



# Parliamentary Debates

(HANSARD)

FORTY-FIRST PARLIAMENT  
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LEGISLATIVE COUNCIL

Wednesday, 26 May 2021

# Legislative Council

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

## MEMBER EDUCATION SEMINARS

*Statement by President*

**THE PRESIDENT (Hon Alanna Clohesy)** [1.02 pm]: Members, the Clerk recently invited you to participate in our upcoming member education seminars. Next Tuesday evening, during the dinner adjournment, the Parliamentary Counsel, Mr Geoff Lawn, and the Deputy Parliamentary Counsel, Ms Una Couper, will be providing an introduction to the Parliamentary Counsel's Office and an introduction to legislation. They will return in the coming weeks to discuss the drafting of private members' bills.

In late June, Hon John Cowdell, AM, former President of the Legislative Council, will be delivering a session with our Clerk Assistant (House) on how to ask an effective parliamentary question.

These seminars are an opportunity for new members to develop an understanding of parliamentary processes and proceedings and will provide a refresher for returning members. I encourage all those who are interested to attend.

## PAPER TABLED

A paper was tabled and ordered to lie upon the table of the house.

## EMERGENCY SERVICES — NATURAL DISASTERS

*Motion*

Resumed from 12 May on the following motion moved by Hon Sue Ellery (Leader of the House) —

That this house acknowledges the devastating impact that cyclone Seroja and the recent bushfires have had on Western Australian communities and commends our emergency services for putting themselves in danger to protect Western Australians and to ensure the recovery of those communities.

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [1.05 pm] — in reply: I thank members who contributed to this debate. I thank them for their support and for the elements that they noted about the impact of cyclone Seroja and indeed the recent bushfires, and for their recognition of our emergency services personnel. I commend the motion to the house.

Question put and passed.

## STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS — TERMS OF REFERENCE

*Motion*

**HON DR STEVE THOMAS (South West — Leader of the Opposition)** [1.06 pm]: On behalf of the dearly departed but not deceased Hon Simon O'Brien, who is no longer with us, I move —

That with reference to recommendation 5 of the final report of the Select Committee into Local Government, the terms of reference of the Standing Committee on Environment and Public Affairs be amended as follows —

- (1) To insert after term of reference 2.3(a) —
  - (b) matters relating to local government;
- (2) To renumber the paragraphs that follow accordingly.

Madam—President.

**The PRESIDENT:** I give the call to the Leader of the Opposition.

**Hon Dr STEVE THOMAS:** Sorry, President. I will get used to it eventually. It is almost ingrained.

**The PRESIDENT:** I am sure you will, honourable member.

**Hon Dr STEVE THOMAS:** But I may need to be reminded a few times!

This motion was proposed by Hon Simon O'Brien, who was an integral part of the Select Committee into Local Government, and based on a motion of another member who is no longer with us, Hon Charles Smith. We have heard in various speeches—even in one of the inaugural speeches yesterday—grave concerns about the performance and functions of local government. We could talk for some time about how local government performs and its shortcomings. However, after hearing the arguments for a long time, I simply make this observation: from my perspective, we need to address not necessarily where the boundaries of local government lie, but the performance and functions of local government, particularly any limitation that might need to be placed on local government,

as directed by the state government and the state Parliament, which is its wont. In Western Australia, local government is an offshoot of the state. Local government is empowered by the Local Government Act; it is a piece of state legislation.

We could debate that for some time, but it is not my intention to take a long time this afternoon. Hon Simon O'Brien—he does get to use the honorific title post his parliamentary career, so I can refer to him that way—took great interest in local government, having been a part of it for a time before his parliamentary service. He was particularly interested in this part of the report of the select committee—that is, to have a committee of this Parliament granted oversight of local government in the state. I understand that it is not the universal opinion of everybody, and I suspect the government may not support the intent of putting this power into a committee. On behalf of Simon O'Brien, I think it is worth us discussing and looking at whether a committee of this Parliament should have a specific recourse to examine local government. If it did so, I would not be surprised to see that much of its time was occupied in that manner.

Having served in the fortieth Parliament on the Standing Committee on Environment and Public Affairs, I can tell members that the functions of local government were not an infrequent topic of discussion or petition. My good friend Hon Matthew Swinbourn, in having chaired that committee in the last Parliament, knows well that repeated attempts were made to have the committee examine in detail the performance of local government. Burdened down, as the committee was generally with enormously weighty matters in other directions and by its own set of functions, it was not generally able to examine the minutiae of some of the accusations made in the various entreaties we got. We did not go into great detail on local government. The question before the house is, therefore, whether a committee is to do this—if not this committee, members can feel free to suggest an alternative committee. I would rather they did not suggest ongoing select committees in every Parliament. I think that is an immensely difficult process.

Members might like to say that there is another way to do this, and I am sure the government will say that the Minister for Local Government has this fully under control. I am not convinced that the previous Minister for Local Government had local government fully under control and functioning at peak efficiency in Western Australia. I guess we need to give the new Minister for Local Government a little time to establish his credentials. But there are, absolutely, issues around local government worthy of further examination, and not the specifics that the previous committee was frequently asked to investigate—that is, levels of corruption and whether councillors were doing the right thing. A particular notion was that if someone did not get the outcome in a local government debate that they thought was most appropriate, they considered that there must be something corrupt in the system, and petitions on this were repeatedly put forward. I am not suggesting that that be the role of this Parliament. There are other avenues for that.

I am more interested in the overall role of local government, and, in some areas, where they have authority. For example, across the south west a number of local governments are now starting to form dam policies—where they think dams would be appropriate and how they manage water resources. We have a thing called the Department of Water and Environmental Regulation, whose job is to do exactly that. When there are multiple levels of administration, we generally just add exponential levels of difficulties. In this case, a lot of local governments do not sit over the top of an entire catchment; it is a shared catchment, and it is, by far, more appropriate that an authority that covers the entire state look at those details. It is likely at some point that a committee that looks into the functioning of local government might seek to ensure that local government is dealing with those areas that it should be particularly focused on. I, for one, do not automatically say that local government should be restricted to roads, rates and rubbish. I know that is the opinion of some members, and it is certainly an opinion that is professed out there in the greater area, but there is a role for local government to be involved in many areas. There is a role for them to make sure that their citizens are well catered for. They should not necessarily be involved in every area of life, however, and better coordination with the state government is absolutely essential.

I do not think any member in the chamber would suggest that the performance of local government over the last, let us say, 30 years has been without blemish. Having said that, of course, and as local governments freely point out, it is unusual to hear a local government say that the performance of the state government and state Parliament have been blemish-free either, and that is a foible we need to accept. Unfortunately for local governments, the Constitution empowers this body, this chamber and the government to oversee their work, and I think that is entirely appropriate.

The question before this chamber is about how it manages those concerns about local government. It was the view of Hon Simon O'Brien that a committee process that is dedicated to overseeing this function and being able to take evidence and hear complaints, as committees do, and make recommendations without having any authority to discipline or direct, which I think is also important, was a reasonable concept. It may not be the perfect solution. It may not be the way that we fix the issues around local government, and somebody may come up with a far better solution. But this is what the committee recommended, and for that reason, and on behalf of Hon Simon O'Brien, who was passionate about his advocacy of local government, I take pleasure in moving the motion to test the will of the house, as it were, to see whether it considers this an appropriate solution to the numerous problems that exist. If I discussed all of the issues of local government, we would be here for some time. I am attempting not to do so, because we want to get to a number of other things, particularly inaugural speeches. I think this is certainly a worthy motion for debate. If members have a better solution for the examination by this chamber of local government, by all means they should proffer an alternative opinion. In the meantime, I ask that members consider supporting the motion.

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [1.16 pm]: I indicate to the house that the government will not support the motion, but I do it in the nicest possible way, because I had a conversation with Hon Simon O'Brien before he finished his time here. He came to see me about this motion. I do not want to put words in his mouth, but he anticipated that the government would not necessarily support the motion. He also told me he had approached the Minister for Local Government and had arranged a time to catch up with him to have a cup of tea—in Hon Simon O'Brien's words—to talk about these issues. He also indicated to me that he found the conversation with the Minister for Local Government quite constructive, and the Minister for Local Government indicated to him that he was interested in what the honourable member had to say, because he was going to speak at a Western Australian Local Government Association event in the not-too-distant future and was going to use those comments in that debate. I am comfortable that Hon Simon O'Brien knows that the government will not support this motion, but also comfortable that he has put in place measures with the Minister for Local Government to talk about the issues and to help inform his consideration of them. I thank Hon Simon O'Brien for giving notice of the motion and then coming to speak to me in that way.

I will put some comments on the record. Of course, the final report of the Select Committee into Local Government has been considered by the government. I thank the committee for its report, which contains some 36 recommendations. Hon Simon O'Brien was obviously part of that, and so were Hon Laurie Graham, Hon Martin Aldridge, Hon Diane Evers and Hon Charles Smith. I thank them for their work. We tabled the government's response to the report in November last year, and it noted —

While several recommendations are supported, many recommendations relate to amendments to the *Local Government Act 1995* and the planned review of, and development of, a new act.

By way of background for honourable members, in 2017 we committed to reviewing the Local Government Act 1995. That included extensive consultation with local governments, community members and special interest groups. Based on the consultation, we introduced and passed the Local Government Legislation Amendment Act 2019, which provided a number of key reforms, including mandatory training for council members; a revised gift framework; a mandatory code of conduct; standards for recruitment, performance and termination of chief executive officers; and increased access to information for the community. We also indicated that that was the first tranche. The second phase of the Local Government Act review is underway and further reforms are currently being considered. The minister has authorised me to say that those reforms under consideration now are being informed by the select committee's report along with the Local Government Review Panel's final report and the *Report of the inquiry into the City of Perth*.

Recommendation 5 of the select committee report related to the granting of a new or existing parliamentary committee—in this case an existing one—with powers to address local government issues. When we tabled the government response to the report, we advised the house that we would not be accepting that particular recommendation, that Parliament has charged the minister and the Department of Local Government, Sport and Cultural Industries with oversight of local government through the Local Government Act. The act sets out the regulatory framework and, ultimately, the Minister for Local Government is responsible for the administration of the act and, of course, the minister reports to and is accountable to the Parliament. Indeed, there are other oversight agencies, including the Auditor-General, the Corruption and Crime Commission and others, to oversight various elements of the roles and functions of both the department and the local government sector.

The government will not be supporting this particular motion to add to the terms of reference, if you like, of the existing Standing Committee on Environment and Public Affairs. But I want to place on record the government's appreciation for the commitment by Hon Simon O'Brien to improving local government oversight. I am pleased that he has engaged with the minister and the minister has committed to him that he will take account of the committee report's recommendations when considering the reform of local government.

President, with those comments, I indicate that the government will not be supporting the motion, but I thank Hon Simon O'Brien and, in his absence, Hon Dr Steve Thomas for bringing the motion before the house.

Question put and negatived.

## COMMITTEE REPORTS — CONSIDERATION

### *Committee*

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

*Standing Committee on Procedure and Privileges — Sixty-first Report — Progress report:  
Supreme Court proceedings and matters of privilege arising in the 40th Parliament*

Resumed from 13 May.

### *Motion*

**Hon SUE ELLERY:** By way of explanation to the chamber, because I am sure for some new members this is as clear as mud, I am about to move two motions. Firstly, I will move that the report be noted, which gets the debate

started. Secondly, I will move that consideration of it be adjourned to the next sitting of the house so that it stays on the notice paper and, for the purposes of today, we can then move into debate on the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2021. I move —

That the report be noted.

*Consideration Postponed*

**Hon SUE ELLERY:** I move —

That consideration of the sixty-first report of the Standing Committee on Procedure and Privileges be postponed to the next sitting of the Council.

**Hon Dr STEVE THOMAS:** I thank the Leader of the House. Obviously, we have an agreement that we will move to other business today. I note that going forward, we need to work on agreement on what will happen next. But at this point, neither major party has come to agreement on that, so there will be discussion going forward on the next stages. The opposition is obviously here to help and if that assists the process here today, we are very pleased to do so.

**Question put and passed.**

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

**COVID-19 RESPONSE LEGISLATION AMENDMENT  
(EXTENSION OF EXPIRING PROVISIONS) BILL 2021**

*Time Limits — Statement by Leader of the House*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [1.27 pm]: I advise the house that the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2021 is a COVID-19-related bill. Accordingly, I have consulted with the party leaders and can advise that the maximum time limits for each stage of the bill, pursuant to the temporary order made on 25 May 2021, are: second reading stage, 120 minutes; committee stage, 180 minutes; and third reading stage, 30 minutes.

*Second Reading*

Resumed from 11 May.

**HON PETER COLLIER (North Metropolitan)** [1.28 pm]: I will only be about five minutes. I can talk under water, but —

**Hon Sue Ellery:** You might need to for about half an hour, unless Hon Nick Goiran is here.

**Hon PETER COLLIER:** Sorry, President. I just want to try to work out what is happening.

**The PRESIDENT:** Honourable member, you might benefit from some of the President's knowledge, which includes that your proposed next speaker might not be available for another half an hour.

**Hon PETER COLLIER:** You probably know more than me, President!

**The PRESIDENT:** This is a fact, honourable member!

**Hon PETER COLLIER:** All I know is that I have about five minutes, but, as I said, I will talk a little bit more.

**The PRESIDENT:** You could also, honourable member, move that the debate be adjourned.

**Hon PETER COLLIER:** Yes; I am conscious of that. The lead speaker is coming, so I want to know whether I should elongate my contribution or condense it.

**Hon Dr Steve Thomas** interjected.

**The PRESIDENT:** How is this: you start with your contribution and then you might be able to request that your remarks be continued at a later date.

**Hon PETER COLLIER:** Thank you, President, I think everyone is absolutely salivating at the prospect of my contribution today!

**The PRESIDENT:** Thank you, I am waiting with bated breath.

**Hon PETER COLLIER:** As I said, I do not really have that much to say; I am just speaking on behalf of the Liberal Party as a component of the valued alliance. I am not the lead speaker; that is Hon Marty Aldridge.

**The PRESIDENT:** Noted. Thank you and that is also noted on the clock.

**Hon PETER COLLIER:** Thank you, President.

I understand from the briefing that this COVID-19 bill will extend the emergency powers for another six months until 4 January 2022. We do not have a problem with that. We have been through this a couple of times before. In essence, it will provide the State Emergency Coordinator with additional powers under, first of all, section 72A of

the Emergency Management Act and it refers to 218 powers. There are currently 18 in place and they deal specifically with issues in a potential state of emergency such as the contact register—I will come back to that in a moment—the border provisions, quarantine and face coverings, all things that we have become used to. I have to say that if we think about the emergency powers we have at the moment, some people out there are saying that it is over, why do we bother. It is not over. Just look at Victoria’s situation. As we were sitting here yesterday, the rate was rising by the day. A couple of friends of mine who are in their late 70s went to Victoria two weeks ago to see their family because they had not seen them for 18 months. As soon as that very first case broke out in Victoria on Monday, they got on a plane and came home, although they were due to come back at the end of this week.

I was looking forward to going over to Melbourne in the winter break to watch the mighty Eagles, but I think I might watch them on TV from my lounge, quite frankly, because that is what we are dealing with. The pandemic is not over. All we have to do is watch television every single night and see what is happening in India, Japan and other nations throughout the world to see that it is not over. All we need is one or two cases to come through and, once again, we will be potentially in lockdown, which we found ourselves in just a month ago. That is the situation at the moment.

**Hon Donna Faragher** interjected.

**Hon PETER COLLIER:** Good. I am just getting warmed up, mate; you can go and have a coffee.

Having said that, when we talk about things like contact tracing, face masks et cetera, we have got used to it. I have even got used to wearing a face mask—some would say it was an improvement! If COVID-19 breaks out in Western Australia again, we have to be prepared, so we as an opposition have supported the government in its endeavours to keep Western Australians safe. As former Leader of the Opposition, we facilitated the passage of the original amendments to the act with an extension and now this bill is for a further extension. I will let Hon Martin Aldridge comment further in a moment. Suffice to say, as I have said, if those dieticians of doom, those poor cynical souls out there say that we are taking away their civil liberties et cetera, quite frankly, I would rather be in Western Australia than in most other places in the world and that is why we support this extension.

I would like to thank the minister and the plethora of advisers who gave me a personal briefing about a month ago; it was very enlightening. The advisers from each of the departments were very well learned, right around their brief, and made me feel much more comfortable, so thank you very much to all the advisers for their briefing earlier in the month. True to form, they provided me with the information I requested, so thank you very much for that.

The issue I was looking at in particular was contact tracing and the SafeWA app, which I use fastidiously, but I have to say that, unfortunately, a lot of Western Australians do not. That is my only concern—it is not a criticism; it is a concern. I challenge anyone in this chamber to sit out the front of their local restaurants or shopping centres—not for too long or people will start talking about them—and see how many people use the SafeWA app and how many people actually log in. They will be really surprised.

**Hon Kyle McGinn** interjected.

**Hon PETER COLLIER:** No, but a lot do not. It is a real issue for us because if we get to the point of having to do contact tracing, and need to isolate an area, that will be a problem. I have the figures to prove it, which came straight from the department, and I have great faith in them. I will explain: I asked for the figures on contact tracing and scans for the last 12 months. These are the SafeWA app statistics as at 7.20 am on 3 May 2021. Up to 5 December 2020, the number of cumulative scans since they became mandatory is 178 440 521 scans. That is a lot of scans, but remember that they are multiple scans, not just individual scans. The total number of individual scans is 1 848 170 and total business registrations is 74 398. I might add, however, that statistical data is not kept on paper-based registers. Again, that is an issue, particularly for a lot of older people who go into coffee shops. I stood and watched the coffee shop in Warwick Grove for about half an hour as I was looking at the jeans shop. I can tell members now that a lot of people did not sign in to that coffee shop. If there is an outbreak, as there was—during the last one, a guy went to one of the shops in Warwick—it makes it difficult to isolate a particular case.

Consider this, members. This shows how, to a large degree, we have become immune to it. It is almost like it is all over now in Western Australia; everything is fine, so let us move on. Let us have a look. In December last year, there were 12 613 594 scans. In January, there were 14 268 603. We might think that is a lot but it is not. That is for all Western Australians going around multiple times. If we go to five or six places a day and add that to the cumulative number, that is not a lot. Do we know why it is not a significant amount? Listen to this figure: in February when we had lockdown and people clicked on and thought, “Goodness, it’s still here; we have to do something about it”, there were 56 454 488 scans. It increased from 14 million in January to 56 million when we had the lockdown. Do members honestly think people were scanning in a month before? Of course they were not. It was only when they got a shot across the bow that they realised they needed to scan again because it is serious stuff. In March the figure dropped again to 50 932 983 and in April we were once again in terminal decline with 39 903 621. My point being, members, is that when we become complacent, this is not being used. For the benefit of Hansard, I am holding up my mobile phone with my SafeWA app on. There are people who are fastidious with it.

**Hon Tjorn Sibma:** Don’t invite him to table it.

**Hon PETER COLLIER:** What, my phone? I will just get rid of that text message!

My point being that we were being ruthlessly efficient in February but we had a lockdown then and people got back to that notion that we actually have to tap in wherever we go. In order for contact tracing to be effective, we have to localise the particular outbreak, and that is one of the most effective means that we can use. I thank the advisers very much; that is compelling evidence. It pretty much reflected what I thought was the case. I reckon if the figures were done again now, and as we move further on, we would find they will start to decline. Remember that in December there were just over 12 million scans. In February, when we had a lockdown, there were 56.5 million. It is not the gospel according to Pete; these are facts. That is one of the vehicles being used by every facet of the public sector to help keep us safe. They need that information; information is power. If we do not have that, quite frankly it will make it much more difficult to contain any further outbreaks.

The powers will also extend to border provisions. An outbreak in one jurisdiction may impact Western Australia. Of course the logical default position is, once again, to ensure that we are safe. The best way to do that is to close the borders, as the government has done. That is what Western Australians do. Western Australians have always been a bit secessionist. We like our own company, but it is even more so when perhaps outside the borders there is a situation in which life is not quite as rosy as it is in the magnificent state of Western Australia. Also, with quarantining and the wearing of face coverings, we held off and held off. We thought we would not need face coverings in Western Australia. Finally, we realised that not only do we need them, but also we could get used to them. It is one it'sy-bitsy sacrifice that perhaps we do not really need to worry about. If the worst that can happen to us is we have to wear a face mask when we see what is happening in a lot of other jurisdictions globally, that is a small price to pay.

With regard to changes to the Criminal Code, it is for serious assaults and threats against public officers. I totally agree with that. This bill will increase the penalty for assaults from seven to 10 years' imprisonment and will increase the penalty for threats from three to seven years' imprisonment. I have not got an exact date for these figures, so it may have changed from the information I have here; I would not imagine it has changed much. Nineteen people have been charged on 28 offences. When I asked what those offences were, I was told they are for those, dare I say it, very "attractive" individuals who spit and cough on public officers as a threat. We cannot imagine that people would do it, but they do. Nineteen people have been charged on 28 offences. Public officers—ambulance drivers, nurses, police officers and the like—should be able to go to work and not have to suffer the possibility of being threatened to be spat on by someone who potentially has COVID-19. I cannot comprehend that anyone would do it, but unfortunately they do. This bill will extend the penalties until 4 January 2022. It is an extension of the emergency provisions that were provided to the government through the original bill. We think it is appropriate and not unreasonable to extend it for six months. For that reason, the Liberal Party, as a part of the alliance, will support the bill.

*Visitors — Carey Baptist College*

**The PRESIDENT:** Before I give the call to the honourable member, I want to quickly acknowledge students and teachers from Carey Baptist College in Harrisdale. Thank you for visiting the Legislative Council.

*Debate Resumed*

**HON MARTIN ALDRIDGE (Agricultural)** [1.43 pm]: I thank Hon Peter Collier for filling in in my absence and kicking off the debate on this very important bill, the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2021. That is possibly the longest bill title I have read to date! I would also like to thank the Leader of the House and the government for delaying the commencement of the debate last evening when I was prevented from being in the chamber. I was dealing with some family matters and I appreciate the opportunity to speak to the bill today.

