of rethinking, co-designing and modifying this bill before it came to this Parliament? In fact, that is why this house should have supported this bill being sent to committee.

To finish, I think that there has been a sense that this bill is a failure in many ways. As I said, I did not read every name, and I could easily spend the next 20 minutes reading all the other names on this list of high-profile people—experts in this area—who did not support this bill. I am not going to do that, but I say to those members who will be supporting this bill in this house today that I will be fascinated to hear them tell me in reply who is supporting this bill. I look forward to hearing the list of people who are willing to put their names forward in this Parliament as supporting this bill, because there is an extraordinary number of people who do not. Those people are not saying "Don't do this bill"; they are saying, "Let's pause this. Let's go out, modify and co-design this and make sure that this is a bill that everybody supports." I think there is a sense of great frustration, sadness and disappointment—in fact, devastation—for many people that the government has not done that with this bill. In fact, there is a real sense that this is a once-in-a-generation opportunity that has sadly been lost. Ultimately, because the government has the numbers, it will come down to the regulations, which again will be co-designed. Forgive me and forgive First Nations people for not having confidence in co-design after, apparently, the co-design that has already happened; it certainly was not the co-design we expected.

This is a lost opportunity to make sure that we really do protect Aboriginal cultural heritage. Across this nation, there has been a fundamental shift in people's thinking about how we understand Aboriginal cultural heritage and a new-found respect. That is fantastic. People want to see Aboriginal cultural heritage protected and I think there should be, and there is, disappointment that this bill will not do that.

I appreciate the hard work that has gone into this bill; there are some really good parts to this bill. But I am saddened, as a whole, that key people involved in this bill see it as a step backwards and some see it as a small step forward; I am yet to find anyone who sees this legislation as the kind of step forward on the path of reconciliation that it could be and it should be. For me, probably the most disappointing thing about this legislation is that it has not done that.

Sam Walsh, former chief executive officer of Rio Tinto, said —

> "I think that there is a fundamental flaw … the issue with it for me is we haven't rectified the problem with the old legislation and the problem was the final call is with the minister …
>
> "It doesn't provide an independent appeal which, I think is critical in the process as we saw with Juukan Gorge, a section 18 [application to destroy the site] was approved [by the minister] for that."

In short, Juukan Gorge was destroyed because it was legal to do so. The minister approved it with a section 18 notice. The current bill will still allow cultural heritage to be destroyed if the minister approves it without the agreement of traditional owners. This legislation is not the step forward that we need and, unfortunately, the government has not taken the community with it. For those reasons, I will not be supporting this bill.

HON DR BRIAN WALKER (East Metropolitan) [5.46 pm]: I rise as the lead speaker for the Legalise Cannabis WA Party to speak on the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021. It will be a fairly short contribution because of the admirable exposition that came before us just now of the flaws and faults in these bills.

It must be said, and I will say this loudly and clearly: I greatly admire what the government has done and how it has gone about doing it. I think the government's understanding and the intent is admirable. I am not going to criticise the government. I think this has been an effort to rectify a wrong and I commend the government for that. But serious concerns have been raised about a number of areas, as pointed out by Hon Dr Brad Pettitt.

First of all, we are far from convinced that the minister should be the final arbiter on anything to do with Indigenous rights. We are also far from convinced that the consultative process went as far we were told it did. I listened to the briefing. It was an admirable briefing and I was thoroughly convinced by what was said. I am sure that is exactly what the government intended. The consultation, from a place point of view, was fairly extensive. Imagine my surprise when I then heard from only people who disagree with the bill. Perhaps it is a biased ear, and people who agree with the bill are nice and quiet and think it will go through Parliament with no problems—it is possible.

I want to begin my contribution with a very apposite quote from the other side of the world, because, you see, history is always shown to be repeated. I think it is insightful for us to have before us a quote from someone on the other side of the world who has actually experienced this. I quote —

> One of the most terrible things about the English … system in Ireland is its ruthlessness … It is cold and mechanical, like the ruthlessness of an immensely powerful engine. A machine vast, complicated … It grinds night and day; it obeys immutable and predetermined laws; it is as devoid of understanding, of sympathy, of imagination, as is any other piece of machinery that performs an appointed task. Into it is fed all the raw material in Ireland; it seizes upon it inexorably and rends and compresses and remoulds …

I suspect only one member in the chamber today will recognise the author of that piece of wisdom and, ironically, the member I am alluding to is the Minister for Aboriginal Affairs who has passage of the bill before us. I say that because he was educated for a number of years in an Irish language school—am I right, sir? If anyone recognises the words of Patrick Pearse in English, it almost certainly is my friend—indeed, I consider him a good friend. I quote Pearse because I fear we risk falling into the same trap that he saw in England's diktats to the Indigenous Irish. The English are masters of the imposition of unilateral decrees on those under their so-called care. I am sorry to say that the bill and the manner in which it has progressed has far too much in common with that colonial habit than I can stomach.

