



# Parliamentary Debates

(HANSARD)

FORTY-FIRST PARLIAMENT  
FIRST SESSION  
2022

LEGISLATIVE COUNCIL

Wednesday, 23 November 2022



# Legislative Council

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

## BILLS

### *Assent*

Message from the Governor received and read notifying assent to the following bills —

1. Government Railways Amendment Bill 2021.
2. Human Tissue and Transplant Amendment Bill 2022.
3. Land Tax Assessment Amendment Bill 2022.

## **AT-RISK YOUTH — ON-COUNTRY DIVERSION FACILITY — KIMBERLEY**

### *Statement by Minister for Regional Development*

**HON ALANNAH MacTIERNAN (South West — Minister for Regional Development)** [1.02 pm]: Yesterday in Broome we announced that the on-country diversion facility in the Kimberley has reached a major milestone, with Marlamanu Pty Ltd selected to deliver the pilot program for at-risk youth. The program design, developed by Aboriginal KRED Enterprises and the Western Australian government, has been agreed and an outline released. A detailed service agreement will now be developed with KRED subsidiary Marlamanu Pty Ltd to deliver the Aboriginal-led diversionary program at the Myroodah cattle station, approximately 112 kilometres south east of Derby in the West Kimberley. The program aims to provide up to 16 places each year for young men aged between 14 and 17 years. In the first year, referrals will be made for at-risk youth by agency workers from the Western Australia Police Force and the Departments of Communities and Justice. In the second and third year, it will be available as a remand option to the courts.

Our commitment to the Marlamanu program aims to give youth offenders a genuine alternative to detention in the Kimberley. We are embracing the KRED vision of taking young offenders and at-risk youth from the towns and placing them onto a working pastoral station whereby they can learn from Aboriginal role models to build relationships of trust and responsibility, and benefit from physical activity and skill development. These young people need to reset and learn about accountability. Developing strong connections to culture and country is a powerful tool on this journey.

It is expected that the facility will open in the second half of 2023, with recruitment of the principal and detailed facility design to commence in the next few weeks. We are also providing around \$240 000 to the Emama Nguda Aboriginal Corporation and the Yawoorroong Miriuwung Gajerrong Yirrgeb Noong Dawang Aboriginal Corporation to develop residential safe havens for at-risk children in Derby and Kununurra. These initiatives are part of a comprehensive cross-agency \$40.4 million package that has seen a range of programs rolled out to tackle youth crime and help break the cycle of reoffending in the Kimberley.

## PAPERS TABLED

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

## **JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION**

### *Appointment of Member — Motion*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [1.06 pm] — without notice: I move —

That Hon Steve Martin be appointed as a member of the Joint Standing Committee on Delegated Legislation and that the Legislative Assembly be acquainted accordingly.

This reflects discussions behind the chair.

Question put and passed.

## **COMMITTEE REPORTS — CONSIDERATION**

### *Committee*

The Deputy Chair of Committees (Hon Dr Brian Walker) in the chair.

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

Resumed from 16 November on the following motion moved by Hon Peter Collier —

That the report be noted.

**Hon JACKIE JARVIS:** I stand today to continue my remarks with regard to the eighty-sixth report of the Standing Committee on Estimates and Financial Operations, *Consideration of the 2020–21 annual reports*. I note that the hardworking estimates committee is currently working on this year’s annual report, and that this report reflects the work the committee did for last year’s annual reports. I will also seek the call later in discussion, but, for now, I will refresh people’s memory on what this report is about.

The report provides an overarching summary of the annual report hearings for the Standing Committee on Estimates and Financial Operations. I understand that in the past, report hearings might have been held en bloc. In the forty-first Parliament, this committee has called in agencies throughout the year. Members who are not familiar with the operation of the estimates committee may know that we hold budget estimates hearings here in the chamber, but not that annual report hearings have been carried out by the committee on Wednesday mornings on an agency-by-agency basis.