This bill should not be a stranger to most of us who served in the last Parliament. This is the third occasion that the house has considered matters relating to this bill, which in effect is quite a simple bill and extends some previously passed and considered provisions dating back to April 2020 in respect of the Emergency Management Act and the Criminal Code, which I will go into in more detail shortly. As members will recall, at that time the state was in the throes of considering a response and responding to the growing pandemic internationally, and within Australia and our jurisdiction. At that time, it was obvious that aspects of a number of acts, not just the Emergency Management Act, were deficient in supporting the capacity and capability of the government to respond. The issue that arose out of the Emergency Management Act and the amendments that were made previously to create new section 72A of the Emergency Management Act 2005 in effect gave a person the ability to direct a group of persons, and also in respect to a class of places or persons I think; I will get the right language a little later. It was a power that did not previously exist in the Emergency Management Act and obviously is quite important in the way in which directions have been issued. Quite a number of directions have been issued. One of the questions I asked was how many directions rely on these section 72A powers. I will go to that shortly.

I would like to thank the government advisers for the prompt briefing I had on this bill. Like Hon Peter Collier, I think I was in the largest meeting room in Parliament House. When I turned up, we were like sardines. I was a bit

worried that we might be breaching some sort of social distancing direction or something, but there were about 10 police officers in the room, so I thought: if I was going down, they were going with me! I was reminded that Parliament is a workplace and is exempt from those types of arrangements. There were a number of agencies present, including from the Department of Fire and Emergency Services, WA police and the department of the Attorney General, and potentially others, who were very helpful both during the briefing and in the follow-up information that I requested.

This issue arose in April 2020 when amendments were passed by both houses in the early throes of the pandemic and the initiation of the state of emergency in Western Australia. Members will recall that in November 2020 the government sought a further extension of 12 months. However, six months was supported following an amendment by Hon Colin de Grussa in this place prior to the last election, which meant that those provisions will expire on 4 July this year and now results in this bill, and a further extension of six months is sought.

The COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2021 will amend the Emergency Management Amendment (COVID-19 Response) Act, the bill for an act that we created in April last year, to extend the sunset date that applies to section 72A of the Emergency Management Act so that those powers that were created will be available for a further six months. It is a little unusual; I will talk about the drafting of this bill a little later. Although I did not have carriage of these bills in April and November last year, I recall some of the debate. There was some conversation about the way in which parliamentary counsel has adopted a particular style of drafting these types of COVID response bills—for want of a better word—so that they implode when their usefulness comes to an end. This is not actually an amendment to the Emergency Management Act, it is an amendment to the 2020 act that I mentioned a moment ago.

Section 72A provides a catch-all power that enables a hazard management officer or authorised officer to effectively manage the response to an emergency and includes the ability to direct a person or class of persons to take any action that the officer considers reasonably necessary to prevent, control or abate risks associated with the emergency. As I understand it, the issue that we had under the existing powers in the Emergency Management Act—I think it was a latter section; section 75, “General powers during a state of emergency”—was an inability to direct a class of people.

**Hon Sue Ellery:** Member, if you will take an interjection, section 75 is what you’re looking for.

**Hon MARTIN ALDRIDGE:** Section 75, yes. There was an inability to direct a class of persons to take an action during a state of emergency. That presents some real issues in responding to a pandemic, which obviously is the first time that the Emergency Management Act has been deployed for that purpose. Members can imagine a plane arriving this afternoon from another country and the requirement to issue a direction on the passengers disembarking from that plane, or a ship, or a train from interstate, or a whole range of other circumstances. There was an ability to direct each individual, but members could imagine the practical challenges of doing that and the many, probably hundreds of thousands of directions that would need to have been issued under the existing powers in order to achieve that. It was clear that there was a problem, which will be quite quickly remedied through the provisions of section 72A.

Although these provisions have sunset clauses, some consideration will probably be needed down the track about some type of statutory review of the Emergency Management Act. I am not sure whether the act even has that provision or whether one is scheduled, but it ought to be considered in light of this pandemic and the nature of it, including the potential for future pandemics. The Emergency Management Act is not one of the pieces of legislation that forms part of the emergency services acts review, which is a project dating back quite some years now relating to the Fire and Emergency Services Act, the Bush Fires Act and other, similar types of legislation with a view to combining them into one modern act. I believe the Emergency Management Act sits outside that project, so it probably is quite timely that some thought be given to it and its ability to provide the appropriate powers and resources to government in the long term.

Amendments were also made to the Criminal Code, which fall outside my direct responsibility as the shadow Minister for Emergency Services, but I will briefly touch on them. Members who were in the previous Parliament will remember that amendments were made to sections 318 and 338B of the Criminal Code. Section 318 deals with assaults on categories of people, most commonly public officers as defined by the Criminal Code, but also other persons undertaking public functions. Section 338B deals with threats and the amendment included a higher penalty rate, which was a maximum of seven years’ imprisonment. This bill will implement a six-month extension to those higher penalty provisions that relate to sections 318 and 338B of the code.

Clauses 4 and 5 of the bill will simply delete a reference in the existing 2020 act, changing “15 months” to “21 months” with the cessation date of 4 January 2022. In my briefing I raised the issue that the date is probably rather arbitrary. Six months from 4 July is 4 January but it is not common for Parliament to be in session on 4 January. However, on 4 January 2022, the Parliament will be able to be recalled if it is in recess, but I think the problem that we faced last January was that the Parliament had been prorogued. Although there was still an ability to recall the Parliament, it was a little bit more complex than would ordinarily have been the case. It was probably just an arbitrary decision to add six months, till 4 January, but I would like a greater understanding from the government about it. I assume it is the government’s intention, prior to the end of this year, to consider the need for the extension of these

powers in the Emergency Management Act and the increased penalties in the Criminal Code with a view to making sure that they are extended, if appropriate, prior to 4 January 2022. One of the questions I asked was why the government would not have made that date either a little earlier or a little later when it is more likely that Parliament would be able to respond at the time.

I turn now to some of the advice that I received supplementary to my briefing. I asked several questions at my briefing. The first one was around how often sections 318 and 338B of the Criminal Code had been used, in particular the increased penalties. I asked this question of the Attorney General, I think as a question on notice last year. I do not have the response with me but it was, effectively, that his department does not track offences and convictions on particular offences and that the information was not able to be provided to me. However, where there's a will, there's a way, President. Thankfully, from the briefing, I was able to get some information on how many offences had been charged and convicted. This is probably a slight update on the figures that Hon Peter Collier just mentioned, because I think these figures were refined post-the briefing that we received. I want to read out some information that has been provided to me.

The Western Australia Police Force advise:

The WA Police Force Prosecution Application does not specifically identify offences against section 318(1A) of the Criminal Code as distinct from other offences under section 318.

A manual keyword search of related cases from 4 April 2020 to 3 April 2021 was undertaken which identified that:

- 16 persons were charged with 24 offences of assault public officer (COVID-19 related) under section 318 of the Criminal Code (WA).
- No persons were charged with threats under section 338B(2) Criminal Code.

Assaults were largely committed against police but have also included assaults against nurses and medical staff, TransPerth personnel and custodial officers. Seven accused have pending court appearances.

Penalties have varied dependent upon the nature of the offending and include:

- 12 months imprisonment
- Eight-month conditional suspended imprisonment order (suspended for 12 months)
- Seven months imprisonment (suspended for 12 months)
- Six months and one day imprisonment
- Five months imprisonment
- Three months imprisonment
- Two months imprisonment
- \$2000 fine
- \$1,500 fine
- \$300 fine and order to pay \$800 compensation
- \$300 fine

These figures amend the numbers that were quoted in our briefing, which Hon Peter Collier just mentioned, in which three persons and four offences have been removed from the information provided because those offences, although they occurred during the pandemic and involved threatening COVID at the time of the assault, were prior to the increased penalty provisions applying. I assume they were charged under the pre-existing provisions of the Criminal Code, which did not come with the higher penalties relating to COVID-19. That was quite useful information. It is interesting that all the charges relate to the serious assault provisions of the Criminal Code and there were no charges under the provisions of section 338B for threats. I naturally thought that we might have had a combination of both or that we may have had potentially more threats than assaults, but that is not borne out in the evidence that I have.

I also asked who the authorised officers and hazard management officers are, because we are granting these section 72A powers to those groups of people. The information that I have is that the authorised officers are the Australian Federal Police, the border force police and the Western Australian police. For the purposes of checking compliance with paragraphs 4 to 7 of the contact register directions, they are a person employed by or engaged in the Department of Fire and Emergency Services with a designation of station officer or above; a person designated as an authorised officer under section 24 of the Public Health Act 2016; or a person designated by a local government as an authorised officer under section 24 of the Public Health Act 2016 for the purposes of the Food Act 2008. For the purpose of facilitating and enforcing compliance with the direction to remain in an allocated room at a quarantine centre, they are security officers, and for specified directions—that is crew, worker, border, transport/freight, transit aircraft—they are a border officer. I was advised that no hazard management officers were appointed. The authorisation

of HMOs under section 55 of the Emergency Management Act applies only during an emergency situation declared by a hazard management agency. Those are the people who can exercise powers under the directions that have been issued under section 72A of that act, and we are now extending those provisions for a further six months to January 2022.

My third question was what would happen if this extension was not given and the 4 July 2022 date came along. I suspect that somebody has produced quite a body of work here and I thank them for doing that, but I am advised that a total number of 223 directions have been issued that rely either fully or partially on section 72A, 52 of which remain in force. As Hon Peter Collier said, a number of those relate to the ability to gather information and deploy the SafeWA app and contact registry in respect of those directions. I have a very long list of directions. I will not read out all 223 of them in this time-limited debate, but quite a number of them would not be able to exist in their current form, or potentially not exist at all, if this sunset date is not extended beyond 4 July 2022. No-one would disagree that that would present some significant challenges to the way in which the state responds during the pandemic. On that note, there are times when we get a little bit more comfortable and complacent and we feel that the end might be coming near, and then something happens. It might happen in India or Victoria, and we have seen what has happened in Victoria with a number of cases in the last few days. Our sympathies and thoughts are with our fellow Victorians and that state as it responds to that changing situation.

Before I move off from talking about directions, and this is probably not strictly related to the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2021, I want to express one of my frustrations with the way in which we publish directions. Whoever in government decided that we should have one government website with everything on it ought to have a direction issued against them to leave Western Australia. It is really difficult to navigate. I think that the whole project was designed to make government more accessible to Western Australians and others. I find the streamlined [wa.gov.au](http://wa.gov.au) single website to be quite challenging, not easier, to use. Perhaps that is a transitional thing that will become different over time as we get more used to it, but I challenge anyone to jump on the website and find a list of the current directions in force and those that have been rescinded. It is not easy. It was easy in the early months of the pandemic, but now, as the directions have gone into the hundreds, it is very difficult to access them. Members should remember that they are legal directions. If a person offends under these directions, they can face significant penalties and imprisonment. It is important that information as vital as these directions is readily and easily accessible. On a number of occasions, I have had to deal with a constituent inquiry that is retrospective and I have had to find the direction in place during a lockdown, or the direction that was put in place during that lockdown that has since been amended, or a number of directions that were in place before that lockdown. It is difficult. I am happy for somebody to correct me and say that it is far easier than that, and they can give me a crash course in how to use the government's website, but perhaps the government could take that on notice, at least initially with the COVID-19 information and the directions, but then also more broadly with the whole-of-government approach that is shifting to this single [wa.gov.au](http://wa.gov.au) website.

I have some further information on infringements issued under the directions. I will not go through all those in the interest of time, but I thank the briefers for the information that they provided supplementary to my briefing. I recall that one of the early amendments we made to the Emergency Management Act was to create, for want of a better expression, an on-the-spot fine. Our EM act in its previous form had quite significant penalties but it was deficient in the ability to provide a \$1 000 on-the-spot fine or a smaller fine, which is now seen in some of the directions that are issued, because we need a range of infringements and penalty options to deal with a scale of circumstances. Infringing somebody for not wearing a face mask or not scanning a QR code when they should is quite different from somebody evading a police checkpoint or some other action.

I want to talk about the drafting of the bill. This is probably curiosity more than anything else about the way the original bill that we passed in April 2020 was drafted. I think at the time Hon Stephen Dawson had carriage of that bill in this place.

**Hon Sue Ellery:** So blame him.

**Hon MARTIN ALDRIDGE:** Yes, we will blame him. No, I am not blaming him, I just think that it is interesting.

The Emergency Management Amendment (COVID-19 Response) Act 2020, which was passed in April 2020, is the act that we are amending. I think some people are a little confused in thinking that we are amending the Emergency Management Act 2005. We are not doing that; we are amending the Emergency Management Amendment (COVID-19 Response) Act 2020, which amends the Emergency Management Act, which I do find a little peculiar. Having listened to the debate on two previous occasions and attended one of the briefings when we dealt with this matter, I know that section 10 of the Emergency Management Amendment (COVID-19 Response) Act 2020 repeals section 72A of the Emergency Management Act. I was told, if my recollection serves me well, that this is a neater way of creating these types of temporary legislative provisions because they are automatically repealed with the expiration of time and disappear from the Emergency Management Act. No such provision repeals the provisions of the Emergency Management Amendment (COVID-19 Response) Act 2020. I assume that its provisions will continue in perpetuity because they do a range of other things that were deemed appropriate at the time and were intended to continue beyond; indeed, they do not have sunset clauses. Flicking through the act, there are

things like the electronic monitoring of persons in quarantine, for example. That provision is not repealed with the expiration of time. I assume that this act will continue and its amendments will still appear in the compilation act of the Emergency Management Act 2005. It is a crafty way—or a cleaner way, perhaps—of repealing those provisions once they are no longer considered, noting my earlier comments that it may be appropriate that the Emergency Management Act be considered as a whole earlier rather than later to make sure that it remains fit for purpose for a state response into the future.

President, I understand that a media statement about compensation arrangements has been issued today. The issue of compensation featured in the debate in the other place. After the Anzac Day long weekend lockdown, there was a call for compensation, particularly from the small business community, which had felt the impacts of the earlier lockdown in late January and the Anzac Day long weekend lockdown. The small business community was feeling the effects of business disruptions in short succession. There was a call shortly after for the government to respond in some way to support parts of the business community, and the community more generally, that had been affected by the disruptions. I recall the media statement of the Minister for Small Business and the Premier at the time that was saying, “Doing this is too difficult. Where do you start and where do you stop? It’s just not possible.” Interestingly, it was possible because on 6 May, the government announced that small business relief was on its way with a targeted program. On 5 May, the government announced by a media statement that it was introducing a bill to extend the time frame for the COVID-19 measures. I do not have that media statement with me today because of the rapid progress that the Legislative Council is making on its business program. I think that the program is open for applications.

If I go back to the concerns about compensation, particularly given that the government has acknowledged that there needs to be some type of response, how do we structure a compensation regime within or external to the Emergency Management Act to assist those who are directly affected by the directions that are issued? Obviously, there part 7 of the Emergency Management Act deals with compensation, but those provisions are limited to the application of certain powers within the EM act and largely relate, on my review of the relevant sections, to the exercise of powers when property is lost or damaged. That is distinct from the circumstance that we—when I say “we”, I mean the Western Australian community—have been discussing over the last few months, which is the COVID-19 impact on community events, businesses and certain sectors. I note that there was some debate on that in the Assembly and I think others would welcome and support the government if it decided to look longer term and to what might happen next time. With the opening of its grants program today—it offers a \$2 000 grant for Perth and Peel small businesses that were impacted by the Anzac Day long weekend lockdown—the government has accepted the need to provide some support. I think the question that follows is: what will the government do next time and will it be simply a decision of the executive to develop a grants program as it exists in the form announced on 6 May or could it be a function of the Emergency Management Act when there is some sort of business or community loss? It does not necessarily have to be a business impacted by the use of directions under the Emergency Management Act provisions. In part, President, we all expect that directions are issued in good faith. Often they are issued very quickly and often time is against the State Emergency Coordinator and the excellent public servants who work in aiding the government’s response to the pandemic. But there are times when there are unintended consequences. I do not want to go through a laundry list of the directions that have resulted in that being the case. It is common knowledge to every member in this place that some directions have had to be fixed or amended and sometimes that is after an impact has already occurred. A business or a person may identify the problem and it takes some hours, sometimes even days, to rectify that problem. That is a debate for another time. As I said, I will not go through the number of issues that have related to directions because when those issues have been identified, and often they are identified by members of Parliament, the government and the State Emergency Coordinator have responded.

In the broader context of what a more permanent compensatory regime should look like, it probably needs to be a little bit more considered than simply providing grants after the effect. Maybe we need to look at how the state—or maybe in this conversation broader than the state—might consider that issue in the future, particularly in the context of none of us knowing when this pandemic will end or when a future pandemic might occur.

I think they were the main issues. As I said in my earlier remarks, this is the third time most of us have dealt with the content of this matter. This matter is very confined, in that we are discussing literally the expiration date of the relevant provisions in the Emergency Management Act and the Criminal Code. Many of the issues that were considered were covered earlier in a great more detail, particularly in the April sitting when we dealt with the initial COVID response, but also in prosecuting the argument for the length of period in November for when that ought to occur.

With those remarks, I reiterate that the bill has the support of the opposition.

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [2.21 pm] — in reply: I thank members for their contribution to the debate on the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2021. I thank Hon Peter Collier for stepping into the breach. He raised the important question of contact registers and making sure that we remind people—this is a good opportunity to do that—that the SafeWA app is really, really important and everybody needs to use it.

The continuation of the section 72A powers is an important part of ensuring that contact registers will continue to be available. The member identified a decline in the use of the app, and then a peak at the point at which we had the lockdown, which reminded people. Hon Peter Collier I think in that context was referring to whether there had been an update on how many people are using the app. There are other factors, including lockdowns and restrictions, that may impact the number of scans. We are continuing as a government to encourage people to scan in, and to communicate to the broader community the importance of this.

I thank Hon Martin Aldridge for his contribution as well. One of the issues that he raised was that it might be appropriate to consider the Emergency Management Act as a whole to ensure that it remains responsive. The effectiveness of the emergency management framework in relation to the COVID-19 pandemic hazard is continually considered through the mechanisms available under the Emergency Management Act 2005. For example, the State Disaster Council, of which I am a member, was deployed when the state of emergency was declared. The Emergency Management Act 2005 also established various committees and decision-making structures at a local, district and state level, with appropriate cross-agency representation. Through these structures, and at the agency level, observations and insights have been captured regarding the response to COVID-19, and, where it is appropriate, significant issues are escalated for immediate attention and action. It is anticipated that that will be a continuous improvement process, if you like. There are a number of things that we are learning from the emergency management response to COVID-19, and any proposal to change the existing arrangements will need to go through a fairly vigorous consultation process.

The honourable member asked why there is a need to extend the sunset date by six months. The emergency response to the COVID-19 pandemic is continually being assessed and updated. It is not possible right now to decide whether the state of emergency will need to continue beyond that date. The circumstances and the risks are continuing to evolve at a state and national level, as well as internationally. If we take Singapore as an example, for a whole period of time Singapore was considered a really safe place. In fact, discussions were occurring about whether there ought to be a travel bubble between Singapore and Australia. Singapore is now in lockdown because of an outbreak. We cannot predict. If we cast our minds back to February last year, and to early March, I think it was, when the national cabinet first convened, all the advice we were getting was that this was going to be a terrible thing, and it was probably going to last about six months, and that would be terrible. It is now some 15 months later, and we are still dealing with it. Obviously we now know a whole lot more, and obviously we have the vaccine. I have had my first dose of AstraZeneca, and nothing has happened to me. I am told that the period within which I can get a blood clot to the brain is between day four and day 20. I am at about day 15, folks, so five days to go.

**Hon Nick Goiran:** Not that we are making light of those who have suffered.

**Hon SUE ELLERY:** Indeed; absolutely we would not. I was pleased to take the vaccine, because I think the most sensible thing I can do to protect myself and to protect others is to ensure that I am vaccinated.

However, as I said, if we cast our minds back to Singapore as an example of a place with which we could enter into an arrangement, it is currently in a period of lockdown as well. Heartbreaking events are also unfolding internationally. Unlike many members of the chamber, I have travelled to India, and it is horrifying to me to see the extent of the impact it is having there. All these things mean it is difficult to envisage a state of normality in the near future. All these things are currently and constantly being assessed and balanced for both immediate and forward planning.

At this point, the government, in correspondence with the State Emergency Coordinator, anticipates at least a six-month continuation. The proposed six-month time frame will afford the government the opportunity to assess the ongoing risks posed by COVID-19. Should the state of emergency and response to the pandemic be ongoing, the government will have time to determine whether to maintain the current emergency management framework or transition to an alternative response mechanism. The new sunset date of 4 January 2022 will ensure that these measures are applied to the ongoing COVID-19 pandemic while still providing parliamentary scrutiny of the powers used in response to the state of emergency. It will be up to the Parliament to make that decision about whether the provisions need to continue beyond that date. That date will also allow the government to review and observe the trends at a national and international level.

The honourable member also raised an issue about how directions are published. He pointed out that it is a challenge to find a list in force in the current directions and that it is difficult to access them. They are published on the WA government website, but we are looking at ways of improving communication and have improved how those directions have been published over time. That has included removing and archiving revoked directions to make it easier for the community to find directions and to categorise directions according to travel, gatherings et cetera, to help people who are looking for something specific. The directions are also searchable to assist people to find the directions that are applicable to them. In respect of the drafting—the mysteries of parliamentary counsel—of the sunset clause and the clean-up of the Emergency Management Amendment (COVID-19 Response) Act 2020, once the amendment act is completely spent, in that all its provisions have been affected and are no longer useful, the policy intent is to include that amendment act in the omnibus bill and to repeal it.

A question was asked about whether the government would consider compensation provisions within the act for businesses affected by COVID-19 directions. The proposed amendment to extend the current compensation provisions of section 78 apply to any order under section 72A(2) of the Emergency Management Amendment (COVID-19 Response) Act 2020 to “direct a person or a class of person to take, any action that the officer considers is reasonably necessary to prevent, control or abate risks associated with the emergency” when that direction, as specified under section 75(1)(i) of the Emergency Management Act 2005, entails —

... direct the owner or occupier or the person apparently in charge of any place of business, worship or entertainment in the emergency area to close that place to the public for the period specified in the direction;

The Minister for Emergency Services noted that the Emergency Management Act 2005 is not the appropriate vehicle to make compensation arrangements. Section 78 of the Emergency Management Act provides for compensation in very limited circumstances. For the purposes of COVID-19 management, it would only apply when an officer has to take control or destroy property. It is worth noting that in the act there are multiple instances in which the power to close a business is provided for during an emergency; it is not a specific COVID-19 response power. Allowing compensation for one type of emergency but not others would be disproportionate and inequitable. There is no scope to open the Emergency Management Act 2005 to general compensation provisions, especially when the intention applies to only one type of emergency. It would lead to inconsistency within the application of the act.