The minister may well tell us that his department undertook one of the most comprehensive consultative exercises in recent government history during the drafting of this legislation. That is certainly what I was told when I was briefed on the bill last week. I thank all those involved in the briefing for their time and insight. I enjoyed it immensely; I was deeply impressed. But we should listen to what Hon Brad Pettitt just brought to us; it is not what I am hearing from Indigenous groups from around the state either. They have told me that they do not feel that they have been adequately consulted or, at the very least, adequately listened to, and that worries me. It could be that we are seeing what we would see in any group of people when seeking an opinion—we find that people have opposite opinions. I use the example here of the Fremantle Dockers and West Coast Eagles; two good football teams but with very opposite opinions. The same goes for any opinion: refugees, yes or no—there will be a polarisation of views. It could be that we are looking at this, but it could also be that we have not listened properly when we think that we have listened.

I will tell the story of what happened in Newman when a couple of lovely white nurses—very experienced of course—came from Canberra to visit us in our clinic and wanted to talk about closing the gap of Indigenous health in Newman. They went to community meetings with their whiteboard and asked people for ideas about Closing the Gap. On that whiteboard they put some very good suggestions, but when a suggestion was made that did not fit within the mould, they would talk about it and say, "Yes, you have to understand it doesn't quite work that way", and the suggestion would not go up on the whiteboard. Another suggestion would be made and they would say, "Yes, of course. Very good point", and up it would go. The points that they put on the whiteboard were the ones that fitted—were aligned—with the white middle-class political ideas of their Canberra masters. That consultative process was flawed and it failed because it simply imposed upon people the opinions of those who were far away and they did not listen to what really mattered. I do not know, but I wonder whether something similar is not happening here.

We have also seen that approach by other departments in this house in recent months, have we not? It is my way or the highway. That might well be the Premier's next campaign slogan, based on the speed at which he has pushed through things such as the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021. We were assured that he had no plans there, but here we are.

Puppy farming legislation is also due to be debated in this place as well. The government promised consultation, but I will bring members the words of people who feel as though they have not been consulted and listened to. The minister knows best and will plough on regardless. We might argue that that is what government does: government takes account of the situation and tells us what we need because we do not know what we need. It is one thing to dictate to Dogs West owners, but it is quite another to dictate to our First Nations people. The suggestion that large groups

have not been properly consulted or feel as though they have not been consulted—that is equally important—should worry us all. It should also worry us that, having imposed the government's will, we are then looking to continue that imposition by enshrining in law the role of the minister as the last court of appeal when it comes to the retention of heritage sites. I echo the words of my honourable colleague by stressing that I have every respect for, and faith in, our current Minister for Aboriginal Affairs—an honourable and conscientious man. I bow down to him. But who will succeed him, and who will succeed his successor? We do not know, so we should not rush into giving unknown ministers of the future legislative power that will allow them to dictate to our Indigenous brothers and sisters.

I concede that that may well be the case now, but that does not make it ideal. I will even concede that it may be the norm just now, but that is not ideal and it is not adequate. We should not be doing this. We should be thinking outside the box here, should we not, and looking at alternative solutions that empower the Aboriginal community to take responsibility for and active oversight of their own heritage, and not to rely on a whitefella, however honest and well meaning, in a tower block in West Perth to do it for them. Personally, I would much rather see a body of senior, respected Indigenous elders formed to make the final deliberations on such questions. Would that be difficult to do?

We passed up the chance to refer this legislation to the Standing Committee on Legislation, and I think that was a big error on our part. First and foremost, we need an opportunity to consider in detail—in a committee and in the new year—alternatives to the minister having final power. It may be that there are no such workable alternatives, but I would like to be reassured of the ability of the bill to perform as advertised by the government. It needs to be investigated and questioned closely, and we will not have time to do that in the rapid passage of this bill. I counsel government members to think for themselves and imagine what would happen if this bill were to be passed and did not meet the needs of Indigenous people. It would be in place for another 40 years.