In the 2020–21 round of annual report hearings, the committee examined the following agencies in detail: the Department of Education, the Department of Health, the Department of Planning, Lands and Heritage and the North Metropolitan Health Service. It is important to know that all health service agencies have separate annual reports. We examined the Department of Health as a whole, but the individual health agencies have their own annual report; hence, we called in only the North Metropolitan Health Service on this occasion. We also called in the Office of the Auditor General. We sought to examine the office of the State Coroner, and I will speak on that later because I have only a minute left.

The agencies we looked at collectively received \$11.1 billion in appropriations from consolidated accounts. Obviously, they report against a number of key performance indicators, desired outcomes and service provision. Part of the annual report hearings involve looking at what the agencies have done, which obviously is different from budget estimates hearings. In budget estimates, we are looking forward to what agencies say they are going to do in the following year. The annual report hearings reflect on the work of those agencies and check they have delivered what they said they were going to deliver, and consider how they have delivered it. The estimates committee obviously looks at the financial matters. Quite a broad scope of questions is asked in both annual report hearings and budget estimates hearings, because, if we are looking at financial matters, that leads to service delivery outcomes and understanding how those services are delivered.

**Hon NICK GOIRAN:** As we consider this eighty-sixth report of the Standing Committee on Estimates and Financial Operations and the consideration of last year’s annual reports, members will note that the committee had the opportunity to examine four annual reports, or at least have four hearings with a number of agencies, starting on 16 February and going through to 31 March this year. It is fair to say that the overarching theme that would describe the outcomes of those four hearings is evidence of the McGowan Labor government’s lack of transparency. It was interesting this morning that the Premier and the Attorney General saw fit to send out a boastful media release entitled “Auditor General granted unprecedented access to sensitive information”. First thing this morning, we awoke to this boastful media release from the Premier and the Attorney General. If people did not know better, they might think that the McGowan government actually adheres to a gold standard of transparency. Let me remind them what happens at some of these agency hearings when the one committee not controlled by the government in this Parliament—the Standing Committee on Estimates and Financial Operations—does its work and examines these annual reports. In particular, one hearing on 23 March this year was held with the Department of Health and the North Metropolitan Health Service. A massive amount of taxpayers’ money is spent on health in Western Australia and it is appropriate that the estimates committee inquires into the proper use of those taxpayer moneys. Members will note that page 18 of the committee’s report sets out that, of the various things that took place on 23 March this year, the committee sought information on the “Chief Health Officer’s advice in relation to public health state of emergency declarations” and the “Chief Health Officer’s advice in relation to state of emergency declarations”. They are the public health state of emergency declarations and the, shall I say, “ordinary” state of emergency declarations, albeit that there is nothing ordinary about declaring a state of emergency. The committee inquired into these matters and it has been a matter of great interest in the community. More than 8 000 Western Australians signed a petition earlier this year calling for this information to be provided. That petition, amongst other things, read as follows —

We the undersigned ...

note that:

1. The McGowan Labor Government first declared a “state of emergency” more than two years ago on 15 March 2020 under the Emergency Management Act 2005 and a “public health state of emergency” the following day under the Public Health Act 2016;
2. Both state of emergency declarations have been extended every fortnight since;
3. The Chief Health Officer gave evidence to the Standing Committee on Estimates and Financial Operations on 23 March 2022 revealing that he, or someone acting in his place, had provided advice prior to each declaration and extension;

4. Prior to being elected Premier, a promise was made by Mr McGowan that his Government would adhere to a “gold standard” of transparency;
5. The Premier recently declared under oath in open court that “gold-standard transparency does not apply to every single thing”;
6. Premier McGowan and his Ministers have refused to make the health advice and any associated modelling publicly available.

We therefore ask the Legislative Council to urgently inquire into this matter so that all health advice and modelling used to justify each state of emergency declaration is tabled in Parliament without further delay.