I understand the reason the honourable member raises the question of providing compensation and assistance to businesses. It is an important issue. However, compensation and assistance are part of an ongoing process outside the legislation that is before the house. The government will continue to respond to the needs of small businesses, in particular, but all businesses, by helping and assisting. The COVID-19 pandemic has presented unique challenges, particularly for some small businesses. Small business has stepped up across the state in a remarkable way, with many, many people putting their businesses on hold to help to protect their fellow Western Australians. Widespread support of small business has been provided as part of the government’s \$5.5 billion WA recovery plan, including billions of dollars in job-creating infrastructure programs, payroll tax relief, licence fee reduction, commercial tenancy relief and electricity credits. This is in addition to the recently announced small business lockdown assistance grants—over \$30 million for 15 000 businesses who were affected by the recent Anzac Day long weekend lockdown. By taking that action, WA has avoided the long and extended lockdowns that we have seen right around the globe.

None of these decisions is easy. They are based on expert advice from the Chief Health Officer and the State Emergency Coordinator. The government has taken the view that the very best way to support small business and the WA economy, while having appropriate support measures in place, is to do all that we can to ensure our community does not have to go into lockdown. The directions that are issued in reliance or partial reliance on section 72A of the bill before us are a really important part of that.

Members, I conclude my second reading reply by saying that we are continuing to face an unprecedented emergency. The bill is vital for ensuring the safety of the Western Australian community and continued support for our emergency management personnel beyond 4 July 2021. The bill before us will maximise the certainty that we have the tools in place to do everything that we can to protect our state, the people and the economy with both short-term responses to the risks and a long-term strategy as the world continues to grapple with the COVID-19 pandemic. If we put ourselves knowingly in a position in which we create a gap in these laws, then we could potentially present an unacceptable risk to the health, safety and financial security of Western Australians. With that, I commend the bill to the house.

Question put and passed.

Bill read a second time.

#### *Committee*

The Deputy Chair of Committees (Hon Dr Sally Talbot) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

#### **Clause 1: Short title —**

**Hon MARTIN ALDRIDGE:** I want to take up a couple of things that the Leader of the House said in her reply to the second reading debate. I asked a question about the review of the Emergency Management Act 2005 and had a chance in the interim to look at it. It is a 2005 act. It includes a review provision, which looks like a fairly standard one for the day. Section 103, “Review of Act”, states —

The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiry of 5 years from the commencement of this Act.

I assume that if that had happened, it would have happened circa 2010 or thereabouts. Obviously, no further provisions of the act require a statutory review. If I heard the Leader of the House correctly, it sounded as though she was explaining that the act is still fit for purpose. She referred to the State Disaster Council, which reminds me, if not provokes me, to mention that it seems as though the State Disaster Council is now being treated as a subcommittee

of cabinet. I do not think that it was ever intended for the State Disaster Council to be a function of cabinet, but that is the way that the government is treating it. That means that every discussion and piece of legislation that gets laundered through the State Disaster Council becomes cabinet-in-confidence and sealed. That is a point rather than a question. My question is: does the government intend to review the Emergency Management Act; and, if so, when?

**Hon SUE ELLERY:** I am advised that a statutory review was commenced and, I think, completed just before we came to government, so around 2016. Certain recommendations were made, but I understand they were not pursued. There is certainly an intention to meet our obligations to conduct a statutory review, but the view is that in the middle of a pandemic the people who would be relied on to give feedback are those who are managing the emergency, so there is certainly no intention to do it now while we are in the state of emergency. However, I am advised that there is constantly an acknowledgement of the things we are learning through this exercise, and they will be fed into the next statutory review when it is undertaken.

**Hon MARTIN ALDRIDGE:** I will refresh my memory of the 2016 review, but I suspect it will be helpful only to a point, because in 2016 I am sure the minds of the reviewers did not have a view of the ability to respond to a state of emergency like this. Otherwise, we would probably have had clause 72A, or a provision like it, embedded in the Emergency Management Act. I acknowledge the comments the minister made about placing further pressure on the relevant agencies, and it is a good and fair point, but once the dust settles, there will probably need to be a considered review of not just this legislation. We have done a lot of very rapid legislating over the last 12 months, and some of it a bit more rapid than I would have liked. There are probably provisions in other acts that need reviewing, but given this is the principal legislation enabling the government's response and powers, it would be a good place to start.

I did not have any further questions on clause 1. It is a fairly limited bill. One thing I asked was about the expiration date. I think the minister's response was that it was really just a date, because we do not know what will occur in the future. I understand there is probably not a lot of science behind the date. I will put this to the minister and she can tell me whether it is a good way of paraphrasing what she said. We do not want to be coming back to the Parliament every week and asking for an extension of another week. Six months is probably an appropriate length of time for us as a Parliament—but prior to that, the government—to reassess our position and decide whether these powers are needed in the future, whether COVID exists or something else exists, and I accept that point. Maybe there is some better explanation for this, but although I know 4 January 2022 is six months to the day, the question I put to the government was that I assumed it intended to make a decision prior to that date. It will probably have to be several months before that date in order to draft a bill, introduce and pass it in both chambers and take it to the Governor. We have to keep in mind that we typically rise in late November or early December—I cannot recall the sitting schedule for this year—and there is still the ability to recall Parliament, but the decision-point for government is probably a matter of only three or four months away. That is when cabinet will have to make a call to print a new bill to bring to this place. Perhaps the minister could enlighten me with whatever detail she can about how the government will approach that.

**Hon SUE ELLERY:** The first part of the member's question is right. There is no magic science to this. He is quite right that the government will need to make a decision about what we intend to do to start the process, I would say, probably within four months. I have a letter from Chris Dawson, Commissioner of Police, State Emergency Coordinator, dated 27 April 2021, which in part says —

The intent of the sunset date was to ensure that section 72A would apply to the circumstances of an appropriate response to the COVID-19 pandemic. As you aware, a Cabinet Submission has been prepared to extend the sunset date that applies to section 72A of the EMA. In my capacity as State Emergency Coordinator, I endorse the submission for the sunset date to be extended by no less than 6 months.

That is the reasoning behind it.

**Hon MARTIN ALDRIDGE:** I read an article in the last few days, and I do not have it with me, but it was talking about the cracks starting to emerge in the Labor Party—quite a good article!

**Hon Sue Ellery** interjected.

**Hon MARTIN ALDRIDGE:** I will come to it.

I am pretty sure that in that article there was some reference to a dispute that occurred between then director general of Premier and Cabinet and the Premier about which powers ought to be deployed in the state's response to the pandemic. On one hand there are other powers under the Emergency Management Act and on the other there are the powers under the Public Health Act. As I understand it, there was an activation of the relevant states of emergency under both acts within a matter of days of each other. It is not something I have been able to turn my mind to in any detail. Could the minister tell me whether the dispute happened as it has been reported? I would have thought that the Public Health Act was fairly limited in its scope. With the ability to issue directions of the nature we have seen in the Emergency Management Act—we are agreeing to give the government an extension of another six months

for those powers—do the minister’s advisers have any information that could provide us with some understanding of the powers that exist in the Emergency Management Act in comparison with the Public Health Act? Why is the Emergency Management Act the appropriate act through which to respond to the pandemic?

**Hon SUE ELLERY:** While my advisers are providing the advice about the second part of the member’s question, which is not unreasonable, I will say about the first part of his question that I quite like Paul Murray, but I advise the member not to believe everything that he writes! Second, I would not know whether there was such a dispute, and third, even if I did, I do not see it as germane to the bill before us now.

**The DEPUTY CHAIR:** Minister, can I just clarify that you are seeking further advice.

**Hon SUE ELLERY:** I have that now. We do not have a table here now that sets out the respective powers, but I am happy to give an undertaking that I will ask the relevant minister to provide it to the minister as a separate document. I will provide it to the member behind the chair. I do not have it right now, but I will do that.

**Hon MARTIN ALDRIDGE:** Thank you for that undertaking, minister. This is about my point on the need for, particularly, a statutory review of the Emergency Management Act, and other acts, because we are now using the powers of two acts simultaneously. Directions are issued by the Chief Health Officer under the Public Health Act and by the State Emergency Coordinator under the Emergency Management Act. It may be that is appropriate and is not a problem, but I assume there would be differences in the types of powers that can be issued under each act, which brings me back to my earlier point about the article and, whether it is true or not or relevant or not, the speculation was that there was some sort of dispute over the appropriate legislation to deploy in those circumstances. I know that other members have questions, so I might contemplate that for a moment and take my seat.

**Hon NICK GOIRAN:** Does the minister have a copy of the second reading speech at her disposal—the version that was circulated to members when she read the bill in earlier this month? The version I have, which appears to be different from the one the minister has, has a series of dot points. This is the customary hard copy speech that is circulated to members in the usual way. The eighth dot point reads —

We must urgently pass this Bill by to ensure that the State can respond to the challenges that we are facing.  
For the benefit of Hansard, there is no error in my quote, that is what it says —

We must urgently pass this Bill by to ensure that the State can respond to the challenges that we are facing.  
It appears there may have been an earlier version of the speech that might have inserted a date, “We must urgently pass this Bill by —

Insert date! —

to ensure that the State can respond to the challenges that we are facing.

Is the minister in a position to be able to inform the chamber about this?

**Hon SUE ELLERY:** If the member could pass me that copy I can check it against the copy I have, which is in a different format. I think there is a typo in the version the member gave me, but it is not because a date is missing, it is the insertion of the word “by”. The version that I have in front of me says —

We must urgently pass this bill to ensure —

“By” is the bit that is missing. I will pass this back so that the member has his marked-up version. The word “by” has been inserted incorrectly.

**Hon NICK GOIRAN:** Minister, when does the bill need to be passed by?

**Hon SUE ELLERY:** The honourable member would be aware, of course, that the expiration of the current arrangements is 4 July, so we need to pass the bill before then.

**Hon NICK GOIRAN:** The minister would also be aware that there are many sitting dates between now and 4 July, and it seems to me there is no case for the temporary order to have been —

**Hon Sue Ellery:** You are reflecting on a decision of the chamber.

**Hon NICK GOIRAN:** Is that what you heard? Maybe you will allow me to finish my contribution and then you might make your own reflection. It seems to me there is no case made for invoking the temporary order for this bill. That is not to be confused with the decision of the chamber about whether there will be a temporary order or not. There seem to be ample sitting days between now and 4 July, which is the date the minister says this bill needs to be passed by. Nevertheless, can the minister inform the chamber whether a briefing was offered to members on this bill?

**Hon SUE ELLERY:** Yes, it was. Maybe the honourable member was out of the house on urgent parliamentary business when two members of the opposition referenced the briefings they received and thanked the officers for those briefings, so certainly briefings were offered, honourable member.

**Hon NICK GOIRAN:** Is the minister aware that at one of the briefings members were told that the government had received advice that at least a six-month extension be sought?

**Hon SUE ELLERY:** I was not at the briefing. You were, I am advised. I am not sure why you needed to ask me if there were briefings if you were at the briefing. In any event, I am not sure whether you were out of the chamber when I just referred to the letter from the Commissioner of Police. The last sentence of that letter states —

In my capacity as State Emergency Coordinator, I endorse the submission for the sunset date to be extended by no less than 6 months.

I am advised that is the basis of the advice that was provided at the briefing.

**Hon NICK GOIRAN:** Will the minister table that advice?

**Hon SUE ELLERY:** I can. I will identify this as a letter dated 27 April 2021 signed by Chris Dawson, Commissioner of Police, State Emergency Coordinator, to Hon Reece Whitby, Minister for Emergency Services.

[See paper [222](#).]

**Hon NICK GOIRAN:** While that letter is being circulated to interested members: is that the only advice that the government received that there be at least a six-month extension?

**Hon SUE ELLERY:** Perhaps the honourable member might assist me: is there a particular point the member wants to get to, because I have explored already with Hon Martin Aldridge that there is no precise science to this. The best advice received by the government is that the police commissioner, in his capacity as the State Emergency Coordinator, was of the view that it should be no less than six months, so that is the position that was adopted. We have no precise, formulaic approach to this; it is about commonsense and the advice that has been provided to government, which was that it should be no less than six months.

**Hon NICK GOIRAN:** That is the point, minister, because you have just said “not less than six months”; at the briefing, we were told “at least a six-month extension”, and the document you have read refers to “no less than 6 months”. That is three different versions of advice. I want to get to the bottom of whether the government has received one, two, three or more pieces of advice. I go back to my question: is this advice from Commissioner Dawson the only advice the government has received that there should be at least a six-month extension?

**Hon SUE ELLERY:** I am not sure we can take the line of questioning much further because as I have already indicated, no precise formula is applied each time. I am advised, though, that the State Emergency Coordinator receives advice from the Chief Health Officer on a regular basis regarding the continuation of a state of emergency and future outlook and takes that into consideration when advising the emergency services minister. I am not sure I can take that much further.

**Hon NICK GOIRAN:** At the briefing I attended, Hon Martin Aldridge and I were told that the government had received advice from an unspecified individual or individuals about at least a six-month extension. I am being very precise for the minister’s benefit—at least a six-month extension. That is what we were told at the briefing. The people who told us that must have had something in mind. Was it the letter from Chris Dawson dated 27 April 2021 or was it something else?

**Hon SUE ELLERY:** There is nothing else. But I am advised that at that point, the officers were not authorised to provide that letter at that briefing, so they paraphrased the advice. Instead of saying “no less than”, they said “at least”. It was not an intention to mislead or to confuse but at that point in time, they did not have permission to provide a copy of the correspondence. The member has it before him now.

**Hon NICK GOIRAN:** When was that permission granted, and was it provided by the Minister for Emergency Services or some other person?

**Hon SUE ELLERY:** To the best recollection of the advisers at the table, they sought advice to assist in the matter proceeding through the Legislative Council, so it was recently, but they cannot remember the precise date. They sought permission, through the minister, of the State Emergency Coordinator.

**Hon NICK GOIRAN:** Minister, this letter from the Office of Commissioner of Police dated 27 April 2021, which the minister referred to earlier, ends with this statement —

In my capacity as State Emergency Coordinator, I endorse the submission for the sunset date to be extended by no less than 6 months.

A plain reading of that will indicate that somebody else has already given advice to the government that the extension be no less than six months, and Commissioner Dawson is adding his weight and endorsing that earlier advice. Who provided the earlier advice?

**Hon SUE ELLERY:** I am advised that the submission referred to in the letter is a cabinet submission. Again, I go back to what I said before: there is no precise scientific formula. As the member will appreciate, there is constant and ongoing discussion between people like the State Emergency Coordinator, the Chief Health Officer and others involved in the management of the pandemic about all the tools required to manage it. Therefore, some of the advice that is considered is verbal and occurs as part of these conversations and other advice is formalised through, for example, a cabinet submission.

**Hon NICK GOIRAN:** To be clear, the minister is informing the chamber on behalf of the government that no-one other than Chris Dawson, the Commissioner of Police; State Emergency Coordinator, has provided advice to the government that the sunset date be extended by no less than six months. No-one has provided that other than he has in his letter of 27 April.

**Hon Sue Ellery:** That is not what I am saying at all.

**Hon NICK GOIRAN:** Let us get to the bottom of this, because I asked a question and the minister provided answers about some specific time line of around six months. I do not really care whether it is six months, eight months or any specific formula. I agree with the minister that there is none. That is not what I am asking for. I am asking for the chain of advice provided to government. Clearly, Chris Dawson was not the first person in the chain; somebody else had to have been. I want to know who that was.

**Hon SUE ELLERY:** I know the honourable member has not been a minister, so perhaps he is not across the process by which cabinet submissions are prepared, but they are prepared by respective agencies. I just made the point that, in many cases, advice is provided in a conversation or a discussion, so it is verbal. In addition to that, there is the preparation of submissions for consideration by cabinet and then formal advice is given from time to time from the State Emergency Coordinator, and that is what has occurred here.

**Hon NICK GOIRAN:** Has the government received any advice that the period of the extension should be greater than six months?

**Hon SUE ELLERY:** I am not sure I can answer this question in any way other than I already have. The advice the government acted on was the advice provided by the State Emergency Coordinator. The State Emergency Coordinator expressed that in the terms of the letter I have tabled already. However, in addition to that, there are ongoing discussions, which I have already described as verbal discussions that occur from time to time, particularly between the Chief Health Officer and the State Emergency Coordinator, as the member might imagine. There is no advice that I can table or offer the member that has been formalised other than what I have already tabled.

**Hon NICK GOIRAN:** Interestingly, I have not asked for any other advice to be tabled. I just asked whether any other advice had been received. Unlike the earlier questions about a period of six months, I asked whether any advice had been received about a period greater than six months. Somebody might have advised the government that it should be eight months, 10 months or 12 months. I do not know; nobody in this chamber knows. That is why we ask the government questions and the government has a responsibility to answer them. It seems to me, in trying to make sense of the minister's riddles, that some verbal advice might have been provided within government for a period greater than six months. Is that true?

**Hon SUE ELLERY:** I will say this again, and it is probably the last time I will say it: I do not know any other way to provide the member with the answer to the questions he is asking than what I have already said. There is no other advice that I am aware of about any other period—full stop.

**Hon Nick Goiran:** That is all we needed to know.

**Hon SUE ELLERY:** This might be an opportune moment, deputy chair, to ask you to report progress. For the benefit of the chamber, members will be aware that we have agreed to a timetable of first speeches for new members. The next one is scheduled for 3.10 pm, so this might be an opportune moment to ask you to report progress.

**Progress reported and leave granted to sit again, on motion by Hon Sue Ellery.**

[Continued on page 760.]

#### ADDRESS-IN-REPLY

##### *Motion*

Resumed from 25 May on the following motion moved by Hon Pierre Yang —

That the following address be presented to His Excellency the Honourable Kim Beazley, Companion of the Order of Australia, Governor in and over the state of Western Australia and its dependencies in the Commonwealth of Australia —

May it please Your Excellency: We, the members of the Legislative Council of the Parliament of Western Australia in Parliament assembled, beg to express our loyalty to our most gracious sovereign and thank Your Excellency for the speech you have been pleased to deliver to Parliament.

**HON PETER FOSTER (Mining and Pastoral)** [3.10 pm]: Thank you, President. Let me first offer my congratulations on your election as President of this place. I thank you for your warm welcome, support and encouragement and I very much look forward to working with and learning from you as I settle into this place. Could I also congratulate the Chair of Committees, Hon Martin Aldridge, on his election; I look forward to working with him in my capacity as a deputy chair.

I would like to begin by acknowledging the traditional owners of the land upon which we stand today, the Whadjuk people of the Noongar nation. I pay my respects to elders past, present and emerging, and acknowledge First Nation people's continuing connection to land, sea and community. I stand before you all extremely humbled and somewhat

nervous, for it is indeed a great honour and a privilege to have been elected as a member to this place, as part of the re-elected McGowan Labor government, to represent the Mining and Pastoral Region, a place I have called home for the past 13 years. Western Australia is a great state and I am immensely proud and very lucky to call it my home. It is home to ancient culture, dramatic landscapes, burgeoning industries and many great communities. And, as the world is still in the grips of the global pandemic, it is also one of the safest places to be, thanks to the leadership of the McGowan government.

I was born six days before Christmas in the very late 1970s in a town called Kurri Kurri in New South Wales. Kurri Kurri is situated in the Hunter Valley, in the coalfields, and was founded to support the nearby collieries. The first miners to the region lived in makeshift accommodation near the collieries and were often away from their families for extended periods. The miners' unions, through local delegates, flagged a need for a town to reunite the families. Their campaign was successful and, soon after, the town was surveyed and formally gazetted in October 1902. The name of the town, Kurri Kurri, comes from the local Wanaruah people, the traditional owners of the area, and means "the very first" or "the beginning". Kurri Kurri was a planned town and some believe it to be one of the first planned towns in New South Wales. I note this fact because where I live now, Tom Price, in the Pilbara, is also a planned town, established by Hamersley Iron in agreement with the state government in the late 1960s to house miners, and their families, who were working nearby at the Mount Tom Price mine site.

Some of my great-great-grandparents were early settlers in the town of Kurri Kurri. Like many of their generation, they boarded ships and embarked on a journey of a lifetime from the United Kingdom to find better-paying jobs and pursue the promise of a healthier and prosperous new future in another part of the Commonwealth. Not all my ancestors were migrants from the United Kingdom. I also have migrant connections to Germany and France through my great-grandparents. One of my ancestors, Richard Foster, was born in Manchester in 1789 and, as a convict, was transported on the ship *Coromandel* in 1819 to Australia.

I was born in Kurri Kurri Hospital, another legacy of the miners' unions. Delegates from nearby collieries had got together to discuss the urgent need for a hospital in town due to accidents that regularly occurred at nearby pits and the difficulty of moving those patients for treatment. It was decided that a building fund levy be imposed and, a few years later, with a government grant, Kurri Kurri Hospital was built. It opened in 1910 and still stands to this very day. The hospital has a special place in the hearts of Kurri Kurri locals, myself included, and it was because of this hospital that I got my first experience in activism. In the early 1990s, the Greiner government was trying to close our hospital and I joined with hundreds of protesters in July 1991 to march down Lang Street. Brandishing placards and chanting, we made our way to Rotary Park for the rally, where inspiring speeches were shared. I was only 11 years of age at the time. Due to the town's efforts, our hospital was saved. Hospitals are important to regional communities, and I want to acknowledge the work of the McGowan government in supporting our regional hospitals, especially during the global pandemic, right across the Mining and Pastoral Region. Construction of the nearby Newman Hospital continues. Planning is underway for a new hospital in Tom Price and a new health service in Meekatharra. The government is also investing in country paramedics, rolling out the COVID vaccine, and supporting jobs, health delivery and opportunity in our regions.

I am the eldest of six, with three brothers and two sisters. I feel very lucky to have grown up in such a big and busy household, juggling responsibilities and schooling. Being the eldest, I was expected to step up and I had my fair share of chores around the home. Dad worked five and a half days a week as a tyre fitter and later as an assistant manager to support us all. Mum stayed at home with us children, organising the household and volunteering at school at times in the canteen. Money was tight but we never went without, and I enjoyed our family holidays to Port Macquarie and Sunshine with my grandma and grandad. We were happy and healthy, and we had each other. I am proud to be the son of a working-class family. Both my parents come from large families as well, and so I was incredibly lucky, as a child, to visit great-grandparents, grandparents, uncles and aunts, and many cousins. There was always a christening or a party being held, and us cousins would spend hours chasing and teasing one another. There was always a backyard cricket match, which I, not the very sporty type, would always try to avoid.