I would also welcome the opportunity for a committee—I am happy to say that I am looking for a job in a committee!—to do what the government, at least according to its critics, has failed to do: to consult more widely and to take into account the views of Indigenous communities, individuals and organisations. I would like each of us to have the time over the recess to engage with stakeholders in our own districts across the state to reassure ourselves that this is the best legislation we could hope for and that we can provide through this Parliament to preserve and enhance Aboriginal heritage and culture here in WA.

It was mentioned earlier that the Yamatji Marlpa Aboriginal Corporation has plans to host a two-day workshop on this legislation and its potential impacts, both good and bad, in the eyes of its members. It is scheduled to take place in January. I cannot blame the timing, unless the corporation had an earlier briefing; this legislation was rushed through only a week ago. We all deserve and need more time to consider the legislation in more detail, and a committee referral would have furnished us with enough time over the recess.

I feel certain that other members of the committee would also welcome the opportunity to examine this bill in great detail. We were not called upon in the first six months of the McGowan government, and I do —

Hon Darren West: Member, I think you may be reflecting on a decision of the house.

Hon Dr BRIAN WALKER: I withdraw.

Detailed examination over a suitable period would be no more than the legislation deserves; indeed, it demands it. We need to take the time to do that, here in Parliament. If nothing else, we could hold off consideration of the bill until our next sitting in February; there is no rush. How much time might the committee have needed? I would have thought March would have been a good time. We could defer it and consider it ourselves, in this Parliament, according to that timetable. We have nothing else on our agenda, have we?

Hon Darren West: You're doing it again!

Hon Dr BRIAN WALKER: Okay!

I realise the government has used the Juukan Gorge scandal as a kind of shadow to attach some urgency to this legislation, and that is understandable. If people had taken the time to think and consider the case in Juukan Gorge more, that would not have happened. In fact, we know that there was a verbal command: "You will not do this." That command was overturned when a new CEO came in and said, "Yes; we will go and do it." Had they thought about it with more detail would they have made that mistake? I think probably not. Rushing was the cause of this, and we are doing that here. Posterity will judge it for us, will it not, because we will have rushed through legislation that at least a sizeable number of First Nations people are saying, "This is not suitable for us." We can say, "Okay, we have consulted, or at least we think we have; you don't matter." Do we really want to give that word out to the First Nations people of our state? Are we really prepared to say to a sizeable proportion of the Indigenous population in WA, "Your opinion does not matter"? The message should be that we are taking a measured response, not a rushed response.

We can never consult too widely when it comes to other people's cultural rights. Now that points have been raised, it is a perfectly valid argument to take the time to sit back, think about the legislation and maybe reflect on whether it could be improved. Is there any need to rethink this? It is not as though this is an emergency and we have to do this now. No bomb is being dropped; no war is being declared. It is not something that we have to do right now. I challenge anyone here to tell me why there is an urgent need; I will take any interjections. Is there really an urgent need to make this legislation happen right now? The silence from the house tells me no. An approach of taking our

time might allow for an apt level of concern for the future and feelings of the stakeholders, our First Nations people across WA, and indeed a sign for all Indigenous peoples of Australia, that befit from a consultative, forward-looking government. Western Australians could stand proud that our government is doing the right thing by all peoples.

I opened with a quote from Patrick Pearse, so I ask members and the minister in particular whether we can, as Pearse did, claim "we have kept faith with the past, and handed on its tradition to the future"? Or are we more akin to the lawyers, whom he looked upon with disdain, who "sat in council, the men with the keen, long faces, and said, 'This man is a fool'", for striving to give life "to a dream that was dreamed in the heart"? Members are welcome to sit with long faces and call me a fool if they will. If it makes a man a fool to listen to the ordinary people, I am a fool. If it makes a man a fool to believe that it is not the place of a whitefella to dictate to the blackfella, as has so often been the habit of the colonial master, then I am a fool. But I tell members this plainly: I do not believe that history will call me a fool if this legislation, like others before it, is rushed through the house by dint of the government's majority. As much as it saddens me, I think that title will rest elsewhere, and with no little justification, for we will have failed our Indigenous sisters and brothers here today if we do not take the time to listen to the concerns that they have raised about this legislation, and then take those complaints on board rather than believe that we know best.

I will not support the passage of this legislation in its current form. I entirely support the intent, and honour the intent of the government; I respect it greatly for this, but it needs more time to be examined more properly. It needs not to be rushed through. I would beg the government to listen to these words, and respect that the future will judge us by what we do today.