Family is very important to me. It is through family that we learn our values, how to treat others and how to view ourselves and those around us, and discover our purpose in life. I acknowledge my mum and my dad, who are here today. I also acknowledge Grandma Foster and Nana and Pop Marion, all who could unfortunately not be here due to ill health, but all of whom I love very much and from whom I learnt my values and get my strength. My parents tell me that, as a child, I was not shy; I was noisy, loud and always competed with others to be the centre of attention at parties, including at my mother's twenty-first birthday party, where I attempted to steal the show. Growing up with my mother taught me that we should treat each other with respect and that everyone should be treated both equally and fairly. This was reinforced during the marriage equality debate. As someone who has happily been in a same-sex relationship for 18 years, the debate and subsequent plebiscite was of great importance to me. Listening to political commentators and leaders talk down my relationship as simply a lifestyle choice and saying that marriage equality contrasted deeply with their personal religious views, or worse comments, took its emotional toll on me at times. So, as children do, I would call my mother to vent. My mother would remind me that it does not matter who you love, she loves all her children equally and their choice of partners equally, and that everyone should always treat everyone equally, including in marriage and in law.

Equality and fairness are, and will be, a priority for me in this place. Growing up with my father taught me that we should always stop and help others and that we should always look out for each other, because one day we may very well need someone to stop and help us when in need. Often, when we were kids, dad would stop and help a fellow driver who had broken down on the side of the road, sometimes to change a tyre, sometimes to look under the hood or sometimes to give friendly advice. I have strong memories of dad always being busy volunteering for sporting groups or helping family and neighbours in need, in addition to working long hours at the tyre shop. Once as a teenager, when I was driving home from a night out on the town with friends, my car broke down. I was in the middle of nowhere, in the middle of the night, with no mobile phone reception; I was stuck. Fortunately, after a short period of time, a vehicle stopped and the driver offered me a lift home. Someone had stopped to help me. This episode reinforced to me my dad's words, and it is fair to say that my father's examples have also shaped me into the person that I have become. We have an obligation to each other, especially family. We are all in this together and we should never leave anyone behind. I believe this is why the core values of the Labor Party have always resonated with me: the light on the hill. As Chifley said of Labor in 1949 —

... a movement bringing something better to the people, better standards of living, greater happiness to the mass of the people. We have a great objective—the light on the hill—which we aim to reach by working for the betterment of mankind not only here but anywhere we may give a helping hand. If it were not for that, the Labor movement would not be worth fighting for.

This is why I would later join the union and the Labor Party. My strong Labor values of working together, helping others and leaving no-one behind were passed on to me by family and also my hometown. As a child I attended Kurri Kurri Public School—dare I add, another legacy of the miners' unions—and later Kurri Kurri High School where I was awarded dux. My schooling years were fascinating yet challenging. I was a bright child; however, I was bullied. My voice sounded different. I liked to study and I preferred to have my head in a book rather than kicking a ball around in the playground. This made me a target amongst my peers. Most of my schooling days were spent looking over my shoulder, forever vigilant. Due to this, I developed anxiety, which I have learnt to live with daily ever since. At school, I would spend lunch times hiding in the library and I would change the route I walked home from school each day to avoid the bullies. I share this with members not to elicit sympathy, but to highlight that programs that support safer schools and inclusive education are so important to children who are different. I know that I will speak out in this place to support our children to be safe, especially those who question their identity. I acknowledge our brave colleagues in both this place and in the other place who have spoken up about their personal mental health journeys. Everyone's journey is different and we should always check in with each other, ask if they are okay and lend a listening ear. I join with my colleagues in acknowledging the investments made by the McGowan government into mental health initiatives across our regions, including the recent announcement of an additional \$14.5 million in funding agreements and contract extensions to over 150 eligible community and mental health services.

At the end of high school, I came out to my friends, then to my mum and my dad and then to my extended family. I was one of the lucky ones, with lots of love and support to guide me forward on every adventure. Following high school, I attended the University of Newcastle, where I obtained a Bachelor of Arts degree majoring in classics and politics. I really enjoyed my time at university. It encouraged me to develop independent thoughts, expand my horizons and encourage debate, and it challenged me to look at the world differently. Whilst studying, I worked a range of retail jobs on a casual basis, including in the areas of fast food, shoes and menswear. I was not in a retail union at the time, but looking back perhaps I should have been. Inconsistent hours, varying conditions and underpayments were commonplace. Management would always remind us: "You're lucky to have a job, so don't complain and don't ask questions." Studying full-time and working part-time I relied on the income of these part-time jobs to get by, especially the penalty rates, and whilst I was grateful to be employed and be paid, I knew nothing about my rights at work or even what award I was paid under. This contributed to an already heightened level of stress whilst studying. I want to acknowledge the work of our Australian union movement in highlighting the importance of and fighting to protect penalty rates. This makes a huge difference to the take-home pay of the lowest paid workers in Australia, who are largely made up of women and younger workers.

Following university, my first full-time job was working in a call centre for Qantas. Thankfully, the pay was much better. After this I joined the public service, which is where I have continued to work for almost twenty years before my election to this place. I am and will always be proud to be a public servant. My first role was with Centrelink taking calls in a call centre before I pursued an opportunity to work in Maroubra. Working for Centrelink was intense work most days but also extremely rewarding. My role was to interview new claimants and assess their claims. I was dealing with people who were often at their lowest moment in life and struggling to make ends meet for a variety of reasons, including job loss, addiction or fleeing family violence. I took pride in my work and often worked back late. I believe that this is where my passion for serving the community grew as I could see myself trying to make a difference. I ended up working for Centrelink for five years and held a variety of roles. This was when I joined my first union: the Community and Public Sector Union. I want to acknowledge its work in standing up to the staffing cuts of successive coalition governments. Following my time at Centrelink, I worked for the Child Support Agency as a financial investigator and then for Medicare as a branch manager.

After working in Sydney for a few years, I met my partner, Sam, and followed him to Wollongong. After moving in together, we purchased our first home. We were paying off the mortgage and credit cards and with endless cost-of-living pressures, money was tight. Like my ancestors before me, and with the encouragement from family, we packed up our possessions and travelled west to find a better life. When we first arrived in the west, my first memory was of the Pilbara heat, which I would later learn to love. I remember stepping off the plane at Paraburdoo and thinking that I had inadvertently stepped into a blast furnace; it was very warm 45 degrees! As we drove into Tom Price, I was taken aback by the beauty of the place. It is truly an oasis in the desert. North west mining towns are transient and many people are reluctant to get involved in the community. Many come with five-year plans to maybe start a family, pick up a few skills, make some money and then leave again. At first we were no different, but as the months passed and after many conversations with locals, my love for the Tom Price community grew and so did my desire to make the town much better. Working in customer service for the Department of Transport, I had daily conversations with clients about local issues—concerns about the availability of childcare, the unsealed road to Karratha, the ageing hospital and outdated sporting and community facilities that were no longer fit for purpose. Growing increasingly frustrated with the shire, I decided to challenge myself by running for council in 2009. On the first occasion I was unsuccessful.

Undeterred and knowing that I could make the community better, I became more involved. I joined the Tom Price Youth Support Association, Tom Price Tidy Towns and the Nameless Jarndunmunha Festival committee. I volunteered much of my spare time each week. Volunteers are so important in our regional towns and the Mining and Pastoral Region is no different. Volunteers run our sporting and community groups and countless fundraisers, giving many hours of personal time. Through volunteering, I learnt much about myself and made many new friends, which helped me to combat my anxiety. National Volunteer Week was celebrated recently. It is important for all of us to recognise and thank volunteers for the vital role they play in our communities, such as those volunteers in the State Emergency Service and St John Ambulance who put in long hours, working under often exceedingly difficult circumstances to save lives. I want to make special mention of the Tom Price State Emergency Service, Tom Price St John Ambulance and the Tom Price Volunteer Bush Fire Brigade, which do an amazing job across inland Pilbara from gorge rescues to land searches to responding to car crashes and fighting the many bushfires caused by lightning strikes during the wet season.

In early 2011, I joined with Councillor Cecilia Fernandez to run a petition to bring attention to sealing the remainder of the road between Tom Price and Karratha. This was a priority for us locals, many of whom travel to Karratha regularly to access medical services, play sporting games or go shopping. At the time, it was not a priority of the local and state governments and we strongly believed it needed to be. In just two short days, we had gathered almost 1 000 signatures, which we gave to former member for Pilbara Tom Stephens to lodge on our behalf in state Parliament. I was determined to champion change in our town.

In late 2011, I ran for council for the second time and this time I was successful, securing more than 50 per cent of the primary vote amongst three candidates. I had the privilege of serving as an elected member with the Shire of Ashburton for nine and a half years, being re-elected twice, in 2015 and 2019. As a councillor with the Shire of Ashburton, I chaired various committees, including the audit and risk committee, and I represented the region on the Pilbara Regional Council, the Western Australian Local Government Association state council and numerous regional and intrastate forums. I am incredibly grateful for the experience of serving within local government. It gave me a platform to expand my public speaking, negotiating and debating skills, and I met and engaged with many stakeholders. I enjoyed presiding over the many Australian citizenship ceremonies and welcoming new residents to town. We must have strong local governments to ensure the success and longevity of our regional towns. Local governments do so much more than rates, rubbish and roads; they work to fill the gaps by providing essential services including health, early years and education, environmental, and welfare to name a few. I want to acknowledge the work done by the previous Minister for Local Government, David Templeman, in strengthening the sector and the measures he took to reform the Local Government Act 1995. I look forward to working with the new Minister for Local Government, John Carey, to share my experiences to help strengthen the sector further.

Recently in an interview I was asked what was my biggest achievement on council. I said that it was staying true to my commitment of being the community's strong voice; always listening and responding to concerns; encouraging council to invest in community facilities, including the new Tom Price childcare centre, which will bring relief for families; and championing major projects to the state government, such as the Manuwarra Red Dog Highway and the Tom Price Hospital redevelopment. I would like to thank and acknowledge the McGowan government and Rita Saffioti, the Minister for Transport, for their work on the further sealing of the Manuwarra Red Dog Highway. This project means so much to both the Shire of Ashburton and the City of Karratha, supporting local jobs, helping grow tourism and businesses and improving accessibility to inland Pilbara towns.

I also served on two independent school boards as chair and can attest that we have some great schools in inland Pilbara, with committed principals and teaching and support staff, as well as an engaged school community supported by local government and the resources industry.

I was sad to resign from local government earlier this year, but I know that I will continue to listen and be a strong voice for the Ashburton community in this place.

Earlier this year I also resigned from my job as a child protection case support officer with the Department of Communities, a role I held for three years. Working with families and supporting case managers was extremely rewarding and I want to acknowledge my former colleagues across the Pilbara district, who often work in challenging circumstances to keep children safe. To strengthen families and protect children, we need a robust child protection system that supports both families and carers, including our valued grandparents, as well as the staff who administer the system. I look forward to working with the Department of Communities and Minister Simone McGurk to also share my experiences to help strengthen the sector.

The Mining and Pastoral Region is vast, stretching over 2 201 000 square kilometres. It extends from the goldfields and Kalgoorlie in the south to the Murchison, the Gascoyne and Carnarvon in the west, and to the north to the Pilbara, Broome and Derby, and Kununurra in the Kimberley, and more than 150 000 people call it home. There are 27 local government areas within the electorate, including the Shire of East Pilbara, which is the largest local government area in Australia. I look forward to engaging with every local government and understanding their aspirations and concerns.

The Mining and Pastoral Region is home to robust resource industries, which drive the economy of our state, including oil, gas, iron ore and gold. With over 19 000 local people employed in the mining industry, it is our region's largest employer. Jobs are important to our region with many others employed in construction, tourism and accommodation services, manufacturing, transport and farming. Jobs have been a focus of the McGowan government. As part of WA Labor's re-election campaign, the Premier made WA jobs a key priority. This resonated strongly in my region, with a commitment to work with resource companies to reduce the reliance on interstate fly-in fly-out workers, build infrastructure using local workers and local content, freeze TAFE fees to upskill WA workers, and invest in manufacturing.

The Mining and Pastoral Region is home to much beauty and tradition including Kalbarri National Park, Karijini National Park, Murujuga National Park and the Dampier Peninsula to name a few.

The Mining and Pastoral Region has its fair share of challenges: attracting workers for agriculture, construction and tourism, land availability to address housing and business demands, and tackling antisocial behaviour and family violence in our communities.

Our First Nations people have been living in the Mining and Pastoral Region for many thousands of years and we must respect their continuing connection to country and the cultural significance of country and take the time to listen to their stories, their wisdom and their aspirations. First Nations should always be consulted on what happens on country and this I wholeheartedly support.

I want to acknowledge and thank the voters of the Mining and Pastoral Region for the opportunity to serve in this place and be their representative, including those who told me at the polling place that they were voting Labor for the first time. Thank you to the leadership of the McGowan government of the fortieth Parliament for keeping our state safe during the pandemic, with a strong focus on WA jobs. Thank you to the WA Labor Party, in particular its state secretary, Tim Picton, and assistant state secretary, Ellie Whiteaker, for running our strong campaign. Thank you to the Carnarvon, Karratha, Newman, South Hedland, and Broome Labor branches that supported my nomination and volunteered in our campaigns. Thank you also to Rainbow Labor for your encouragement and support over the years. As one of only a few LGBTIQI parliamentarians, I know that this brings additional responsibilities and I hope to do you proud.

Thank you to the Australian metal workers' union, which welcomed me some years ago with a shared vision of creating good paying jobs and opportunity for all. Manufacturing jobs are vitally important for our state's future and supporting Australian made. Thank you to state secretary, Steve McCartney, and organisers Alex Cassie and Renee Portland for your wise words and counsel.

I thank members of this place for their support, encouragement and guidance, including Hon Stephen Dawson and Hon Kyle McGinn, who I will have the privilege of working with in representing the Mining and Pastoral Region, along with Hon Rosie Sahanna. Thank you to our lower house candidates—Divina D'Anna, the member for Kimberley; Kevin Michel, the member for Pilbara; Cherie Sibosado, our candidate in North West Central; and Ali Kent, the member for Kalgoorlie—for your strong and outstanding campaigns. I had the privilege of working closely with both Cherie Sibosado and the member for Pilbara during their campaigns and I thank them both for the opportunity to be involved, including making phone calls and doorknocking to listen to and understand some of the major challenges faced in our region.

I would like to acknowledge and thank the people in the towns of Tom Price, Paraburdoo, Pannawonica and Onslow, who also supported me on council and in our campaigns. I would like to thank my dear friends Torin Peel, Michelle Lewis, Kirra and Chris Hannon, Deb and Nudge Walker, Audra and Jason Smith, Mel Farmer, Amanda Yeomans, and Jarred and Kin Nicholson for everything that they did to support the campaigns, as well as the personal encouragements that they gave me every single day. Thank you to my mum and my dad for their love, wise words and encouragement, for being positive role models, and for travelling from Sydney to Perth—their first ever plane flight—to support me here this week. I love you both.

Lastly, and certainly not least, to our son, Roman, and my partner, Sam, for putting up with my endless conversations about politics, for supporting me when I was away on the road campaigning or down here in Perth, helping me on polling places, helping me letterbox streets, and helping me put up corflutes, but, most importantly, for being there for me when I needed you. Sam, thank you for always believing in me.

The McGowan government has a strong mandate, following the convincing state election result, to govern Western Australia, and I am enormously proud to be a part of it, to represent the Mining and Pastoral Region, and to be a voice for the inland Pilbara, which I proudly call home. I am looking forward to the work ahead over the next four years, working towards fairness and equality, and advocating to make our regional communities even stronger, whether it be building tourism or industry, supporting job creation, or improving community amenity. I will always stay true to my Labor values. Thank you.

[Applause.]

**HON ROSIE SAHANNA (Mining and Pastoral)** [3.42 pm]: First of all, good afternoon, President, and congratulations to you on your appointment as President of the Legislative Council.

I would like to thank you all for gathering here today. Firstly, I would like to acknowledge the Whadjuk people of the Nyoongar nation, who are the traditional owners of this land on which we gather today. I would also like to take this opportunity to acknowledge all First Nation elders past, present and emerging.

I come to this place today as elected by the people of Western Australia. I am honoured to serve our great state, and would like to thank the Western Australian people for entrusting their confidence in both the WA Labor Party and myself as the member representing the Mining and Pastoral electorate.

I would like to start by introducing myself to you all. My name is Rosetta Sahanna, but I prefer to be called Rosie. I am an Aboriginal woman, born and bred in Broome, with family ties and connection across Western Australia from the Kimberley through to the Murchison and Gascoyne regions. I am a proud Ngarinyin and Bardi Jawi woman connected to the Kitja and Gooniyandi tribes in the Kimberley and the Yamatji in the south. It is a great honour knowing that the Mining and Pastoral electorate also covers the regions that my family comes from. This electorate is the largest and most diverse electorate in Australia. To represent the Mining and Pastoral electorate of WA is more than just a title to me. I have a strong personal connection to this electorate, and I understand my responsibility to this electorate.

I will now give you a snapshot of my upbringing to give you a sense of myself in my personal capacity. Firstly, I will acknowledge the anniversary of National Sorry Day today, 26 May, and acknowledge the special community event being held in Broome at the Kimberley Stolen Generation National Sorry Day event. National Sorry Day remembers and acknowledges the mistreatment of Aboriginal and Torres Strait Islander people who were forcibly removed from their families and communities, which we now know as “The Stolen Generation”. Today is the anniversary of the presenting of the *Bringing Them Home* report delivered by Sir Ronald Wilson, which was to be the game changer for the Aboriginal and Torres Strait Islander community, and for Australia.

The predominant aim of the forced removal of Aboriginal and Torres Strait Islander children from their families was to absorb or assimilate children with mixed ancestry into the non-Indigenous community, which has challenged our very own wellbeing, identity, and essence of our uniqueness within the WA community and the world as traditional owners.

I would like to quote Sir William Deane, the then Governor-General of Australia, in his submission to the National Inquiry into the Separation of Aboriginal Children from Their Families —

The present plight, in terms of health, employment, education, living conditions and self-esteem, of so many Aborigines must be acknowledged as largely flowing from what happened in the past. The dispossession, the destruction of hunting fields and the devastation of lives were all related. The new diseases, the alcohol and the new pressures of living were all introduced. True acknowledgment cannot stop short of recognition of the extent to which present disadvantage flows from past injustice and oppression.

This goes to the very heart of many of the issues that are faced today and highlights the need for truth telling, a treaty and a voice to Parliament.

My father was a child of the stolen generation. He was taken from his family up on the Gibb River at a pastoral station called Moonlight Valley Station, on the Salmon River in the north-east Kimberley. His mother was Aboriginal and his father an Indian from Karachi. After the tragic death of his father, he was taken away and sent to Beagle Bay Mission when he was nine years old. For those of you who do not know Beagle Bay Mission, it is actually north of Broome on the Dampier Peninsula. It is widely known as the home of the stolen generation because many of the Kimberley people who were taken away were sent there. It was there that he met and married his wife—my mother—Otilia Paddy. My maternal grandmother, also a child of the stolen generation, was taken from Carnarvon in 1900 and sent on a ship to Beagle Bay Mission. Her mother was Aboriginal and her father Chinese. Like my father, she too met and married her husband, my grandfather, at Beagle Bay. She never went back to her country; however, her family members travelled to Beagle Bay to meet and spend some time with her as she was the missing link to her family members.

My father and my grandmother never complained about their circumstances. They made the best of what they had and never looked back. My father a welder. He was a staunch Labor supporter and union man. He was a very proud man, and he raised his children the same way he was raised—strict and disciplined, taught us family values and principles, and the importance of having a job, and wanted nothing to do with handouts. I share this story with you all to highlight the fact that myself, like most of us Western Australians, come from very humble beginnings, facing circumstances imposed on us from the policy of the day, and yet somehow we thrive, and we never stop pushing on.

I have been involved in the delivery of services in the Kimberley Region for over 30 years. During this time, I have worked at all levels across government and non-government agencies and Aboriginal organisations from administration to chief executive officer. It is hard to discuss a 30-year time frame in a short amount of time, but I will share with you some of my many milestones.

My first employment was in 1977 as a 17-year-old public servant employed by the then Department of Harbour and Lights at Broome port, where I worked for five years as a clerk. At 17 years old, it was daunting working my first job in an office full of only men. Luckily for me, the other staff were all local men whom I was familiar with, so I got on really good. It was there that I met my husband, a Torres Strait Islander pearl diver, Lenny Pitt, and together we have four children and four granddaughters.

I then went on to work for the Department for Community Welfare. It is really funny; one day at lunch here at the dining room, I met a lady by the name of Kay Hallahan. She was a minister at that time. That is going back 30 years. It was really great to see her again and to talk to her.

I started as a family support officer and worked my way up to become acting team leader. It was there that I got my first insight into the many issues facing at-risk families, in particular Aboriginal families, on a daily basis. I worked in that department for 15 years. During that time, the department changed its name several times, but to Aboriginal people, it was always known as the “department of native welfare”, responsible for taking kids away. That was in the 1980s and 1990s and Aboriginal people still thought that the department took kids away.

Seeing the disadvantage facing families and the support that they needed sparked my interest in Aboriginal affairs. I knew I wanted to be more involved in helping my people. In 1999, I resigned from the department. It happened to be the same year as the election for the Aboriginal and Torres Strait Islander Commission Kullarri Regional Council, which I decided to run for. I got elected to the council and was successful in my nomination to be the chairperson. At 39 years of age, I found myself in a familiar setting—the same situation I was in when I was 17. I was the only woman in the room again. I was the only female chairperson in the state of WA alongside 12 men, who included eight other male chairpersons and four male commissioners. I was not a scared 17-year-old anymore. Being the only female in the room did not scare me this time and I completed my term as chair. In 2008, I became coordinator of the Kimberley Stolen Generation Aboriginal Corporation—the same year Prime Minister Kevin Rudd apologised to First Nations people. It was a significant moment in time for our nation, but 13 years later I am still wondering where to from here regarding the apology.

These are just to name a few of the points of my working life. In addition, I have worked tirelessly in health, native title, education, justice, youth and employment programs. I tell you this in the hope that you find comfort knowing that my whole career has been built while working on the ground with people. Whether it be with health or employment challenges, or whether it be with women and family issues, or whether it be dealing with land and youth, or whether it be with the justice system or education, I take the lessons that I have learnt from the ground up and will never forget that at the end of day we politicians are here for our people. We must work together with our people to tackle the issues that we face every day.

I stand for transparency and accountability within our greater communities. But I must advise that I stand in particular for my Aboriginal community who have been calling out for some time the ostracism and lack of proper and true accountability to their communities. They are people who have no voice, have been bullied and are oppressed by the very entities that are supposed to represent them on the ground. Therefore, I look forward to working with Hon John Quigley, the Attorney General and Minister for Electoral Affairs; Hon Alannah MacTiernan, Minister for Regional Development; and Hon Stephen Dawson, Minister for Mental Health; Aboriginal Affairs; and, of course, many other members of Parliament, including our Premier, to be leaders and to straighten the spear for a precise hit to get it right in our state. There needs to be focused energy on community organisations when the silenced voices call.

I nominated for the seat of Kimberley in the Legislative Assembly but was unsuccessful. I was then asked whether I would be interested in being placed fourth on the upper house electoral ticket for the Australian Labor Party for the Mining and Pastoral Region. I accepted knowing that there would be no way that I would get elected this term! It was a long shot and I was actually looking forward to the next election. However, as I watched the election updates and results throughout the day with anticipation, I was very surprised—perhaps more shocked than anything. The reality finally sunk in—I had been elected. Later, I was told that I was the first Aboriginal person to have ever been elected to the upper house of the WA Parliament. What a great honour bestowed on me by the election result. Today, I take my place as the first Aboriginal person to be elected to this house as a proud Kimberley Aboriginal woman.

It is fitting that I was sworn in and that I am giving my first speech during the celebration of National Reconciliation Week and National Sorry Day. I would like to think that my place here is proof of the possibilities for my people. Having said that, I will use this platform to promote and raise the profile of Aboriginal and Torres Strait Islander women's voices in the Parliament and on all issues that affect my Aboriginal and Torres Strait Islander community and the community in general. I would also like to say to all you young Aboriginal and Torres Strait Islander women out there wanting to make a difference: the best seat in the house is in the back. It is there that you get to look, listen and learn, and never be in a hurry to get to the top. That was the best advice given to me by my dad. I have given the same advice to my children. That advice has led me to where I am today. It took me a while, but here I am creating history. I guess it was meant to be.

We live in this beautiful state we call home. We are pretty lucky. It is the best and safest place to be right now. There is no place like home. Then again, WA has always been unique and we Western Australians have always done things differently. I look forward to playing my role in this great place as there are many issues that we, the Western Australian people, are yet to overcome. I know I do not need to name them—our people know what is ahead of us, and I am sure that they are sick of us politicians telling them things that they already know. Even though the Premier and this government have done a wonderful job keeping us safe during the coronavirus pandemic, let us not forget the many other important issues that need to be adhered to, that also affect the lives of people living in WA, so that we can live in all sectors of the WA state equitably. I cannot express the motivation and the anticipation that I have felt and that has been built up in taking my seat in this house. I will support the WA Labor Party to work together with our constituents to pave a better and brighter future for the next generation.

My life has been blessed with some wonderful people over the years and I take this opportunity to thank the following people for their support and encouragement: Joe Grande, Dr Mark and Tania Bin Bakar, Greg Tait, Julie Cobb, Irene Stainton, Robyn Stacey, Susan Bowles, Gemma Lawford, Joan Lane, Lexie Trancollino and my cultural confidants Mr Kevin George—who is here today—and Mr Donald Campbell. I would also like to acknowledge the support of the Maritime Union of Australia. I made the decision only recently to go into politics, but it was members of the MUA who saw the passion in me and went out of their way to advocate for my preselection. I thank in particular Sunario Bin Sahari; Hon Kyle McGinn; assistant state secretary, Jeff Cassar; and state secretary, Will Tracey.

To my family—my Sahanna–Pitt family; my children, Koikie, Tilly, BJ and Kaupa; and my grandchildren, Lenay, Maraya, Imahn and Zoe; my nephews, whom I raised, Tanu, Clinton, Arnold and Warren; and my brothers, Ray and John Hamilton—thank you all for your unconditional love, support and encouragement and for putting up with this old girl. You certainly keep me on my toes. You are the reason I do what I do and why I wake up every morning with a smile on my face. You are the air that I breathe and the wind beneath my wings. I love you all to the moon and back.

I finally say to all members of the WA Parliament: please respect me—my advice, recommendations and suggestions—and utilise me for the many years of experience I have in making WA a greater place, in particular in Aboriginal affairs. It is a great honour to be part of this group that is made up of people from very diverse backgrounds and from all over WA. I am confident that this will help us work collectively to represent all Western Australian people's views and to make sure that they are brought to the table when we discuss issues that affect Western Australia.

Having said that, please do not take me for the token black woman in this room. As the first Aboriginal person elected to this house, I want to set an achievable and superior standard for the next Aboriginal and Torres Strait Islander generation who will take their seat in this house after me. I have a lot to offer my constituents, as a member for the Mining and Pastoral Region and of the WA Parliament.

May we be guided by our collective honesty, passion and commitment to making WA a transparent and accountable state. I am looking forward to working with this successful team.

Thank you, President.

[Applause.]

**The PRESIDENT:** Thank you, honourable member. I also take this opportunity on behalf of us all to acknowledge the milestone of your election and your first speech as the first Indigenous member in this chamber. You are very welcome.

**Hon SUE ELLERY:** This is a bit unusual, I ask that you leave the chair until the ringing of the bells because by the time I get the advisers in here and settled, there will be time to ask only one question.

**The PRESIDENT:** Before I do that, I recognise in the President's gallery a former member for Mining and Pastoral Region, Hon Tom Stephens. It is good to have you back.

Debate interrupted, pursuant to standing orders.

[Continued on page 757.]

*Sitting suspended from 4.00 to 4.30 pm*

**QUESTIONS WITHOUT NOTICE****WESTERN POWER — CEPU WORKERS — PUBLIC SECTOR WAGES POLICY****147. Hon Dr STEVE THOMAS to the minister representing the Treasurer:**

I refer to the two-day Communications, Electrical and Plumbing Union Western Power strike last week and to the *Pre-election financial projections statement*, which highlights —

A global provision has been included in these PFPS aggregates to reflect the estimated financial impact of an ongoing industrial negotiation ... The quantum of the provision cannot be disclosed at this time pending the outcome of negotiations.

- (1) How much is the provision budgeted in the PFPS, and what enterprise bargaining agreement wage increase does this equate to for CEPU workers?
- (2) Are Western Power CEPU workers covered by the government's wages policy; and, if so, will the only offer being made be \$1 000 per annum, as was offered to police, nurses and doctors?
- (3) Will the McGowan government ensure that further disruptions do not occur if this union does not accept the wage offer put forward by the government?
- (4) If no to (4), why not?

**Hon STEPHEN DAWSON replied:**

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

- (1) The provision referred to totals \$36 million over the period 2021–22 to 2023–24 and relates to the government's decision to employ an additional 400 graduate nurses over the next two years. None of the provision applies to CEPU members who work for Western Power.
- (2)–(4) The government's expectation is that government trading enterprises comply with the public sector wages policy. Western Power has been negotiating with the CEPU for nearly a year and remains open to further meetings. Western Power is seeking a fair and reasonable outcome for Western Power's CEPU employees that is in line with community expectations, industry standards and the public sector wages policy.

**WESTERN POWER — APPRENTICESHIPS****148. Hon Dr STEVE THOMAS to the minister representing the Minister for Energy:**

I refer to the McGowan government's commitment to employ apprentices at Western Power.

- (1) What is the number of new first-year apprentices employed in 2020 and 2021?
- (2) What is the total number of apprentices—first to fourth year—employed in 2020 and 2021?
- (3) How many apprentices completed their training in 2019 and 2020?
- (4) How many apprentices who completed their training in 2019 and 2020 are still employed by Western Power?

**Hon DARREN WEST replied:**

I thank the Leader of the Opposition for some notice of the question. On behalf of the Minister for Regional Development representing the Minister for Energy, I provide the following response.

- (1) It is not possible to provide the 2021 numbers in the time provided. Numbers for 2019 and 2020 have been provided for this response; however, 2021 numbers will be made available later this week. Western Power employed 16 new first-year apprentices in both 2019 and 2020, in line with the McGowan Labor government's election promise. Over and above apprentices, Western Power also takes on graduates, trainees and pre-apprentice scholarships opportunities per annum, creating multiple training opportunities for Western Australians of different educational backgrounds and electrical training experience levels. In addition, Western Power also employed additional higher year apprentices in 2020, who were released by prior employers during the early months of COVID-19 through no fault of their own.
- (2)–(3) The answers to (2) and (3) are in tabular form and I seek leave to have the response incorporated into *Hansard*.

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

(2)

	2019	2020
Apprentices – Total	72	71
- 1 <sup>st</sup> year	16	16
- 2 <sup>nd</sup> year	19	15
- 3 <sup>rd</sup> year	22	19
- 4 <sup>th</sup> year	15	21

TAFE pre-apprenticeships	26	-*
School-to-Work Traineeships	5	5
Graduates	9	10
Vacation Students	7	7
TOTAL	119	93

\*the TAFE pre-apprentice program was offered in 2020, however there were no eligible applicants.

- (3) Western Power did not recruit any apprentices in 2016, resulting in no apprentices being ready to complete their training in 2019.

Year	Overhead	Cable Jointing	Electrical	Automotive (Heavy Mechanical)
2019	Nil	Nil	Nil	Nil
2020	10	Nil	3	1

- (4) All apprentices who completed their training in 2020 are still employed by Western Power. As per (3), no employees completed their training in 2019 due to an intake of nil in 2016.

#### LAND TAX ASSISTANCE PACKAGE

##### 149. Hon COLIN de GRUSSA to the minister representing the Treasurer:

I believe this question has been redirected from the Minister for Small Business to the minister representing the Minister for Finance.

I refer to the \$100 million land tax assistance package for commercial landlords announced in 2020.

- (1) How many applications have been received since the scheme started?
- (2) What is the dollar value of applications received from landlords to date?
- (3) How many grant payments have been made?
- (4) What is the total value of those grant payments to successful applicants to date?
- (5) How many rounds of payments have been made and what was the average payment for each round?

##### Hon STEPHEN DAWSON replied:

I thank the Deputy Leader of the Opposition for some notice of the question. It has been referred to the Treasurer, so I provide this answer on the Treasurer's behalf. It is not possible to provide the information in the time required for today; however, the Treasurer will provide a response to this question tomorrow.

#### MENTAL HEALTH — QUEEN ELIZABETH II MEDICAL CENTRE — ADMISSION AND DISCHARGE PRACTICES

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

I refer to admission and discharge practices as they apply to mental health patients at Queen Elizabeth II Medical Centre.

- (1) Are there system or resourcing constraints that impede the discharge of patients on a Friday evening or on the weekend?
- (2) As a corollary, are there system or resourcing constraints that impede the admission of new mental health patients on a Friday evening or on the weekend?
- (3) If yes to (1) and/or (2), what is the nature of these constraints?

##### Hon STEPHEN DAWSON replied:

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

- (1) No.
- (2) No; patients can be admitted on any day of the week, 24/7, if they are assessed as clinically needing a bed. Beds are sourced in accordance with the state bed management policy.
- (3) Not applicable.

#### “NATIONAL PRINCIPLES FOR CHILD SAFE ORGANISATIONS”

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

I refer to the “National Principles for Child Safe Organisations”, in particular national principle 8, which states —

Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.

- (1) Is the minister aware that as of 1 February 2019, the Premier, on behalf of the state, confirmed his commitment to the “National Principles for Child Safe Organisations”?

- (2) Is the minister aware that the eighth principle seeks that physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed?
- (3) Is the minister aware that public schools are intended to be captured by these principles?
- (4) Has the minister had any discussions with the Minister for Education and Training about the continuing volume of cases in which alleged or convicted offenders are attending the same school as their child victims?
- (5) If no to (4), will the minister undertake to expedite such a discussion and report to the house on the government's revised plan to address the national principles?

**Hon SAMANTHA ROWE replied:**

I thank the member for some notice of the question.

(1)–(3) Yes.

(4)–(5) Yes. The Department of Communities and the Department of Education continue to work closely to manage the risk of children and young people displaying harmful sexual behaviours in an education setting, using the multi-agency protocol for education options for young people charged with harmful sexual behaviours.

The member fails to understand the protocol in place to respond to these matters or the Department of Education's role in progressing work related to the national principles.

METRONET — BAYSWATER TRAIN STATION

**152. Hon DONNA FARAGHER to the minister representing the Minister for Transport:**

I refer to the minister's letter dated 17 November 2020 to the Standing Committee on Environment and Public Affairs in relation to petition 164, and specifically to the statement on page 2 of the attachment which states —

The decision to build elevated rail instead of tunnelling underground was made after a detailed study of several options ...

Will the minister table the detailed study that was undertaken?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question, and wish her a happy World Redhead Day.

The study of options was undertaken as part of the business case and project definition plan process. It is noted that the opposition has refused to approve the release of the Forresterfield–Airport Link project definition plan to the government.

LOTTERYWEST GRANTS — VICTORY LIFE CENTRE

**153. Hon PETER COLLIER to the Leader of the House representing the Premier:**

I refer to the response to question without notice 134 on Tuesday, 25 May 2021, and to the Lotterywest letter delivered to the chairperson of Victory Life Community Services dated 7 October 2020.

- (1) Will the Premier confirm that the words “on the basis that your publicly stated beliefs as founder and chair of the organisation do not align to this commitment” were removed from the draft letter prior to delivery?
- (2) If yes to (1), why were these words removed and who made the recommendation that they be removed?
- (3) What component of the draft letter was the chair of Lotterywest referring to when he wrote, “Thanks for sending that to us Susan. I think that it looks good and have only one suggested amendment to Paragraph 4 of your letter ie to remove the first sentence and shorten the second sentence”?

**Hon SUE ELLERY replied:**

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

- (1) No. See answer (3) of Legislative Council question without notice 144.
- (2) Not applicable.
- (3) I refer the honourable member to FOI document 309, which he received on 8 January 2021.

CORONAVIRUS — VACCINATION RATE

**154. Hon WILSON TUCKER to the minister representing the Minister for Health:**

I refer the minister to the government's COVID-19 vaccination dashboard. Can the minister provide the total number of COVID-19 vaccinations administered to date and the current rate of vaccination for those aged 16 and over for the North Metropolitan Region, South Metropolitan Region, East Metropolitan Region, Mining and Pastoral Region, Agricultural Region and South West Region?

**Hon STEPHEN DAWSON replied:**

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

It is not possible to provide the requested information in the time required and I therefore ask the honourable member to place this question on notice. If the honourable member signs the bottom of the question and places it on notice, I will see whether I can get an answer sooner than the usual question on notice process takes.

## ST JOHN OF GOD MIDLAND PUBLIC HOSPITAL — BUDGET

**155. Hon Dr BRIAN WALKER to the minister representing the Minister for Health:**

I refer the minister to the report by Jacob Kagi on the ABC's website on 22 May 2021 in which doctors at St John of God Midland Public Hospital warned in no uncertain terms that patients would die because of proposed multimillion-dollar budget cuts.

- (1) Is it true that St John of God Midland Public Hospital's budget is to be slashed by more than \$10 million for the 12 months from 1 July 2021?
- (2) If yes to (1), did the East Metropolitan Health Service consult with the minister or any of his senior advisers ahead of making this decision?
- (3) Given that the proposed cuts are almost certain to lead to redundancies and fewer doctors and nurses being rostered on each shift, will the minister call this decision in for immediate review; and, if not, why not?

**Hon STEPHEN DAWSON replied:**

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

I have been advised that further time is required to answer this question. This information will be provided to the member tomorrow, 27 May 2021.

## CORONAVIRUS — HOTEL QUARANTINE

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

I refer to Legislative Council question without notice 136 asked yesterday in relation to cost recovery from hotel quarantine.

- (1) Is a hotel-quarantined person issued an invoice when leaving hotel quarantine or at another time?
- (2) What are the standard terms of payment, including any applicable interest rate applied to overdue amounts?
- (3) How many invoices remain outstanding and what is the total amount outstanding?
- (4) Of those identified in (3), how many invoices have been issued —
  - (a) within 30 days;
  - (b) between 31 and 60 days; and
  - (c) after 60 days or more?
- (5) What further charges are incurred by hotel-quarantined persons when they are directed to quarantine for a period exceeding 14 days?

**Hon STEPHEN DAWSON replied:**

I thank the honourable member for some notice of the question. The following answer is providing on behalf of the Minister for Health.

- (1) Invoices are issued to passengers after they have completed hotel quarantine.
- (2) Standard payment terms are 30 days. No interest rate applies to overdue amounts.
- (3) As of 30 April 2021, a total of 5 865 invoices valued at \$19.5 million were outstanding.
- (4) To date, all invoices have been issued within 60 days or more.
- (5) There are no additional charges.

## BUNBURY OUTER RING ROAD — RAIL CORRIDOR

**157. Hon JAMES HAYWARD to the Leader of the House representing the Minister for Transport:**

I refer to the northern interchange of the Bunbury Outer Ring Road.

- (1) Has the design changed since plans for the BORR were first drafted; and, if yes, on what dates did this occur?
- (2) Does the design of the northern interchange of the BORR have provision for a rail corridor; and, if yes, when will the community be shown plans of how the corridor interfaces with the road network?

- (3) Will the corridor require a tunnel to be constructed under the interchange; and, if so, what is the expected future cost to build the tunnel?
- (4) Given the federal and state governments are co-funding an inquiry into the future passenger rail needs for Bunbury and the south west, will the construction of this interchange affect the feasibility of a proposed rail route down Forrest Highway and on to Bunbury?

**Hon SUE ELLERY replied:**

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

- (1)–(4) The McGowan government has allocated \$3.4 million towards a high-level investigation into a faster train to Bunbury and potential corridor options will be considered as part of this process. The design does not preclude a future railway line in the centre of Forrest Highway if this is deemed to be the preferred option.

**RESIDENTIAL LOTS — PORT HEDLAND AND KALGOORLIE**

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

I refer to reports of booming property prices and housing shortages in towns across regional WA and a report in *The West Australian* on 22 May stating there was a 42 per cent growth rate in the price of a median house in Port Hedland over the last 12 months.

- (1) With specific reference to Port Hedland and Kalgoorlie, can the minister outline —
  - (a) how many lots are currently available for sale;
  - (b) how many lots are approved for subdivision; and
  - (c) how many hectares of urban in globo land are available for subdivision in the future?
- (2) What action is DevelopmentWA undertaking to ensure these lands are fast-tracked to the market?

**Hon DARREN WEST replied:**

I thank the member for some notice of the question. On behalf of the Minister for Regional Development representing the Minister for Lands, I provide the following response.

- (1)
  - (a) In Port Hedland there are 174 lots and in Kalgoorlie, 34.
  - (b) There are no lots in Port Hedland and 31 in Kalgoorlie.
  - (c) In Port Hedland, there are 197.1 hectares of future residential land; in Kalgoorlie, DevelopmentWA has 430 hectares of future residential land. Since the Regional Land Booster program was announced on 15 July 2020, DevelopmentWA has sold 11 residential lots in Kalgoorlie, 13 in Port Hedland and three in South Hedland. Land is still available under the booster prices in these locations.
- (2) DevelopmentWA recently partnered with the Town of Port Hedland to secure two new structure plans in Port Hedland and is progressing an options analysis over seven sites in Port Hedland and South Hedland to inform the location for future residential development. In Kalgoorlie, DevelopmentWA is currently procuring a contractor to develop the next 31 residential lots at the GreenView estate to support private lot supply.

**CYCLONE SEROJA — TEMPORARY HOUSING**

**159. Hon STEVE MARTIN to the parliamentary secretary representing the Minister for Community Services:**

I refer to the recovery effort in areas of the midwest affected by cyclone Seroja.

- (1) Is the minister aware of how many temporary homes are required to house people who lost their homes in cyclone Seroja or have moved to the area to assist in the rebuilding process?
- (2) Can the minister advise how much of that housing has been delivered?
- (3) If the available temporary housing is not sufficient, when will the minister deliver the necessary housing?

**Hon SAMANTHA ROWE replied:**

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

- (1)–(2) To date, a total of 19 households—49 people—have requested accommodation assistance. All these households have been provided with temporary emergency accommodation. Currently, a total of three households—10 people—continue to be supported in temporary accommodation. Under the state emergency management arrangements, consideration around reconstruction efforts, including workforce accommodation, is the responsibility of the State Recovery Controller and relevant local government authorities.

The Department of Communities, through the State Recovery Controller, is working with local governments to provide outreach and case management services to affected communities and to identify any immediate or emerging welfare needs. Additionally, the Insurance Commission of Australia is assisting local governments in assessing the breadth of damage and number of uninsured households.

- (3) Housing demand is anticipated to change over time, as issues emerge. The State Recovery Controller is working with local government authorities, community members and state and federal agencies to develop a number of recovery packages to ensure that the medium-to-long-term housing needs of affected communities are addressed.

#### HOUSING — KEYSTART

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

I refer to the Keystart shared ownership home loan scheme.

- (1) As at 30 April 2021, how many shared ownership home loans does Keystart administer?
- (2) Of this number of shared ownership home loans, how many loans are flexible shared ownership loans and how many are fixed shared ownership loans?
- (3) Over the past four financial years, how many borrowers have refinanced their properties or bought more shares in their properties?
- (4) How many of the shared ownership loans currently administered by Keystart were funded at the maximum 30 per cent of purchase price?
- (5) What is the current interest rate applied to Keystart shared home loans?

**Hon SUE ELLERY replied:**

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

- (1) Keystart administers 3 810 shared ownership home loans.
- (2) There are 175 fixed loans and 3 635 flexible loans.
- (3) Since 1 July 2017, a total of 883 loans have closed or been refinanced and 29 borrowers have bought more shares.
- (4) As at 30 April 2021, 733 loans had a 30 per cent Housing Authority share.
- (5) Keystart's interest rate setting policy is to adjust rates in line with the average standard variable rates offered by the big four banks. Interest rates are only one component of the total cost of a home loan and although Keystart's interest rate is not the lowest in the market, it is comparable with the rates that a buyer with a minimal deposit or equity will be offered by other lenders at 4.54 per cent.

#### ELECTORAL REFORM — LEGISLATIVE COUNCIL

**161. Hon TJORN SIBMA to the parliamentary secretary representing the Minister for Electoral Affairs:**

I refer to the process the government intends to follow in renegeing on repeated commitments given by the Premier during the campaign that electoral reform of the upper house was not on the government's agenda.

- (1) Is it the government's official policy position that non-metropolitan Western Australia is presently over-represented in the Legislative Council?
- (2) If yes to (1), by a measure of seats currently occupied in the chamber, how many are considered superfluous to the government's conception of electoral equality?
- (3) How many seats in the Agricultural, Mining and Pastoral and South West Regions must be sacrificed to achieve this model of perfection?

**Hon MATTHEW SWINBOURN replied:**

I thank the member for some notice of the question. I provide the following response on behalf of the Minister for Electoral Affairs.