HON TJORN SIBMA (North Metropolitan) [6.03 pm]: I rise to make a brief contribution to the debate on the Aboriginal Cultural Heritage Bill 2021 and Aboriginal Cultural Heritage Amendment Bill 2021. For the purposes of the house's efficiency, and as a courtesy to all other members present, I will attempt to make a contribution that will last the length of this order of business and to bring it to a conclusion at 6.20 pm, whereupon we ordinarily take members' statements. At this time of the year, with time being limited, I think that should restrain my contribution and direct my efforts, when they arise, through the consideration of the legislation in the Committee of the Whole House stage.

At the outset, it is worth acknowledging the sheer magnitude of these bills both in qualitative and quantitative terms. This is substantial legislation and deserves to be treated with the respect and consideration it deserves. One can make that observation irrespective of the position they take on the bills themselves, even if they take a prudent course and decide to withhold at least their opposition, but not give it their full-throated support. The Aboriginal Cultural Heritage Bill is a bill in 16 parts with 353 clauses. The explanatory memorandum is a detailed document in itself. It is a very useful document, but it is an expansive one. I do not think that this chamber has the capacity to scrutinise this bill with respect in the time that will be made available to us. I make no reflection on the decision of the house previously, but that was always going to be the result. It is said that in life there are two certainties, death and taxes, and I think for the next three years there will be one additional certainty we can be reassured about; that is, the McGowan government will get through legislation in whatever form it chooses. That is a certainty. In acknowledgement of that fact, how do we discharge our responsibilities, particularly non-government members—the opposition and the crossbench? We have been elected to do a job as well and that is to scrutinise legislation. We will not have the opportunity to scrutinise this bill to the degree I think necessary or sufficient. I will limit my remarks to some broad assessments, because they are the only assessments I have been able to form.

In part, I want to address an element of the second reading contribution provided by Hon Dr Brad Pettitt. I think it is worth acknowledging that argument. It is a public argument that has been put about the bill. In the course of the honourable member's contribution, there was list of notable or eminent Australians and Western Australians who have taken a position of opposition to the bill. I want to address one of the comments that was elaborated upon, and they were remarks attributed to Mr Sam Walsh, whose legacy in this state is well acknowledged. There was a quote of his that Hon Dr Brad Pettitt read in, which I have seen repeated in the media as well, that I find objectionable. I think it is an unsustainable argument. That was the argument that white people do not really get sacred Indigenous sites. I think that is a very loaded and, frankly, incorrect and unjustifiable position to adopt. I think that any human being, irrespective of their ethnic origin, who is intelligent and intellectually curious, with a respect for their own cultural traditions, can—if they are consistent and a person of integrity—at least empathise with the cultural heritage and traditions of other groups of people. I would like to put myself in that category. The destruction of something like Juukan Gorge was quite obviously a cultural desecration, and a cultural desecration felt by the traditional owners of the country. But it was also a loss to humanity of a consequence that I think is comparable to the burning of the Library of Alexandria a millennium ago. There is a tradition, unfortunately, by human beings of empiric expansion and cultural desecration, but also of assimilation and regrowth. But there is acknowledgement that certain things lost can never be recovered. One of the tests of this Aboriginal Cultural Heritage Bill is whether it will put this jurisdiction in a position to avoid a cultural loss of a similar magnitude. I am not in a position to form a judgement on that yet, but I suspect that it will to a large degree. One has to respect the work that has gone into this bill. There can be differences of opinion about its satisfaction or its suitability, but I think that the government can legitimately claim that this is a reform of some magnitude.

The difficulty we have in this chamber, however, is in attempting to stress test black-letter law legislation and to have a sensible pragmatic view about the framework and the regulatory instruments that will flow from its passage. Quite frankly, I think "the rubber hits the road test" will apply to this legislation more than perhaps it applied—

I will be generous in my description here—to the reform of the Environmental Protection Act last year or the reform of the Planning and Development Act under a COVID guise last year. This bill will affect—I hate the phrase; it is instrumentalist in its view—a broad range of stakeholders, Indigenous and non-Indigenous. A bill has to work for the entire Western Australian community—all land users. A framework that is credible, legible and predictable and does not introduce perversities in outcome is the absolute objective. I think that is the test.