- (1)–(3) The government has not renegeed on any election commitment. The government has responded to widely expressed community concerns about anomalous outcomes following the 2021 general election by establishing the ministerial expert committee, and has asked it to recommend how electoral equality might be achieved for all citizens entitled to vote for the Legislative Council. The committee is yet to report, and the government will consider the options once they have been presented.

#### COURTS — AVAILABILITY

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

I refer to question without notice 74 asked and answered on 11 May 2021 regarding the roundtable discussion to address the urgent need for new courts for criminal trials.

- (1) Did the roundtable discussion take place on 18 May 2021?
- (2) If yes to (1), who was invited?

- (3) Further to (2), who attended the roundtable discussion?
- (4) Will the minister table the briefing note or other documents he received from his staff or his department in preparation for the meeting?
- (5) Will the minister table the minutes and/or documents recording the outcomes from the meeting?
- (6) If no to (4) or (5), why not?

**Hon MATTHEW SWINBOURN replied:**

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

- (1) Yes.
- (2) The Chief Justice of WA, Hon Peter Quinlan; Chief Judge of the District Court, Hon Julie Wager; director general of the Department of Justice, Dr Adam Tomison; executive director of court and tribunal services of the Department of Justice, Joanne Stampalia; Director of Public Prosecutions, Amanda Forrester; a representative from the Department of Finance; and the Attorney General and staff.
- (3) In addition to those listed in part (2), a second representative from the Department of Finance attended.
- (4)–(6) I ask the member to place the remainder of the question on notice to allow further time to seek advice prior to responding.

LOTTERYWEST GRANTS — CHURCHES

**163. Hon PETER COLLIER to the Leader of the House representing the Premier:**

I refer to the Premier's response to question 1036 asked on Wednesday, 8 October 2020 and to document 337 of the Lotterywest FOI, reference 20/1862.

- (1) Why was the response to the answer provided by Lotterywest to the Premier's office replaced with "(1)–(3) Decisions on grant applications from LotteryWest are made by the LotteryWest board, which is independent of Government"?
- (2) Why was the response to question 1036 from Lotterywest redacted from the FOI document?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question. I assume the member is referring to his question without notice on Wednesday, 7 October 2020.

- (1) Ministers are responsible for answers provided to Parliament.
- (2) As the honourable member would be aware, his FOI document shows that it was redacted under clause 12(c) of schedule 1 of the Freedom of Information Act 1992, on the basis that the public disclosure of that matter would infringe the privileges of Parliament.

CYCLONE SEROJA AND WOOROLOO BUSHFIRES — STATE RECOVERY COORDINATION GROUPS

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

I refer to the emergency situation declarations under section 50 of the Emergency Management Act 2005 in relation to the Wooroloo bushfire and tropical cyclone Seroja.

- (1) Has a state recovery coordination group been established for each event; and, if so, on what date was each created?
- (2) What is the membership of each SRCG?
- (3) How many reports from each SRCG have been provided to government and on what dates were each provided?
- (4) Can the minister please table a copy of each report identified in (3)?
- (5) Has an impact statement been prepared and provided to affected local government authorities; and, if so, can the minister please table each impact statement?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question. The Department of Fire and Emergency Services advises as follows.

- (1) An SRCG was established for the Wooroloo bushfires on 5 February 2021 and an SRCG was established for tropical cyclone Seroja on 22 April 2021.
- (2) Regarding the membership of each SRCG, there are two quite long lists of agencies represented, so I wonder if I might seek leave to have them incorporated into *Hansard*.

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

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Wooroloo

- DFES
- Department of Communities
- Department of Health
- Department of Local Government, Sport and Cultural Industries
- Mental Health Commission
- Department of Education
- RSPCA
- Department of Treasury
- Transport Portfolio (Main Roads, DoT, PTA)
- Energy Policy WA (formerly Public Utilities Office) Department of Planning Lands and Heritage
- Department of Mines, Industry Regulations and Safety
- Department of Water and Environmental Regulation
- Water Corporation
- Department of Jobs, Tourism, Science and Innovation
- Department of Premier and Cabinet
- Department of Primary Industries and Regional Development
- Small Business Development Corporation
- Department of Biodiversity, Conservation and Attractions
- WA Police
- City of Perth / Lord Mayor's Distress Relief Fund
- Western Australian Local Government Association (WALGA)

Seroja

- DFES
- Department of Communities
- Department of Health
- Department of Local Government, Sport and Cultural Industries
- Mental Health Commission
- Department of Education
- RSPCA
- Department of Treasury
- Transport Portfolio (Main Roads, DoT, PTA)
- Energy Policy WA (formerly Public Utilities Office)
- Department of Planning Lands and Heritage
- Department of Mines, Industry Regulations and Safety
- Department of Water and Environmental Regulation
- Water Corporation
- Department of Jobs, Tourism, Science and Innovation
- Department of Premier and Cabinet
- Department of Primary Industries and Regional Development
- Small Business Development Corporation
- Department of Biodiversity, Conservation and Attractions
- WA Police
- City of Perth / Lord Mayor's Distress Relief Fund
- WALGA

- 
- (3) No official reports have been provided to government.
  - (4) Not applicable.
  - (5) Impact statements have been prepared and provided to the local governments impacted by the Wooroloo bushfire. Impact statements are currently being developed for the local governments impacted by tropical cyclone Seroja. Given that the documents contain personal and sensitive information, I ask the member to place this part of the question on notice so that proper consideration can be given.

## DUST MANAGEMENT — BUYBACK SCHEME — PORT HEDLAND

**165. Hon NEIL THOMSON to the Leader of the House representing the Minister for Ports:**

I refer to the compensation scheme for home owners of Port Hedland's dust-affected West End.

Why does the state use a fixed price on which to base its compensation when the normal approach would be to use an unencumbered existing valuation plus, where appropriate, a solatium to compensate landowners when it seeks to acquire those properties, either voluntarily or compulsorily?

**Hon SUE ELLERY replied:**

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

The Port Hedland voluntary buyback scheme is not a compensation scheme, nor is it designed to provide compensation for changes in market value that have occurred over time. The PHVBS is to provide a voluntary option for owners of residential dwellings within the area of land between Taplin Street and the port in the West End of Port Hedland to secure a guaranteed settlement price following the introduction of rezoning related to the Port Hedland West End Improvement Scheme No 1—IS1. Participation in this scheme is voluntary.

The valuation date was set as 6 August 2019, as it was when the Minister for Regional Development first publicly indicated that the state government would consider how an industry-funded PHVBS could operate. The 6 August 2019 date for valuation was accepted after investigations found there was no other date that would distinguish the West End from the east end of Port Hedland and other Pilbara locations.

The PHVBS offer is not a fixed price. At the time the offer is made, eligible residential property owners will be offered a settlement price calculated as follows: the agreed market value of the property as at 6 August 2019 indexed, a premium of 35 per cent of the agreed market value and an amount of up to \$20 000 for verifiable transaction costs.

## CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL 2021

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

I refer to part (2) of the answer that the minister provided yesterday regarding consultation with commercial and recreational fishing groups on the Conservation and Land Management Amendment Bill 2021.

- (1) Noting that the last recorded contact with Recfishwest was on 8 September 2020 and the last recorded contact with the Western Australian Fishing Industry Council was on 24 September 2020, is the Department of Biodiversity, Conservation and Attractions advising that it has had no contact with affected marine park users for eight months before the minister decided to reintroduce the bill?
- (2) Which affected stakeholders has DBCA engaged with on the bill aside from Recfishwest and WAFIC since September last year?

**Hon STEPHEN DAWSON replied:**

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

- (1)–(2) The Department of Biodiversity, Conservation and Attractions maintains an ongoing consultative relationship with a broad range of stakeholders, including commercial and recreational fishing groups, traditional owners, conservation groups and other users of Western Australia's marine parks. The bill was passed by the Legislative Assembly on 17 November 2020 and the fortieth Parliament was prorogued prior to it reaching the Legislative Council. In the event that the bill is amended, DBCA will recommence specific consultation with relevant stakeholders.

## COMMUNITY KINDERGARTENS — FUNDING

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

I refer to community kindergartens operating in Western Australia.

Will the minister provide a breakdown of the total funding allocated to each community kindergarten in 2021 for —

- (a) operational grant funding;
- (b) staffing costs;
- (c) linked school administration support; and
- (d) any other costs not listed above?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question. The answer is provided in tabular form, so I will seek leave to have it incorporated into *Hansard*, but perhaps if I describe it first. It lists the community kindergartens, then it lists: the 2021 grant; salaries for teachers and education assistants; admin support for linked schools; total 2021 funding; term 1, 2021 funding for enhanced cleaning due to COVID-19; term 2, 2021 funding for enhanced cleaning due to COVID-19; and total 2021 funding including funding for enhanced cleaning due to COVID-19.

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

**Community Kindergarten – Funding Allocation**

<b>Community Kindergarten</b>	<b>(a) 2021 Grant <sup>(1)</sup></b>	<b>(b) Salaries: Teacher and EA</b>	<b>(c) Admin Support for Linked Schools</b>	<b>Total 2021 Funding <sup>(2)</sup></b>	<b>(d) Term 1, 2021 Funding for enhanced cleaning due to COVID -19 <sup>(3)</sup></b>	<b>(d) Term 2, 2021 Funding for enhanced cleaning due to COVID -19 <sup>(4)</sup></b>	<b>Total 2021 Funding including funding for enhanced cleaning due to COVID -19 <sup>(5)</sup></b>
Albany Community Kindergarten	\$16,767.00	\$216,229.36	\$17,532.40	<b>\$250,528.76</b>	\$12,826.62	\$15,277.92	<b>\$278,633.30</b>
Bullsbrook Community Kindergarten	\$16,995.00	\$216,229.36	\$17,532.40	<b>\$250,756.76</b>	\$12,826.62	\$15,277.92	<b>\$278,861.30</b>
Byford Community Kindergarten	\$15,285.00	\$108,114.68	\$17,532.40	<b>\$140,932.08</b>	\$7,842.17	\$9,317.75	<b>\$158,092.00</b>
Glen Forrest Community Kindergarten	\$14,943.00	\$108,114.68	\$17,532.40	<b>\$140,590.08</b>	\$7,842.17	\$9,317.75	<b>\$157,750.00</b>
Hazel Orme Community Kindergarten	\$17,793.00	\$216,229.36	\$17,532.40	<b>\$251,554.76</b>	\$12,826.62	\$15,277.92	<b>\$279,659.30</b>
Hillarys Community Kindergarten	\$16,653.00	\$216,229.36	\$17,532.40	<b>\$250,414.76</b>	\$7,842.17	\$9,317.75	<b>\$267,574.68</b>
Kindaimanna Community Kindergarten	\$14,145.00	\$108,114.68	\$17,532.40	<b>\$139,792.08</b>	\$7,842.17	\$9,317.75	<b>\$156,952.00</b>
Lockyer Community Kindergarten	\$33,141.00	\$432,458.72	\$17,532.40	<b>\$483,132.12</b>	\$13,118.62	\$15,625.92	<b>\$511,876.66</b>
Lower King Community Kindergarten	\$15,399.00	\$108,114.68	\$17,532.40	<b>\$141,046.08</b>	\$7,842.17	\$9,317.75	<b>\$158,206.00</b>
McDougall Park Community Kindergarten	\$17,793.00	\$216,229.36	\$17,532.40	<b>\$251,554.76</b>	\$12,826.62	\$15,277.92	<b>\$279,659.30</b>
Mount Helena Community Kindergarten	\$14,487.00	\$108,114.68	\$17,532.40	<b>\$140,134.08</b>	\$7,842.17	\$9,317.75	<b>\$157,294.00</b>
Mullaloo Community Kindergarten	\$17,907.00	\$216,229.36	\$17,532.40	<b>\$251,668.76</b>	\$12,826.62	\$15,277.92	<b>\$279,773.30</b>
Padbury Community Kindergarten	\$16,539.00	\$216,229.36	\$17,532.40	<b>\$250,300.76</b>	\$12,826.62	\$15,277.92	<b>\$278,405.30</b>
Pineview Community Kindergarten	\$14,373.00	\$108,114.68	\$17,532.40	<b>\$140,020.08</b>	\$7,842.17	\$9,317.75	<b>\$157,180.00</b>
Rossmoyne–Riverton Community Kindergarten	\$17,565.00	\$216,229.36	\$17,532.40	<b>\$251,326.76</b>	\$12,826.62	\$15,277.92	<b>\$279,431.30</b>
Seaview Community Kindergarten	\$16,995.00	\$216,229.36	\$17,532.40	<b>\$250,756.76</b>	\$12,826.62	\$15,277.92	<b>\$278,861.30</b>
Spring Road Community Kindergarten	\$15,741.00	\$108,114.68	\$17,532.40	<b>\$141,388.08</b>	\$7,842.17	\$9,317.75	<b>\$158,548.00</b>
Tuart Hill Community Kindergarten	\$15,513.00	\$108,114.68	\$17,532.40	<b>\$141,160.08</b>	\$7,842.17	\$9,317.75	<b>\$158,320.00</b>
<b>TOTAL</b>	<b>\$308,034.00</b>	<b>\$3,243,440.40</b>	<b>\$315,583.20</b>	<b>\$3,867,057.60</b>	<b>\$186,311.11</b>	<b>\$221,709.03</b>	<b>\$4,275,077.74</b>

<sup>(1)</sup> The grant is paid in two instalments following the February and August census. The 2021 grants in the table above are based on the February 2021 census. Some minor changes to the second instalment may be made if the August census varies from the February census.

<sup>(2)</sup> Some in-kind Departmental resources are applied to administering the community kindergarten program which are not easily quantifiable and not included in the Total 2021 Funding.

<sup>(3)</sup> Term 1, 2021 was a 9 week term.

<sup>(4)</sup> Term 2, 2021 is an 11 week term.

<sup>(5)</sup> Subject to the advice from the Chief Health Officer, further funding for enhanced cleaning due to COVID-19 may be provided to the Community Kindergartens in 2021.

**LOTTERYWEST GRANTS — CHURCHES**

*Question without Notice 163 — Answer Advice*

**HON PETER COLLIER (North Metropolitan)** [5.02 pm]: I have a point of order. It relates to the response to question C166 that I received today from the Premier. He refers me to Legislative Council question 144. I have asked the assistant clerk to check on question 144 and it refers to a question asked on 13 March 2019 that was on a completely different topic; so I think they are confused. Could I get a response to that tomorrow?

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [5.03 pm]: I give an undertaking that I will seek to provide a response.

**The PRESIDENT:** Thanks, Leader of the House. That is not a point of order, but thank you for the response.

### **CORONAVIRUS — HOTEL QUARANTINE**

#### *Question without Notice 156 — Answer Advice*

**HON MARTIN ALDRIDGE (Agricultural)** [5.03 pm]: Today, I asked a question of the minister representing the Minister for Health. It was question C171 and related to hotel quarantine. I think the person who signed off on this question has perhaps misinterpreted part of the question, which is part (4) of the question. I asked: of those identified in (3), how many invoices had been issued within three time frames? The answer was —

(a)–(c) To date all invoices have been issued within 60 days or more.

Can I ask for some clarification on the answer to that question?

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Mental Health)** [5.04 pm]: President, I read the answer as “everything was 60 days afterwards”, but noting the honourable member has raised a point of order, I will seek some clarification and provide an updated response to the chamber tomorrow.

### **ADDRESS-IN-REPLY**

#### *Motion*

Resumed from an earlier stage of the sitting.

**HON JAMES HAYWARD (South West)** [5.05 pm]: I acknowledge the traditional owners of our land, and elders past, present and emerging. Can I share with you all how thrilled I am that Hon Rosie Sahanna was elected to this forty-first Parliament. It is a very exciting and momentous occasion and I am absolutely thrilled to have been part of that experience. The only thing that hits me in the guts a bit is that there have been 40 Parliaments without any Aboriginal people in this chamber. I certainly hope that, from now on, we will see more Aboriginal people as part of this house. I also recognise the service of veterans, past and present, and the sacrifice of their families. I thank them for their service. I congratulate you, President, on your election. I would also like to acknowledge the work of the past President, Hon Kate Doust, for her service. It is an absolute privilege to be elected to this house. I am absolutely thrilled. I know that some of you know what I am talking about because there are 17 newbies here. Like me, those newbies, I am sure, are absolutely delighted to have been elected and given the opportunity to serve in this Parliament. Today, I am wearing the tie of Edgar Wylie Prowse. Edgar was a senator for the Country Party from 1962 to 1973. His son Trevor is from Bunbury. He has been a servant of the National Party, part of our branch and a great supporter of me personally. It is an absolute delight to be able to wear his dad’s tie on this occasion.

I represent the South West Region. Surely, it is the best region in the state. We have the best surf, the best wine, the best beer, the best holidays and the best fun times. You all know it is true because you pack up every Christmas time to head down there to enjoy the wonderful things that the south west has to offer. We have not only that but also a pristine environment. We grow premium quality food, and that food is exported all over the world—that is how good it is.

The South West Region runs from Mandurah in the north—if you can call it north—all the way to Albany in the south, so it is a pretty big space. It is a wonderful place to be. It is a stunning part of the world that is responsible for about 20 per cent of the tourism business in Western Australia. That is the largest slice of the regional tourism space in our state. It is a destination.

When I was a young fella, I had five friends with cars who headed down to the bush with all their friends for the weekend. It was their first time and they discovered gravel roads. I do not know whether members remember driving on gravel roads for the first time, but this was their first time. Five of them were driving their cars. The first guy came to a T-junction and stopped his car. The second guy slammed on his brakes and “just” stopped. The third guy ran into the second, the fourth into the third, and the fifth into the fourth. They managed to write off three cars. Why am I telling you this story? Those guys were not doing anything wrong. They were not evil. They never set out to do it that day. They were down there to have a good time, but they just did not have any local knowledge. They had never driven on gravel roads before. As regional members of Parliament know—there is a pile of us here; 18 in this house—local knowledge is absolutely critical to be able to serve our communities. That story just highlights how important local knowledge is, which is why regional MPs are so important.

I want to thank Hon Jackie Jarvis and Hon Shelley Payne for sharing their stories in their maiden speeches and talking about their struggles, because they understand what it is like to live in a regional town. They understand what it is like to live remotely and far away from the city. The problem is that when people make decisions about the future of the regions without actually living there, they sometimes do not get it right. When people, as well-meaning as they are, sometimes make mistakes—just like those who drove their cars down that gravel road—we can end up with a bit of a wreck. A friend of mine had a baby who was born in the car park at the Whim Creek Hotel. My

friend and his wife initially went to Karratha Health Campus, but a directive from Perth said that they had to go to Port Hedland because Karratha did not have the right medical people there, so he packed up his wife, who was in labour, into the car to drive to Port Hedland. I can understand that somebody in Perth thinks that to get from Joondalup Health Campus to the next hospital is not a big deal; they can go in an ambulance. But at that time in Karratha, we did not have full-time paramedics, and they certainly would not be sent out to drive to Port Hedland because it is 220 kilometres away, so my friend and his wife headed off in their car. They did not make it and she gave birth to their child at the Whim Creek Hotel, which is about halfway to Port Hedland, 110 kilometres away, with the help of some volunteer ambulance officers. That is an example of the types of decisions that are made without that local knowledge, which is why regional representation is so critical.

We have just been through an extraordinary election cycle, as we all know. I congratulate all the members who have been elected for the first time and the members who have been re-elected. It was an absolutely resounding win for the Labor Party; I do not need to tell members that. I accept that that outcome has been achieved through a fair and democratic process and that the people of Western Australia have had their say. I am certainly respectful of their decision. I am pretty lucky to be here, to be honest. Many of you would have been counting. The Labor Party had plenty of people on the tickets and they were going pretty well, but for the Nationals WA, our friends from the Liberal Party and some of the crossbenchers here, it was really stressful right down to the last moment when they pressed the button to work out who would be here and who would not. I was certainly one of those latter people. When His Excellency the Governor Hon Kim Beazley was here the other day he said, “When the election train is going, make sure you’re on it, even if it is in the guard carriage.” I jumped in the guard carriage as it was leaving the station and I am very happy to have made it. It is going to be an interesting four years for the National Party, but to be honest with members, we are used to being up for a fight. We are used to having to fight above our weight range, and again we are massively outnumbered but we will do the best we can, which is what is expected of us.

For many of the members sitting on the other side of the house, they have found themselves as part of the government machine. They have an opportunity to influence decisions from the inside. Despite repeated statements from the Premier during the election campaign, and from his candidates on the ground right across regional WA, that electoral reform was not on the agenda, it seems now that it was the most important business that the government wanted to deal with in the forty-first Parliament. We know that because on the second sitting day of the lower house, the Premier announced that the process of reform was underway. We have a saying in the Nationals: nobody expects you to win every fight, but they expect you to get a blood nose trying. I intend to do that for the issues that are important for my community; that is what they would expect of me and I will give them nothing less.

The regions are full of hardworking people like Hetty and Herman Krispyn, wonderful people who made their way from Holland to settle in WA. They had to clear their land to make their life there and grow their family. They had seven kids who have all grown up now and have their own families. Hetty and Herman now have 29 grandchildren and 31 great-grandchildren—clearly, no good television back in the early days in Manjimup! Their sixth son, Peter, and his wife, Denise, are here. I talk about Herman because I lived in Manjimup for a while and he and his wife and family were a tremendous help to Lee and me at a pretty vulnerable time in our lives. They really helped us out and I wanted to acknowledge them here today.

The real challenge for my colleagues who are regional members and sitting on the other side is to push back against the agenda, which seeks to further reduce the representation of regional people with some ideological idea that counting numbers equates to fairness. I would simply ask: with 16 regional seats and 43 metropolitan seats in the lower house, does anyone think that Manjimup, Roebourne, Mullewa or Coolgardie have too much influence on the state government? The answer is no. Regional people pull their weight in this state. Regional WA makes up about 25.5 per cent of the state’s population, yet it contributes nearly half of the gross domestic product. We provide 30 per cent of Perth’s water. The Pilbara alone makes up for 81.5 per cent of the entire state’s mineral and petroleum product. In 2020, WA’s mining value was \$174 billion. In 2018–19, the gross value of agricultural production in WA was \$10.7 billion, which was 18 per cent of the country’s gross agricultural production, yet WA had only 10 per cent of the farming businesses, so they are punching well above their weight, which is great. I have not even touched on the natural beauty and features of our diverse state.

I worked as a television journalist for many years. While based in the Pilbara, one of the fun jobs I had was to make local television ads. I know that you all love the local TV ads when you go out to the bush. My job was to be the reporter and commercial producer in the Pilbara, which meant that at election time I had to make ads for the Labor Party, the Liberal Party, the Greens and the Independents. It was fantastic; I backed a winner every time. It was when working as a TV reporter that I really developed a love for politics. Over the years I got to meet the players from both sides: Kevin Rudd, Mark Latham, John Howard, Richard Court, Geoff Gallop, Alan Carpenter, Colin Barnett before he was the Premier, and all the ministers, including Hon Alannah MacTiernan, Hon Michelle Roberts and many more.

I remember covering stories in Port Hedland about the state of its kerbing. It did not have enough money to fix the kerbs in Port Hedland, despite the fact that billions of dollars’ worth of iron ore was rolling out of the port. I think that Bob Neville was either the mayor or the deputy mayor at the time and he was the talent for my story. The problem for Port Hedland was that it was stuck in a 1960s time warp and nobody from either side of government would

give it any love. I remember talking to Hon Eric Ripper, who was the Treasurer at the time, who said, “These guys up in the Pilbara want \$50 million. They’re not going to get \$5 million.” That was the attitude from not just one side, but both sides; they both ignored the state of the Pilbara and nobody wanted to help out. Then this fellow called Brendon Grylls came along talking about an idea called royalties for regions with 25 per cent of iron ore royalty payments to be quarantined to spend in the regions to catch up on the underinvestment suffered in the regions by successive governments over the years.

That is why I became a Nat. I saw how this policy met the needs of regional communities. I have always believed that government should serve the people, not people serve the government. Our goal should be to promote prosperity and freedom so that people can enjoy growing their families and doing the things that they want to do. I really see our role, Parliament’s role and the role of government as being one of service. Through royalties for regions, the Pilbara and many other regional communities were transformed, with \$6.9 billion invested in more than 3 700 projects. It is the state’s only regional development fund and it is the envy of every other jurisdiction in the country. Unfortunately, the value of this program under the current government has been undermined, with \$2.7 billion of the \$4 billion being redirected to consolidated revenue through cost-shifting. There is a big job to do for the people who live in our regions; I am committed to working with you. I am also committed to seeing regional people get the best possible hearing in this place and ensuring that their needs and aspirations are heard.

We have been hearing a lot of spin about how the McGowan government is the best thing since sliced bread. I get it and I understand it, but the reality for many people is that we are still in a crisis. Our hospital system is in crisis. We have an unprecedented and emerging housing crisis in which people cannot find affordable homes. I know a family that has had to split up; dad has gone one way and mum has gone to live with a different relative because they cannot find housing. They were at the caravan show buying a caravan so that they could move to a caravan park and live together again. These are terrible circumstances. I know of another family of a single mum and her teenage kids. Again, she has had to split up the family in order to find accommodation. It is a really horrendous situation, one that we need to put our minds to to find a solution.

I refer to the plight of Indigenous people in our community. The rate of incarceration and living conditions of many Aboriginal people are still totally unacceptable. One of the things that I did as a reporter 15 years ago was to go to Roebourne to look at the state of the houses there. Governments have spent money and done some things, but the reality is that there are still a lot of people in that circumstance. I congratulate the Labor Party on its win; I understand the excitement. It truly is a monumental victory and I am sure that Labor Party members will enjoy it, but the reality is that this house needs some sober minds and serious thinking about the real issues that are facing the people in WA because it is our responsibility to find solutions for them.

Locally in the south west, I have been campaigning for a fast train to Bunbury. People down there are pretty excited about it. It is probably not on the radar in this part of the world. The Bunbury train service is pretty second-rate; in fact, mostly it is a bus service. It depends on which day you go. I am really committed to this state building project. Members will probably hear me harp on a bit about it over time. It is good to have a passion and a project, and I know that the people of Bunbury and the south west are really keen to see that kind of development. When Forrest Highway was built, we were lucky to have Hon Alannah MacTiernan as the minister and, as I understand, she insisted that the road be wide enough to provide a rail corridor down the centre for the future. I congratulate her on her forethought, and I certainly hope that that becomes a reality at some point in the future. The people of the south west are genuinely excited about the economic and social benefits that such a service would bring to the region.

There are a few people along the way who I would like to thank for their help in getting me here. Like other members, I have come with the support of a party. We know that political parties are mostly made up of volunteers, people who give their own time because they believe in the values of their party. My situation is no exception. Sitting in the public gallery are the dream team: Monique Warnock, Seb Schiano, Cons Ortheil and, of course, my wife, Lee. They were my campaign team when I ran for the lower house seat in 2017 and when I ran for the upper house seat. You would not find a better team. The Nats are a little outfit, to be honest. We are used to doing a lot with very little because we have never really had a lot. Our little team punches above its weight. We made people look the other way in 2017 and they certainly thought, “Who the heck are these guys and why are they running so hard?” I am delighted to have been elected this time around.

There are other people I need to acknowledge. We all know that upper house votes are reliant on lower house votes. I thank Leonie Lemmy, Peter Gordon, Delma Baejou, Trish Leak, Hon Terry Redman, Wayne Sanford and Codee Lee Down, who all ran for me. They helped me get the votes that I needed and, believe me, we needed every single one of those votes because it was not until the last moment that I jumped on the guard train as it was leaving.

I also want to acknowledge Colin Holt, who is a fantastic gentleman. As those who have worked with Colin will know he is a character. He is very much a man who likes to do things his own way, but he has the respect of the communities in the south west and he has their best interests at heart. I thank him for his service, support and mentorship.

I also want to give a shout out to my mum and dad, Rob and Dawn Hayward. Dad was metalworker and mum was a hairdresser. How is that, guys! They could not have kids so they adopted me from birth. Soon after they adopted me, they popped out three of their own. I have two brothers, Duncan and Stuart, and a sister, Rashel Hayward.

I had a really warm and wonderful upbringing and I love them and I thank them for their love and ongoing support. I absolutely had the most amazing upbringing and I still call them mum and dad. I had what I imagine is a very normal family upbringing.

In 2017 I found my birth mother. She was living in Waroona. I was born in Derby, so I am a Kimberley boy. I was there for only 10 minutes or maybe one day. I found my birth mother living in Waroona and discovered that I had two full birth brothers and two half-sisters. My father, Len, had passed, but my birth mum, Lee Roser, and my brothers Heath and Billy were still alive and well. Heath has since passed but I had the chance to meet him and to get to know him. I have also met my half-sister Rebecca. My other half-sister, Leah, has also passed. I never got a chance to meet her. I am pleased to report that my mum and dad, Rob and Dawn, and my birth mum, Lee Roser, were all here for the swearing-in ceremony, which was a wonderful time.

Lee and I have six children between us: Britney, Jordan, Jessica, Kaine, Jackson and Ashton. I am giving you a “Hey buddy”, Ashton—hey buddy! We have four grandchildren: Elijah, Nash, Flynn and Sana.

Finally, I would like to thank my wife, Lee, who has put up with me all these years. Anyone who is married to someone who is in politics knows that it is a pretty hard stretch. Lee has just been magnificent. She has always been there to support and help me. She always looks glamorous and she is always ready to go the extra mile. I have never met anyone with a harder work ethic than Lee. Thank you, very much.

Members, that is it from me. Thank you very much for taking the time to listen to me and I look forward to working with you all.

[Applause.]

**The DEPUTY PRESIDENT:** Congratulations, Hon James Hayward. All the best for your time in the Legislative Council.

Debate adjourned, on motion by **Hon Pierre Yang**.

**COVID-19 RESPONSE LEGISLATION AMENDMENT  
(EXTENSION OF EXPIRING PROVISIONS) BILL 2021**

*Committee*

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

**Clause 1: Short title —**

Progress was reported after the clause had been partly considered.

**Hon NICK GOIRAN:** The minister’s second reading speech on the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2021 makes reference to the fact that we have recently been in a three-day lockdown. Is there a part of this bill that will enable future lockdowns to be imposed?

**Hon SUE ELLERY:** There is a head of power in the bill before us that will enable the State Emergency Coordinator to issue directions. Those directions include lockdowns. Although the member will not find a reference in the bill before us to the specific capacity to issue a direction in respect to a lockdown, a head of power to make directions does exist in this bill.

**Hon NICK GOIRAN:** The minister might like to take this by interjection. I take it that that would be in part 4 of the bill, which deals with the amendment to the Emergency Management Amendment (COVID-19 Response) Act 2020?

**Hon Sue Ellery:** Yes.

**Hon NICK GOIRAN:** For how long has that particular head of power been available?

**Hon SUE ELLERY:** I am advised that the State Emergency Coordinator has always been empowered under the Emergency Management Act 2005. The State Emergency Coordinator has always had the power so expressed, at least from 2005, and I suspect probably under whatever was in the versions that existed before, but at least since 2005.

**Hon NICK GOIRAN:** If this bill were not passed—there is no prospect of that happening, because everybody is in support of the passage of the bill—would the power to invoke a lockdown, such as the three-day lockdown that the minister gave as an example in her second reading speech, still be available?

**Hon SUE ELLERY:** The honourable member may well not have been in the chamber when Hon Martin Aldridge made his second reading contribution, but he did canvass this. For example, the particular provisions that apply in section 72A allow a direction to be issued to a particular class of people. The example that Hon Martin Aldridge used was a shipload of people —

**Hon Nick Goiran:** Sorry?

**Hon SUE ELLERY:** I said shipload of people.

**Hon Dr Steve Thomas:** For the sake of Hansard, we should get that right!

**Hon Nick Goiran:** I heard it clearly, and I thought it was amusing none the less.

**Hon SUE ELLERY:** Rather than the inconvenience and impracticality of trying to issue a direction against each single person as they come off the ship et cetera, it will enable a class of people to be captured by a direction.

**Hon NICK GOIRAN:** In the absence of this important power to issue a direction to a class of people, would that mean that in order to do a similar three-day lockdown, a direction would have to be issued to every individual person in Western Australia?

**Hon Sue Ellery:** If the bill did not pass?

**Hon NICK GOIRAN:** Yes.

**Hon SUE ELLERY:** I am not sure whether we are getting to the point that the honourable member is seeking to clarify, but prior to the introduction of these provisions in respect of COVID-19, there was the power to issue directions against a person. What was inserted into the COVID-19 provisions was the capacity to issue for a class of persons. I am not sure whether there was something more specific that the member was seeking, so I will seek clarification if there was something else the member was seeking.

**Hon NICK GOIRAN:** Therefore, subject to the minister's concurrence, I think we can conclude that it is important that the bill be passed, because in the example that the minister gave in her second reading speech of the three-day lockdown, in the regrettable instance that we would have to do that again sometime between now and 4 January, which is the proposed extension date, I think that regardless of whether people are pro or anti-lockdown, we would all agree that in order for it to be practicable, we need to have the power that is set out in this bill.

**Hon Sue Ellery:** By interjection, correct.

**Hon NICK GOIRAN:** Can the minister advise the chamber whether a documented framework exists setting out the criteria that the government will use when considering future lockdowns?

**Hon SUE ELLERY:** No, there is not. Each situation is considered on its merits. That may be something that is developed in the future—that is my personal opinion—because it may well be that we get into a pattern that is familiar. I have to say that every time we have thought we understood what was going to happen next with this pandemic, something different has happened. That is not a government position; that is my view. There is not currently a specific framework. It is according to the particular circumstances at the time. If I can give the member an example that was helpful to me, two of the cases that were at the centre of the most recent restrictions were university students, as opposed to someone who was not at a university. We can imagine that at a university, on any given day there may be thousands of people on the campus. The provisions we would put in place around a lockdown that started because somebody had attended a university might be fundamentally different from what we would put in place for somebody who has had very limited contact with other members of the community, for example.

**Hon NICK GOIRAN:** I think that is helpful, minister. For what it is worth, I agree with the minister. I think that, moving forward, some form of documented framework would be preferable. It sounds as though, at the moment, to the extent that there is a framework, it is the Chief Health Officer who determines these matters on a case-by-case basis. Given the experience that we have had in Western Australia over the past 12 to 14 months, and indeed the experience of other Australian jurisdictions, I would like to think that the Chief Health Officer now has developed his own framework. For an expert to be able to provide expert advice to the government, even though they are dealing with a novel pandemic situation, as time passes, and as their experience increases in providing advice, I would like to think that they could in their mind say, "If these particular criteria were to emerge, it will result in me giving this piece of advice to government, and if these particular issues are absent, then I will give different advice." I would like to think that that might already exist, but that would be a series of questions that, potentially, a parliamentary committee could pursue with the Chief Health Officer during the course of their work in the forty-first Parliament.

On the second page of the minister's second reading speech—I regret the official version has different formatting from the one the minister has—it states —

Due to the fast-evolving situation and the possible threat, we —

The minister is obviously referring to the government —

introduced measures when two positive COVID-19 cases emerged. Since then, we have introduced measures to limit and reduce the risk of spread from another group of infections.

Is there a convenient list of the measures that the minister refers to in the sound reading speech—the ones that were introduced when the two COVID-19 positive cases emerged, and, separate to that, the ones that the government since introduced to limit and reduce the risk of the spread of COVID-19 from another group of infections?

**Hon SUE ELLERY:** I do not have that here. I can give an undertaking to raise it with the minister and see whether I can table something behind the chair.

**Hon NICK GOIRAN:** Thank you. That would be appreciated. Although the minister does not have a convenient list of the measures at her disposal, is it correct to say that the introduction of the measures referred to in the second reading speech—remember we are talking about two different sets of measures—could only have been introduced by virtue of the existence of the temporary law we are trying to extend?

**Hon SUE ELLERY:** I am advised that the SafeWA app—the contact tracing app—is entirely dependent on section 72A. I am advised that face masks are partially reliant on section 72A and I am advised that directions to classes of people, obviously, are linked to section 72A. I am going to put a caveat on that: I do not have the list of measures in front of me so I cannot take the answer much beyond that.

**Hon NICK GOIRAN:** That is fine; that answer is helpful. The point is that there are measures—the minister has mentioned three—that can be pursued or implemented, or indeed imposed, only when this temporary law is extended. At least that gives members of this chamber, or indeed those interested members outside of the chamber, clarity, that without this extension we will not be able to continue with the SafeWA app in terms of that information in the future, and possibly face masks—whether we are enthusiasts for such masks—and then, of course, the important directions to classes of people. The minister has indicated that much of the deliberations that take place on these matters are based on the expert advice of the State Emergency Coordinator—that was certainly mentioned in the second reading speech—and that those deliberations take place with the State Disaster Council. Can the minister inform the chamber who is currently on the State Disaster Council and whether minutes are kept of those meetings?

**Hon SUE ELLERY:** I do not have the list here; I could probably get the member a list. The minutes go to cabinet.

**Hon NICK GOIRAN:** Minister, I am happy for the minister to take this by interjection, if it assists: are you a member of the State Disaster Council?

**Hon Sue Ellery:** Yes, I am. I already said that in the house.

**Hon NICK GOIRAN:** With the benefit of that information and given that the minister is a member of that body—I appreciate that she might not necessarily want to give an exhaustive list—could the minister at least give an indication of some of the members on the State Disaster Council and some indication as to approximately how many people are on the council?

**Hon SUE ELLERY:** I do not know that that would be particularly helpful because I might miss somebody out.

**Hon Nick Goiran:** It's a non-exhaustive list, but you're at the meetings, so you would have some idea who goes there.

**Hon SUE ELLERY:** There are a range of ministers; a range of directors general; obviously the State Emergency Coordinator; obviously the Chief Health Officer; and a range of other directors general and ministers. I am happy to provide the member with a list, but I would miss someone if I tried to do it off my head right now.

**Hon NICK GOIRAN:** That is fine, minister. I appreciate that the minister no doubt attends a range of meetings in different circumstances. It is not an examination here. I do not expect the minister to necessarily know all these things off by heart, but at least it gives us a flavour of who attends these meeting and, most importantly, participates in the deliberations. The minister has indicated that minutes are kept and that those minutes go to cabinet.

Has the government received any complaints about the use of the section 72A powers that we are seeking to extend?

**Hon SUE ELLERY:** I am not sure how that would help us to progress the bill, but not that I am aware of. I find the degree of compliance of Western Australians constantly reaffirming. I am sure that some Western Australians do not like some elements of the directions and I am sure that some of them have probably expressed that in a complaint to somebody, but I am not aware of any.

**Hon NICK GOIRAN:** Perhaps I can explain the importance of understanding whether there have been any complaints. Imagine by way of an analogy that we were dealing with an education bill and the minister, as the education minister, would like the support of members for some form of reform in the education sector, and unbeknownst to members there were some significant stakeholders in the education sector who had lodged complaints on the very issue that was the subject of the reform. Those are the types of things that would assist members as legislators in understanding whether, indeed, there is some veracity to the complaints, whether the reforms are warranted, and whether the reforms will improve the situation that has been complained of, or might even worsen the situation. We are being asked to extend a temporary law, so it would be useful to know whether there have been any complaints. The minister indicated that at least in terms of her personal knowledge she is not aware of any.

**Hon Sue Ellery:** I probably have some information I can share with you.

**Hon NICK GOIRAN:** Thank you.

**Hon SUE ELLERY:** I have some information I can share with the member. These are not necessarily related to section 72A, but I am advised of the following—these come from the Western Australia Police Force: 87 files have been received by the professional standards portfolio. It is not clear to me—someone might be able to clarify—whether a file is an individual complaint or whether there are multiple files all from the same person, or whether there are 87 different people. I do not know. Eighty-seven files relating to a variety of topics were received by

the professional standards portfolio, including the G2G PASS, the closure of borders and the refusal of entry to non-exempt travellers. Twenty-two of these relate to complaints against police officers for possible breaches of the Emergency Management Act. There were 2 896 ministerial files, including queries and commentary about the application of WA's closed borders, controlled borders and intrastate borders and operation during the state of emergency, and 25 of these relate to complaints. There were 479 correspondence files relating to the state of emergency received directly by the office of the Commissioner of Police, and eight of them related to complaints. I can clarify that they are individual complaints.

**Hon NICK GOIRAN:** In an earlier response the minister mentioned that it never ceases to amaze her how compliant Western Australians are with regard to what has been happening. Equally, it never ceases to amaze me what information can be elicited when a few more questions are asked. The minister has indicated that of the, I think, more than 2 000 ministerial files—almost 3 000—25 of them were complaints. What is the nature of those types of complaints?

**Hon SUE ELLERY:** I am sorry; I do not have that information here. In the information I just provided I gave a range of things. In respect to ministerial correspondence, for example, I talked about queries about borders, controlled borders and intrastate borders during the state of emergency, so it is across that band of issues. I do not have anything more specific other than what I have given. I can undertake to raise with the relevant minister whether more particulars could be provided, but I do not have access to that information here.

**Hon NICK GOIRAN:** If we can just take the 25 complaints that fall under the category of ministerial files, are they all under the one ministry or multiple ministries?

**Hon SUE ELLERY:** As I said when the member first asked the question, the information I have in front of me is in respect to WA police.

**Hon NICK GOIRAN:** I recall the minister mentioning that. I thought that was in respect to the 87 files from professional standards. I now understand that the more than 2 000 ministerial files also relate to the Minister for Police. I think there was a third category.

**Hon Sue Ellery:** Commissioner's correspondence.

**Hon NICK GOIRAN:** Right. With the commissioner's correspondence there was also a number of complaints provided.

**Hon Sue Ellery:** Eight.

**Hon NICK GOIRAN:** I think it might have been eight. For each of the 25 complaints that come from the ministerial files, the eight from the commissioner's correspondence and the 87 with professional standards, we really want to know who has undertaken an investigation into those complaints and, most importantly, whether any of the complaints have been sustained. What will be the process for us to get that information?

**Hon SUE ELLERY:** The process will be that I stand up and advise the following. Western Australia Police Force has established a complaints process for any alleged police misconduct. Any identified breaches are investigated or overseen by the professional standards portfolio. Officers are investigated against statutory offences, Western Australia Police Force policy and the code of conduct. All investigations undertaken by the Western Australia Police Force are overseen by the Corruption and Crime Commission. Under section 21A of the Corruption, Crime and Misconduct Act, the Commissioner of Police must report matters that concern or may concern reviewable police action. Anyone else, including members of the public, may also report alleged police misconduct to the commission. Once an allegation is assessed, the commission will decide whether to investigate or take action itself, investigate or take action in cooperation with an independent agency or appropriate authority, refer the matter to an independent agency or appropriate authority for action, or take no action, in which case the commission will advise whoever made the report.

**Hon NICK GOIRAN:** That is a helpful summary of the process. I am keen to know what the process will be for us as a chamber to get the information about which of the complaints have been investigated and which ones have been sustained.

**Hon SUE ELLERY:** I do not have that here. Again, I can make an undertaking to pass on the member's request to the relevant minister. I am happy to give the member that undertaking.

**Hon NICK GOIRAN:** The second reading speech the minister delivered to the house earlier this month stated that section 72A powers were essential for the government's implementation of physical distancing measures, and she made reference to social venues. When the minister mentioned social venues, was it intended to capture Optus Stadium?

**Hon SUE ELLERY:** I am advised that Optus Stadium, for example, but, indeed, HBF Stadium, RAC Arena and other similar venues are captured under the section 72A provisions for social gatherings.

**Hon NICK GOIRAN:** We have just been talking about whether the government has received any complaints and the minister kindly indicated that she would have a discussion with the new Minister for Police to see whether we cannot get to the bottom of whether any complaints have been sustained. This is much more of a low-level complaint than the type of matters I hope the minister will get to the bottom of with her friend the Minister for Police. I must

say that the type of complaint I have received frequently over the course of the last 12 months is about the varying decisions for venue capacity at Optus Stadium. As a member, albeit not necessarily one who goes out of his way to defend anything the government of the day has been doing, it has been very difficult to explain to constituents the methodology or, as we discussed earlier, the framework for physical distancing measures to justify why on any particular day 30 000 Western Australians can gather at Optus Stadium—on a different day it might be 45 000 and, indeed, on another day it might be up to 60 000—when they are then expected to pack in like sardines on some of our Transperth trains. It has been difficult to explain to those constituents why it is physically safe to have 30 000 people at Optus Stadium but unsafe to have those same 30 000 people on top of each other on a train thereafter. Is the minister able to assist the chamber in terms of whether things have improved so that we now have some form of guideline or understanding of this when we have those types of restrictions? There have obviously been concerns in recent times about a new matter emerging out of Victoria, and we know that might continue on for some time yet. Most ordinary Western Australians, particularly football-loving ones, including those who like the West Coast Eagles —

**Hon Stephen Dawson** interjected.

**Hon NICK GOIRAN:** That was an unruly interjection by the deputy leader!

Those ordinary constituents would be keen to have some understanding of the rationale behind those types of restrictions.