I want to focus on a couple of elements, one of which I think in the explanatory memorandum's description is that the definition of cultural heritage has been broadened. As a responsible legislator, I want to understand what the actual implication of that broadening definition entails because I need to understand what a cultural landscape is. This is an issue that was addressed in the briefing. I compliment the government staff who provided a reasonably comprehensive overview of the bill in the time they were permitted. Expanding the concept of a cultural landscape seems to me to be beset with all kinds of pragmatic problems. I think it also introduces, implicitly and unintentionally, almost a concept of privileged or exclusionary ownership over a landscape. I am not necessarily sure whether the argument has advanced too significantly to at least define what is meant by that. Hopefully, we are not introducing such things as vistas and outlook, but I suspect we might be doing that because there is an aesthetic quality that I think is at least acknowledged in the EM and the bill. I think aesthetic values are something that one could have a debate about. I wish they applied more to some of the developments in the CBD that get approved. We have a sort of global glass and steel architectural monoculture, but that is an aside and I am being tangential.

There needs to be a better sense of what is meant by "cultural landscape". It cannot be that there is a view or a cover for a lack of definitive information, resolution or agreement on the location of specific sites. I do not want to see with the passage of this bill scope creep in the application of a heritage site, because I think that would be dangerous. It is also worth acknowledging, in my view, that the movement towards a tiered scale of potential harm is a useful framework. I know that others might disagree with that view. However, I think that in that context there will be proponents who will be in a position to navigate more easily than others that particular tiered structure, as well as the framework overall. If this bill will be to the advantage of any one set of proponents, it will be those who currently operate at scale and who have the capacity or who are nimbler than others at adapting to the changes in the regulatory framework. I mention, for example, the exploration industry. I do not think it is in the same position as those who are involved in production, if we look just at the mining sector, for example. Tomorrow I will put questions without notice to the minister that might facilitate discussion at the committee stage.

Hon Stephen Dawson: I am happy to. We will probably get to it before then.

Hon TJORN SIBMA: I will raise them now because that might expedite it.

Hon Stephen Dawson: I have answers ready for you, so if we do not get to question time before that, I will bring them into the debate.

Hon TJORN SIBMA: That would be useful. I might address those issues now. Briefly, they are about the act that will govern members of the Aboriginal Cultural Heritage Council—whether or not it is the Public Sector Management Act—and will govern or regulate the activities of the local cultural heritage staff. I will also jump to the clauses that deal with the new powers to regulate, which Hon Neil Thomson addressed. I am talking about the capacity to stop and search vehicles and the like. What training will be provided to the officers who will undertake that and what will be the process of appointment? More to the point, what will be the process of regulating it? I can envisage a potentially very, very dangerous and unsatisfactory scenario because of the creation of that new power. In the time available to me before I conclude my remarks, I also seek some certainty over the follow-up action that the government will need to undertake to put together the framework to draft all the enabling regulations. I think a view was put to us in the briefing that that could take up to 24 months, and I have been told that it could potentially take up to 36 months.

Hon Stephen Dawson: I hope not.

Hon TJORN SIBMA: This is it. My focus in a pragmatic sense is on that transition phase and on getting as much clarity as we can about the process following the passage of this bill. That would be appreciated.

I gave a commitment to not speak for as long as I would like to on this bill. I will direct my efforts to the committee stage, but I wanted to put those sentiments on the record. I will round out the debate on this point: I do not think that the interest in this bill should be culturally mediated or that opposition to it or different perspectives on it should effectively entrench racially based positions. There is an element of this argument that I find deeply uncomfortable. It has been mentioned by people of the stature of Sam Walsh. I hope that we can work through these issues in a sensible, sensitive and pragmatic way.

HON COLIN de GRUSSA (Agricultural — Deputy Leader of the Opposition) [6.19 pm]: I, too, rise to make some remarks on the second reading of the Aboriginal Cultural Heritage Bill 2021 and the Aboriginal Cultural Heritage Amendment Bill 2021, which we are debating cognately. I will confine my remarks to some key issues rather than talk too broadly about the bills and their policy. I will talk about specific issues that have been raised with me or that have come across my desk during the time that we have been able to look at the bills before us, which has not been a particularly long time. It is worth reiterating that reform of this magnitude—it is significant reform and there is no doubt it is much needed—should be done with the will of the house on all sides. We should

come together and ensure that we properly debate and assess the legislation before us so we get it right, because that is our job. As legislators in this place who represent the people of Western Australia, it is our job to make sure that the laws we make are as appropriate as they can be for the people of Western Australia. Particularly when it comes to something as significant and important as Aboriginal cultural heritage, we need to make sure that we are doing the right job for the people of Western Australia.