**Hon SUE ELLERY:** I can give the member a broad overview; that advice is usually provided by the Chief Health Officer, whose advisers are not here. The Chief Health Officer provides specific advice about seated entertainment venues. This is guided by things like the risk with forward-facing seats being different from the risk when people are moving around or sitting in groups where they face each other. The level of risk is dependent on the variant of COVID and the degree of community spread; for example, what stage we are in in the period of a particular set of directions. The Chief Health Officer publishes that advice at the time and in the advice he publishes he tries to explain why he has adopted the view he has about the circumstances at the time. That is probably as far as I can take it without advisers from Department of Health being here. Obviously, the Chief Health Officer is always looking to maximise public safety and has to balance a whole range of things in providing that advice.

**Hon NICK GOIRAN:** Again, perhaps that is something a parliamentary committee might be able to interrogate further with the Chief Health Officer. It is interesting, and perhaps useful, that the minister is responsible for the conduct of the passage of this bill in the Legislative Council given she is a member of the State Emergency Council, because next time that she is provided with a bit of advice about the distinction between forward-facing seats and seats that face each other, a conscientious member of that council might like to ask the advisers at the time how that helps us, given that while a person might sit at the match and have seats facing forward, at the end of the match they go onto a Transperth train and their seats are facing each other, particularly as there are different types of seats on different types of trains. The relevant adviser might like to contemplate those types of things, because it is those types of peculiarities that leave a few Western Australians scratching their heads at times.

**Hon Sue Ellery:** If the honourable member will take an interjection—I do this at my peril because I do not want to take the member down another path if I don't need to! By interjection, there is not a single, perfect, neat solution to this. We all wish there was, but there is not.

**Hon NICK GOIRAN:** In the minister's second reading speech she mentions, and she mentioned this earlier this afternoon, that the section 72A power in the Emergency Management Act is important because it facilitates the use of the SafeWA app. What measure is the government using to assess whether this app is being used or not?

**Hon SUE ELLERY:** Honourable member, earlier in the debate Hon Peter Collier asked for SafeWA statistics. The scans are measured. The member asked how we know it is being used. It is because the scans on the app are being measured. There are individual and business registrations, and scan numbers are measured and they reflect total scans per month, not necessarily unique users per month. What is not kept in those registers, which Hon Peter Collier referred to in his contribution to the second reading debate, is the paper-based registers. The information that is asked of the user upon registration is first and last name, and mobile number. The usability is immediate, so as soon as the user scans the QR code, hears the ding and sees the green confirmation screen, the scanned information is stored in the database and is able to be used by the contact-tracing team should it be required.

**Hon NICK GOIRAN:** Anecdotally, my observation is that the app is being inconsistently used. What offence is committed if a person neither signs in via the app or the paper registry?

**Hon SUE ELLERY:** Businesses that do not use the register are subject to penalties, including a fine of up to \$50 000 for an individual and \$250 000 for a body corporate, or 12 months' imprisonment. Infringement notices can also be issued. The member's question is about the offence if someone does not sign in. It is a breach of a direction and police can issue infringements. I am advised that no one has been charged. The focus is on compliance rather than taking a heavy-handed approach by charging someone.

**Hon NICK GOIRAN:** I have one further area to pursue under clause 1. My remaining questions pertain to clauses 4 and 5 found in part 2. They might be all conveniently dealt with in a job lot under clause 3.

In her second reading speech the minister referred to the government continuing to make its decisions based on the best available health advice. She also referred to the fact that from time to time the Chief Health Officer documents his advice in writing. Is the written advice received by government from the Chief Health Officer before or after he speaks to the Premier?

**Hon SUE ELLERY:** I do not know the answer to that and the people here would not know the answer to that, so I am not in a position to answer that question.

**Clause put and passed.**

**Clause 2 put and passed.**

**Clause 3: Act amended —**

**Hon NICK GOIRAN:** My question relates to sections 318 and 338B of the Criminal Code so I will deal with them here under clause 3.

How many charges have occurred under sections 318 and 338B of the Criminal Code in relation to threats or assaults against police officers since assent day on 3 April 2020?

**Hon SUE ELLERY:** Since 4 April 2020 to 3 April 2021, 16 people have been charged with 24 offences of assaulting a public officer, COVID-19-related, under section 318 of the code. No people have been charged with threats under 338B(2) of the code.

**Hon NICK GOIRAN:** I was quickly scribbling that down, minister. Is it 16 people with regard to section 318 and zero with regard to 338B?

**Hon Sue Ellery:** Correct. Sixteen were charged with offences under section 318 and zero under 338.

**Hon NICK GOIRAN:** That is interesting because at the briefing I attended, the information provided suggested that 19 people were charged with 28 offences. Can we clarify the difference?

**Hon SUE ELLERY:** There is an explanation for that. Three persons and four offences have been removed. Although they occurred during the pandemic and involved “threatening COVID” at the time of assault, these offences were prior to the increased penalty provisions.

**Hon NICK GOIRAN:** When were they removed and whose decision was it to remove them?

**Hon SUE ELLERY:** I am advised that subsequent to the briefing, the briefing information was updated. I am advised that the updated information was provided to Hon Peter Collier. It may well have been provided to Hon Nick Goiran. I cannot confirm that but that is what I am advised.

**Hon Peter Collier:** What was that?

**Hon SUE ELLERY:** I am talking about you and the updated information out of a briefing on numbers of charges and things, I am advised.

**Hon Peter Collier:** Mine went to, I think, April.

**Hon SUE ELLERY:** Yes.

**Hon NICK GOIRAN:** I wonder how it is possible to have any confidence in these figures. I ask because last year, the minister was asked a question on notice by Hon Martin Aldridge. I can imagine that being a question on notice directed to the Attorney General via the minister, she would have had an incredible amount of input into the answer! For the benefit of Hansard that was sarcastic. Whether the minister likes it or not, I guess she takes responsibility for the answer Hon John Quigley has provided and his answer to the identical question I just asked the minister authored by Hon Martin Aldridge was as follows —

The relevant provisions of Criminal Code sections 318(1)(d) and 338B relate to the general defined term ‘public officer’ and, as such, the type of public officer involved is not recorded when each charge is lodged with the court. The Department of Justice has advised that staff would be required to review each individual case to investigate how many police officers were among the public officers allegedly offended against during the cited period. Such a manual review of each case would not necessarily provide the information requested because the type of officer is not always included in the charge description recorded.

Consequently, minister I ask: how do we now know that the 16 people with the 24 charges is accurate; what is the source of that information?

**Hon SUE ELLERY:** I am advised that it came to the attention of someone that there was potentially an error in the numbers, so police were asked to do the manual review to check those numbers, and that is where the three removals were made. I am happy to give an undertaking that if I gave the wrong answer at the time, I will make an apology to the house and correct it, but I do not think it was wrong at the time. I think it was that we did not want to do the extensive manual investigation at a time of pandemic. But as I understand it, when it became clear there was perhaps a discrepancy in the numbers that review was done.

**Hon NICK GOIRAN:** I understand how the distinction between the 19 people and the 16 people was ascertained because of the manual review, but does that then suggest there is some kind of electronic database that allows the department to assess the information at first instance minus the review? In other words, where did the 19 people come from at first instance? Presumably that was in the manual review.

**Hon SUE ELLERY:** I am advised that the process is one as highly sophisticated and complicated as using keywords. If I put in the keyword “COVID”, I will get a list. By manual review, I can narrow that down to what is captured for the purposes we are talking about.

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

### **KALBARRI TOURISM**

#### *Statement*

**HON DARREN WEST (Agricultural — Parliamentary Secretary)** [6.21 pm]: Very briefly tonight, I want to tell members of the house and everyone else in Western Australia—I know thousands of people watch the live feed of the Legislative Council!—about an event that happened in Kalbarri yesterday. The business community came out in force because of an initiative by Melissa Finlay from Finlay’s Kalbarri. She got about 200 people to line up on the Kalbarri foreshore and take an amazing photo with a boat in the background. It is to let everybody know that the town of Kalbarri is back up and open for business. This is important because of the damage that happened to that community as a result of tropical cyclone Seroja. We all heard about the damage. Kalbarri is back open and it needs your support. I think it is great that the ABC midwest and wheatbelt made a special point this morning on Michelle Stanley’s program, talking about the business community and how it has pulled together to get this fantastic tourist town back up and open. Members will not find many better places than Kalbarri to have a holiday in Western Australia as we move towards the shortest day of the year and the mercury starts to plunge. It is a great community and a great place for a holiday. We have the skywalk, we have gorges, we have fishing tours, we have rock lobster tours, we have beautiful weather up there and a great community. Please, members, when you are planning your midyear holiday, consider Kalbarri and tell your friends because Kalbarri needs you.

### **BUILDING AND CONSTRUCTION INDUSTRY (SECURITY OF PAYMENT) BILL 2021**

#### *Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Darren West (Parliamentary Secretary)**, read a first time.

Explanatory memorandum presented by the parliamentary secretary.

#### *Second Reading*

**HON DARREN WEST (Agricultural — Parliamentary Secretary)** [6.23 pm]: I move —

That the bill be now read a second time.

Today is a historic day for all participants in the building and construction industry in Western Australia. In August 2016, the WA Labor Party, when in opposition, made a promise that if elected, we would pursue a bold reform agenda to provide a fairer system for all persons who carry out construction work or supply related goods and services in the industry. I would like to acknowledge my colleagues in the other place Hon Bill Johnston, MLA, for starting this significant reform, Hon John Quigley, MLA, Attorney General, for his work in attempting to pass these important reforms in the last Parliament and Hon Amber-Jade Sanderson, MLA, Minister for Commerce, for commandeering the bill through the house. It is with great privilege that I now seek to deliver on our promise to the people of this state. Aside from some technical drafting changes to improve the operation and clarity of various provisions, this bill is substantially the same as the bill that was introduced in the Legislative Council in November 2020 but which subsequently lapsed.

The building and construction industry is a vital part of our economy, providing the jobs, housing and critical infrastructure to meet the changing needs of all Western Australians. The industry is also a significant source of employment and income for both the Western Australian and Australian economies. It hosts the largest number of small businesses in this state, with hundreds of thousands of people earning a living through the building and construction industry. Our election commitment was made in recognition of the fact that the state’s construction industry has a long history of businesses, employees and their families suffering significant financial losses due to non-payment and mistreatment at the hands of unscrupulous industry participants. In many cases, these businesses provide their own capital up-front for materials and labour, so when the person they are contracted to does not pay or goes bust, the consequences can be absolutely devastating and can have ripple effects throughout the community. These include not being able to pay staff; owing large debts, such that people cannot ever restart in the industry; relationship breakdowns and even suicide. This is the problem of “security of payment” and it has been, and continues to be, a blight on our state.

The problem of security of payment is one with far-reaching ramifications for not only industry participants, but also across the broader community. It weakens the industry and fundamentally stifles innovation, investment and economic growth. It makes sense that if businesses could guarantee that they would get paid for the work they do, they would have more confidence to build and expand. If they could have security of payment, they would be in a financial

position to create job opportunities for staff, tradespeople and apprentices. The end result would be getting even more Western Australians into jobs and providing more opportunities for our young people to get their first job. Security of payment can provide the certainty that businesses need to grow and thrive, irrespective of the particular economic situation of the day. Unfortunately, the current reality is that businesses, particularly small businesses, have to battle with the constant fear of not getting paid on time or at all, and without access to the most effective rights and protections under the law. If these businesses do not get paid, often their workers and suppliers do not get paid. Unfortunately, recent events involving the external administration of the Pindan Group and the uncertainty now facing its subcontractors, provide a clear indication of why reforms are needed. Like my colleagues in the other place, I am proud to be part of a Labor government that is doing something about this. I stand here today to deliver on our commitment. This bill will improve security of payment and fairness across the Western Australian building and construction industry.

This bill is the result of an incredible breadth and depth of consultation across sectors of the industry. I take this opportunity to thank those at all levels of the building and construction industry for their engagement in the consultation process and acknowledge the productive and constructive input provided by a large number of groups and stakeholders into the development of this bill. I also wish to thank Mr John Fiocco and my colleague Hon Matthew Swinbourn, MLC, for spearheading the initial review process. Following his review, Mr Fiocco recommended a number of reforms to the government, including adopting many of the recommendations from the national review into security of payment laws, conducted by Mr John Murray, AM, on behalf of the commonwealth government. Mr Fiocco recommended, and this government has accepted, that Western Australia's security of payment laws must change and should be made more consistent with the east coast model, which is based on New South Wales legislation. The principle of greater national consistency in this context is an important one, as it will ensure that if a person carries out the work, the law will support them to get paid, regardless of which state or territory they operate in. As a result, this bill will implement a substantial package of law reform to ensure all participants in the building and construction industry in Western Australia can be confident of getting paid on time and every time, for the work they do. It does not matter whether you are a small business or contracting with big companies, if you do the work, you will have equal rights to get paid.

I will now address some of the major reforms that will be introduced. The bill will establish for the first time in Western Australia a new framework of security of payment laws that, over time, will replace the existing Construction Contracts Act 2004. The Gallop government introduced the first piece of security of payment legislation, the CCA, in Western Australia. It was a vital foundation for resolving construction disputes. In fact, Minister MacTiernan was the minister who introduced the then Construction Contracts Bill in March 2004. Although the CCA was revolutionary at the time for Western Australia, it is clear that the many challenges faced by businesses in getting paid, and paid on time, are not adequately served by the existing legislation. The law needs to keep up the pace with the speed of change in this dynamic sector of the economy. It was made clear to Mr Fiocco, as well as to Mr Murray in his review, that legislation based on preserving the commercial bargain struck between parties has not always achieved the right outcome in an industry plagued by inequality of bargaining power, unfair risk allocation and lengthy and delayed payment times.

It was a Labor government that first addressed the problem of security of payment back in 2004. Seventeen years later, it is another Labor government that stands ready to tackle it once again. Western Australian contractors will now have access to the same rights and protections under security of payment laws that their eastern state counterparts have had for many years. Crucially, part 2 of the bill will establish a statutory right to receive payment and an effective process to recover delayed payments through rapid adjudication and/or court proceedings. That will provide more transparency and structure to issues such as dates for claims, approvals and payments. The bill will require timely engagement in the payment process and impose significant consequences for failure to do so.

One of the biggest criticisms of the CCA has been that often subcontractors are not properly informed as to why payments are being withheld or delayed. They are left to either wait until payment is due to find out whether they will be paid the full amount claimed or commence an adjudication to discover the full reasons for non-payment. This does not guarantee prompt payment and leaves the party who carried out the work in the unenviable position of chasing payment, or commencing an adjudication process with limited or no knowledge whatsoever of the case they will face and the likelihood of success.

Under this bill, a party who carries out, or who undertakes to carry out construction work or supply goods and services—the claimant—is entitled to make a progress payment claim at the end of each month. To ensure cash flows quickly through the contracting chain, payment claims made under the bill from head contractors to principals will need to be paid within 20 business days of the claim or any lesser period that is stipulated in the construction contract. Payment claims by subcontractors to head contractors, or between subcontractors, will now need to be paid within 25 business days or any lesser period that is stipulated in the construction contract. Payment claims for certain residential-related construction work will need to be paid by the date specified in the contract, or 10 business days if there is no date specified.

The party that receives a payment claim—the respondent—must issue a payment schedule within 15 business days of receiving the claim if they do not intend to pay the full amount claimed. The payment schedule must outline the amount to be paid and the reasons why payment is being withheld. Once presented with the payment schedule, the

claimant can make an informed decision about whether to apply for rapid adjudication to recover the full amount that is considered owing. If the claimant elects to go to rapid adjudication, the respondent cannot raise reasons for withholding payment during that process that are not otherwise included in the payment schedule, such as set-offs or cross-claims. This means that the respondent must treat payment schedules with the utmost care.

Alternatively, if the respondent does not give a payment schedule within the time required or pay the full amount claimed, the claimant may elect to either recover the full amount as a debt owed through the courts or apply for rapid adjudication. Before applying for rapid adjudication, the claimant must give the respondent notice of their intent to do so and a further opportunity to give a payment schedule within five business days. If no second-chance payment schedule is received, the respondent is not entitled to provide a response or any submissions during the adjudication process.

The rapid adjudication process under part 3 of this bill, as under the CCA and elsewhere, remains a “pay now, argue later” scheme designed to deliver an interim, binding decision so that works can continue, but without affecting the parties’ legal rights to go to court or to use any other dispute resolution mechanism if unsatisfied with the decision. The adjudication process is to be carried out by an experienced, independent, registered adjudicator within a compressed time frame.

Applications for adjudication are to be made by the claimant to a registered adjudicator specified in the construction contract, or if no adjudicator is specified, the claimant is free to lodge the application with an authorised nominating authority of its choice. An authorised nominating authority is an individual or organisation approved by the Building Commissioner to appoint adjudicators. There are currently a number of organisations performing a similar role under the CCA as appointors, and elsewhere across Australia. It is expected that these organisations will apply to be authorised nominating authorities under the bill.

The adjudication process is designed to ensure claims are determined with speed, efficiency and minimum formality and cost so that money continues to flow through the contracting chain with minimum disruption. Once an adjudication application is made by the claimant, the adjudicator—specified in the contract or appointed by the authorised nominating authority—can make a decision within as little as 10 business days if the respondent does not provide or is not permitted to provide an adjudication response, or within 10 business days after a valid adjudication response is provided.

Clauses 35, 36 and 38 of the bill detail the powers and functions of the adjudicator. The process is not judicial and decisions are to be largely based on the payment claim, payment schedule and adjudication application and response, but the adjudicator can request further submissions, call conferences and carry out inspections of the construction work. The adjudicator must decide the amount, if any, owed by the respondent to the claimant in respect to the payment claim—including the return or release of any performance security—the date on which the amount became or will become payable and any interest that is owed. The adjudicator must give brief reasons for their decision in the form of an adjudication determination.

As the parties retain their rights to go to court or commence other dispute resolution processes, adjudication determinations under the bill are not as a general rule open to appeal or review. However, part 3 of the bill will introduce a limited right to seek a review of an adjudicator’s determination by a senior adjudicator. This limited right of review will be available for only high-value disputes, but will provide an aggrieved claimant or respondent with an alternative remedy to be exhausted outside of curial proceedings. This review mechanism is based on similar laws in Singapore and the recommendations of Mr Murray’s review for the commonwealth government.

This bill will also introduce measures to improve the overall fairness of contracting practices in the building and construction industry. Too often, people find that the rules are stacked against them from the outset. If a party gets squeezed via the withholding of payment because they lack the same bargaining power as the other party, then some might invoke theories of free market economics to explain or even justify the situation. They may say, “Well, that’s just the way it is, and it’s always going to be like that.” I reject the notion that an enhanced bargaining position in a free market is a licence to withhold moneys from those who are entitled to it. As a community, there are certain standards that we all can and should expect when it comes to contracting practices in the building and construction industry.

This bill will introduce a range of mechanisms to improve the fairness of contracting practices across the industry. These include voiding unfair notice-based time bars, which operate to unfairly limit or restrict a contractor’s entitlement to claim or to receive payment under a construction contract; enacting a broader prohibition on pay-when-paid provisions; as well as requiring certain contracts to be put in written form and meet minimum standards to remove any uncertainty as to each party’s rights and obligations.

Another key pillar of reform is the introduction in part 4 of the bill of a retention trust scheme that will apply down the supply chain. This is a first of its kind in Australia. It will protect subcontractors’ retention money from being misappropriated or lost altogether in the event of insolvency. Often, retention money may equal or even exceed a subcontractor’s profit margin for a construction project. But right now, under the law of this state, it is perfectly legal for a party holding or withholding retention money to use this money as they see fit. They can use it to prop up or increase their own cash flow or even apply it for purposes totally extraneous to the construction contract, such as buying a luxury car or financing an expensive holiday.

The McGowan government believes that subcontractor retention money should be protected. It should no longer be treated within the industry as an interest-free loan that one can use for whatever purpose they choose. For that reason, the bill will impress retention money with trust status by force of law and require that it be ring-fenced in a dedicated trust account to separate it wholly and completely from the trustee's general pool of assets. If a party fails to fulfil its obligations as a trustee of the retention money, beneficiary subcontractors will have access to existing general law remedies, and, in some cases, a statutory right to suspend ongoing construction work or the supply of related goods and services.

Another important feature of the bill is part 7, which will provide the building industry regulators—the Building Commissioner and Building Services Board—with new powers to remove from the industry building contractors with a history of insolvency or not paying court-ordered or adjudication debts. It is the McGowan government's intention, by way of this bill, to impress upon the building and construction industry that the holding of a registration as a building contractor in this state is a privilege, not a right. Those with a history of ripping off subcontractors, or engaging in phoenixing activity by driving a construction business into the ground and then re-emerging from the ashes with a brand new business, will be placed squarely within the line of sight of the regulator's new powers. For too long now, the regulators have had insufficient powers to adequately deal with the poor and unscrupulous conduct displayed by some contractors who use the corporate form to avoid their responsibilities.

A person who wants to be a registered building contractor needs to play by the rules, make sure they run their business properly, and pay the subcontractors who work for them, or else they might rightly be required to show cause to the Building Services Board as to why they should be allowed to be a registered player in the industry. The Building Services Board's new powers will be extensive, and include the ability to apply an exclusion even when shadow or straw directors are used.

I conclude by emphasising that this bill will introduce significant and long-overdue reforms to give confidence back to subcontractors. These reforms will promote business growth and innovation, and make this state a fairer and more desirable place for all to do business; safeguard the livelihood and wellbeing of the Western Australians behind our construction businesses; and complement measures that the McGowan government delivered in its first term in office through expanding the use of project bank accounts on government projects and enhancing the investigation powers of the state's Small Business Commissioner.

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

I commend the bill to the house and I table the explanatory memorandum.

[See paper [223](#).]

Debate adjourned, pursuant to standing orders.

#### **JOINT STANDING COMMITTEE ON AUDIT**

##### *Assembly's Message*

Message from the Assembly received and read acquainting the Council that it had agreed to the following resolution —

That —

- (1) the terms contained in Legislative Council Message 2 for the establishment of the Joint Standing Committee on Audit be agreed to; and
- (2) the Legislative Council be acquainted accordingly.

#### **JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION**

##### *Assembly Membership*

Message from the Assembly received and read notifying that the following members had been appointed to the Joint Standing Committee on the Corruption and Crime Commission: the member for Moore and the member for Kalamunda.

#### **JOINT STANDING COMMITTEE ON THE COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE**

##### *Assembly Membership*

Message from the Assembly received and read notifying that the following members had been appointed to the Joint Standing Committee on the Commissioner for Children and Young People: the member for Murray–Wellington and the member for Albany.

*House adjourned at 6.41 pm*