A few key issues have come across my desk. I will talk through some of those in the time I have available, and perhaps the minister can respond to some of those queries during his reply. I will have further questions, most likely at clause 1 in the Committee of the Whole stage of the bill, which I will probably constrain my committee contributions to and, hopefully, get some answers on the way.

Clause 5(5) in particular states —

> The management of activities that may harm Aboriginal cultural heritage is dealt with in Part 6, which includes the following —
>
> (a) providing that proponents must undertake due diligence assessments under Part 6 Division 2 in relation to proposed activities (unless the activities are exempt activities), to assess —
>
> (i) whether areas where it is intended to carry out proposed activities include any area that is part of a protected area; and
>
> (ii) based on the level of ground disturbance …

This aspect of the bill seems like a reasonable approach, but if we had the proper time to scrutinise the legislation, without fear of extended sittings, whether that was through the normal committee process or through the process of referral to a committee, we would gain an understanding of some of the issues that will arise.

Debate adjourned, pursuant to standing orders.

PETER ASPINALL, AM

Statement

HON DAN CADDY (North Metropolitan) [6.22 pm]: One of the great things about being a member of this place is the ability to put on the record contributions by individuals to our community. Tonight I rise to tell the story of an outstanding Western Australian—the recently retired president of the Returned and Services League of Australia, Western Australia, Mr Peter Aspinall, AM. Peter retired as state president of RSLWA last week. Peter comes from a military family. His father was an artillery officer in the British Army and a veteran of Operation Overlord, which many members would know was the operation that included the D-day landings that precipitated the end of the Second World War. Following in his father's footsteps, in 1960 Peter was accepted to officer cadet school in Victoria and by the end of the sixties he had not only graduated, but also spent two years in Vietnam in the service of his country. Over 35 years later, in 2007, Peter joined his local branch of the RSL, the Albany branch. Within the month he was elected to the position of vice-president, and by the end of that very first year he was the representative for the great southern region on the state executive of RSLWA.

I fast forward to 2016, when Peter was elected president of RSLWA. His election came at a pivotal time for the organisation. In 2017, the state government finalised the transfer of land for a new ANZAC House building. Under Peter's stewardship, RSLWA embarked on an ambitious project to build a new ANZAC House, one that would be a welcome place for all veterans, both older veterans and contemporary veterans. This building, as a legacy, would be more than enough for most people. I want to step backwards a few years to the time just prior to his election as president. In 2014, the National Anzac Centre in Albany, overlooking King George Sound, was opened by Prime Ministers Tony Abbott and John Key exactly 100 years after the first convoy of Australian and New Zealand troops—the original Anzacs—departed for the First World War, my great-grandfather amongst them.

The National Anzac Centre is unique. There is no getting away from the fact that it is based on our military history, but it does not glorify war. It is very much designed as an interactive and interpretive centre. Visitors are given a card on entry showing a photo of an individual and are invited to follow that person's journey through the next few years. Those individuals are drawn from officers and enlisted personnel from Australia and New Zealand but also Turkey and Germany. To quote Peter —

> It doesn't matter if it's about military history, civilian history, community history, social history, whatever you want to call it, it's understanding what human beings were doing and experiencing. It's realising that back in 1914 the experience for those families who saw off their young men and women to the war is no different to the experience today.
>
> Families go through the same emotions when our contemporary Australian service men and women are deployed overseas. The feelings are exactly the same, the emotional involvement is exactly the same.

Peter was central to this project. It is not a stretch to say that if it were not for his intimate involvement, it would not have been the success it was. I have visited the Anzac centre on more than one occasion and I encourage all members to do so if they find themselves in the lovely city of Albany at any point in the future.

This is a story of a great Western Australian. I rise to thank Peter for his service, not just in uniform in the years before I was born, but to RSLWA as state president and his service not just to the veterans community but to the WA community as a whole.

CRICKET AUSTRALIA

Statement

HON DR BRIAN WALKER (East Metropolitan) [6.26 pm]: Today is one of those days, is it not? I really wanted to speak about cricket; what a wonderful day it has been as well. Moving on from that, I was wondering whether we can bring our government and the cricket team into some degree of concordance. We certainly can. A lot of spin is going on.

Hon Matthew Swinbourn: They didn't use any spin; it was all pace today!

Hon Darren West interjected.

The PRESIDENT: Order! Cricket puns are not welcome.

Hon Dr BRIAN WALKER: The cricket tragics amongst us are now coming to the fore.

The trouble I have seen is the claim on the one side that Cricket Australia failed the examination but it is saying that the government was not dealing well with this, so there is spin on both sides. To be honest, I think I trust Cricket Australia more than the government at times, but there we are.

Hon Matthew Swinbourn: They didn't always turn their back on Western Australia. It took how many years for us to get a test match in the first place?

Hon Dr BRIAN WALKER: That is very good. One of my quotes is: the ability we have to sit and watch WA lose at the WACA is a test of our patience.

We have a real test coming for us now with COVID and the border coming down and whether we can tempt tourists back into WA. I gave my budget reply speech some weeks ago when I was looking at how we will recover. I am quite concerned that we are letting things slide a bit. Looking at what is happening, and the tourists coming in, I see Jenna Clarke in today's *The West Australian* said that it was probably not a good day to —

> … piss off organisations we'll probably want on our side in the coming months when we need to attract tourists, workers and visitors back to our piece of paradise.

That is a perfectly valid point, but the language may not be quite as nice. We should be doing everything, with government flexibility, to bring tourism back to Western Australia, and work out how to improve the balance of payments through imports and exports.

On top of this concern I had, I see that the "Prime Minister of New South Wales"—that is what I call him—is talking about joining the United States of America in a diplomatic boycott of the Beijing Winter Olympic Games. I thought: My goodness! Here we have another cack-handed attempt at following on from Big Brother, the bully in the block—a failing bully in the block. To quote one of my friends, this is a perfect "fustercluck". We need to be looking to improve our relations with Asia. To say that athletes will not compete in next year's Winter Olympics because sport and politics should not mix is at best redundant and at worst mindless, off the back of a decision to insult one of our largest trading partners and the home of countless international tourists and students. It is just pandering to the white middle-class political stereotypes coming from our friends across the Pacific.

I have said it before and I will say it again: America is not our friend. It is not our enemy, either. We need as a state to strengthen our position, rather than pandering to particular nations. We need to stand here proud, independent and self-sufficient. I put it to this house that we need to stand strong for WA and lead Australia into true independence.

WALK AGAINST VIOLENCE EVENT — GERALDTON

Statement

HON SANDRA CARR (Agricultural) [6.30 pm]: Speaking up and speaking out is not always easy. There are matters upon which historically we have been told it is best to remain silent. Thankfully, this is changing. One of the ways this is happening is via the 16 Days in WA to Stop Violence Against Women initiative. It started on 25 November and will end this Friday, 10 December. It is a whole-of-community initiative, designed to bring the problem of family and domestic violence into the open, support those who are experiencing violence and work toward primary prevention of violence. It aims to drive a change in our culture, behaviour and attitudes that lead to violence, predominantly against women and children.

This year's theme is "Don't be silent when you see violence". As part of 16 Days in WA, I had the opportunity to participate in an event in Geraldton hosted by Desert Blue Connect, an organisation that provides support services for families and individuals. It hosts an event each year called WAVe, or Walk Against Violence event. WAVe is held each year to remember those in WA who have lost their lives to family violence. It is a very special and important event for our whole community. This year's theme was "Children Matter", as children are so often the silent or unheard victims of family violence.

I was given the privilege of addressing the crowd at that event. It is held on the Geraldton foreshore. Typically, the weather gods seem to smile on that event. It is usually an absolutely beautiful day. Big groups from a broad spectrum of community members typically turn up to that event. It is a really beautiful community event. I was fortunate to be able to address the crowd on the day, along with some other speakers, and talk about my own experience with family and domestic violence. I also had the opportunity to emphasise at that time my deeply held belief that addressing and preventing family and domestic violence is a whole-of-community responsibility. It is very important that we take on and accept our responsibility as a community to look after each other.

I will name the amazing speakers on the day in a moment, but I would first like to talk about the walk that we did. Each year, we hold up a banner in front of the group as we walk through the streets. The event has a really nice community spirit. People just walk along chatting and sharing stories. Typically, everyone looks at us curiously as we walk along the street. The group also holds up signs that have been made by Desert Blue Connect with various comments about ways in which we can stop and prevent violence in the community. This year, something really special happened. I will try not to be emotional when I talk about it, because it was a really touching moment. There are always a lot of people on the foreshore, and they always look at us curiously as we walk by. This year, people in the parks and in the coffee shops spontaneously broke into applause as we walked past. It was a beautiful moment. It was heartening to see how welcome that message is in our community. It was an incredibly special moment. All of us looked at each other and thought: that has never happened before when we have done this. I really think that speaks to something that is happening in our community. I really hope that is the case and that we are all acknowledging our whole-of-community responsibility to speak out and prevent violence against women and children and people in our community.

I would also like to acknowledge some of the other speakers on the day because there really were some wonderful speakers. Geraldton elder Derek Councillor did the welcome to country. He did something very special on the day; he brought his young nephew to stand beside him while he did the welcome to country to show him the importance of the event. While doing the welcome to country, Derek Councillor also spoke about the importance of respect for mothers and how that is deeply ingrained in their culture. Staff members from Desert Blue Connect also spoke. Fortunate Mlambo spoke about the impact of family violence on children and the ways that she works with children to support them through those experiences. Helen Howard, who works with the Men's Community Intervention Service, talked a lot about the work it delivers to the community through Desert Blue Connect. Rayleen Councillor also spoke. She runs Barrowa Consultancy, which provides Indigenous-specific trauma recovery and family dispute resolution and promotes family and emotional wellbeing via group work. It offers support that is very culturally appropriate and sensitive.

Also on the day there was a paddle out, which happens every year. A woman called Shaun Glass runs A Glassy Day Surf Coaching. Each year she takes a group of people paddling out to sea and they hold a memorial on the water to remember those people who lost their lives that year to family and domestic violence. Another supporter on the day was Apex Geraldton. Members of the midwest and Gascoyne district of the WA Police Force always turn up to support and walk with the marchers through the streets of Geraldton and Geraldton Party and Event Hire always loans some equipment to set up on the day because following the walk and the paddle-out there is a barbecue. With a really beautiful community spirit, everyone gathers to celebrate and talk and discuss issues.

I also thank Russell Pratt, the CEO of Desert Blue Connect, who facilitates and helps to allow such an event to happen. However, the key organiser was a staff member of Desert Blue Connect by the name of Megan Deluca. She does an amazing job of organising the event, aided by a beautiful lady named Sarah O'Malley, who is also a really talented musician in Geraldton.

It would be remiss of me not to also mention the wonderful work of Minister Simone McGurk, who is working towards creating more proactive and culturally appropriate and preventive measures to keep our community safe and respectful. The recent announcement of the $8.7 million east metropolitan women's refuge, which will be built with onsite wraparound services and mental health services, is just one example of the brilliant work that she is doing to try to address some of these issues. Another initiative that she has been doing, in conjunction with the Minister for Education and Training, Hon Sue Ellery, is working to expand the primary prevention program of Respectful Relationships. We are teaching young people in schools to understand what a respectful relationship looks like, and that is key in that primary prevention. That is a working example of that whole-of-community responsibility to prevent violence in our community.

Lastly, I will just quickly note, as we head into the Christmas and new year festive season, that although it is a wonderful time of year, it is also a time when, traditionally, we see a spike in family and domestic violence. This year's message of 16 Days in WA, "Don't be silent when you see violence", is particularly pertinent at this festive time of year. For some people, it is not the happiest of times, so I really encourage people to speak out because one of the greatest gifts you can give people this Christmas and new year is your support and your voice.

House adjourned at 6.38 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

ENVIRONMENTAL PROTECTION ACT — COST RECOVERY

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

I refer to part (3) of question without notice (add number), answered on 13 October 2021, and I ask, will the Minister please table the following:

(a) documents by EY at the 'first stage' to review cost recovery approaches in other jurisdictions;

(b) documents by Lisa Byrne Consulting at the 'second stage' to develop pricing and demand management models; and

(c) documents by EY at the 'third stage' to validate the pricing and demand management models?

Hon Stephen Dawson replied:

The Department of Water and Environmental Regulation (DWER) engaged EY and Lisa Byrne Consulting to inform the development of the proposed cost recovery model. DWER has advised that documents by EY and Lisa Byrne Consulting consists of reports including drafts, working documents, and spreadsheets. These documents were used to inform the ongoing early development of the cost recovery model and deliberations of government and therefore are not appropriate for release.

Prior to undertaking consultation on a draft cost recovery model, DWER engaged EY to undertake a pricing and demand validation exercise and provide a final report. EY found that the methodology and assumptions applied by DWER in their pricing and demand management models are logical and reasonable. [See tabled paper no 978.]

DWER undertook consultation on the draft cost recovery model from 20 September to 22 October 2021. The consultation included the release of a discussion paper, draft regulations and detailed briefings to seven peak organisations. DWER received a total of 29 submissions. The State Government is now considering the outcome of that consultation and proposed revised cost recovery model.