And your petitioners as in duty bound, will ever pray

The hearing that took place with the committee on 23 March 2022 was so revealing that more than 8 000 Western Australians decided to put their signature to that e-petition. What was the e-petition asking for? It was asking the government to adhere to its own gold-standard transparency and provide the health advice it was relying on. It was asking, “Just provide the health advice that you say justifies the state of emergency and the public health state of emergency; and, while you’re at it, provide the health modelling that you’ve indicated you’ve also been considering.” It is very interesting that, despite the fact that this hearing took place on 23 March this year, only recently the replacement health minister, Hon Amber-Jade Sanderson, deemed it necessary to respond to this matter. This response was sent to the other hardworking committee, very capably chaired by Hon Peter Foster, the Standing Committee on Environment and Public Affairs. This is what the replacement health minister had to say —

Dear Peter,

Thank you for your letter dated 27 September 2022, regarding Petition No. 049—State of Emergency Declarations, which was tabled by Hon Nick Goiran MLC on 10 May 2022.

The State Government’s management of the COVID-19 global pandemic continues to be world class. It is disappointing to receive a petition from members of the community, and tabled by a Members of Parliament —

There was no error there, Hansard; that is what the replacement health minister had to say—“and tabled by a Members of Parliament” —

that seek to undermine the Government’s efforts to keep Western Australians safe.

I will not be providing further comment on this petition but thank the Committee for the opportunity to do so.

Kind regards,

Hon Amber-Jade Sanderson

Such is the contempt of the replacement health minister that 8 000 Western Australians might simply ask, “The member for Rockingham said he would adhere to a gold standard of transparency. Please provide us with this health advice that you say justifies.” The replacement health minister said, “Talk to the hand. Under no circumstances will I do that. In fact, it is disappointing that 8 000 Western Australians should have the hide to ask my arrogant government—the McGowan government—to provide this information. Who do these Western Australians think they are?” They are only the taxpayers, after all, the residents and voters of Western Australia, under our system of responsible government, presumably thinking that it might be okay for them to ask a few questions, and indeed for their representatives in the chamber to ask a few questions. But not on your life, not with this replacement health minister! That is the attitude that comes out of these things. It is absolutely appalling. Then the government had the gall this morning when the Premier, with his unreliable, confused and confusing Attorney General, came out and produced a press release basically boasting about the level of transparency that the McGowan government is adhering to. Give me a break! It is very clear from this example on 23 March 2022 that there is nothing along the lines of gold-standard transparency being adhered to by this particular government. In fact, it is the exact opposite. It is gross secrecy, even when more than 8 000 Western Australians decided to put their signature on a petition and ask for this information. It is one thing for the replacement Minister for Health to have an arrogant and contemptuous attitude towards the opposition, but even when a hardworking parliamentary committee asks the government to please explain, this is the type of response it gets!

Two parliamentary committees have tried unsuccessfully to inquire into this and to break into the safe of secrecy that is the McGowan government, particularly on health advice. On 23 March 2022, the Standing Committee on Estimates and Financial Operations, chaired by Hon Peter Collier, tried and was unsuccessful. Then the Standing Committee on Environment and Public Affairs, chaired by Hon Peter Foster, a Labor member of Parliament, tried and still the replacement health minister displayed contempt and arrogance. What is it going to take for the McGowan government to truly adhere to a gold standard of transparency? That is the question.

**Hon DAN CADDY:** It gives me great pleasure to rise this afternoon and speak on the eighty-sixth report of the Standing Committee on Estimates and Financial Operations, *Consideration of the 2020–21 annual reports*. As it is

my first time talking to this report, I will thank the hardworking members of the committee—chair Hon Peter Collier, my good friend Hon Jackie Jarvis, Hon Dr Brad Pettitt, Hon Samantha Rowe and Hon Nick Goiran—for the work they are doing. As members of this place will be aware, I was recently appointed to this committee’s inquiry into homelessness, and it has certainly improved my knowledge of how the committee works and what it does.

I want to skip over a lot of the report content to something that caught my attention in the conclusion. We hear a lot in this chamber, especially from the Leader of the Opposition, Hon Dr Steve Thomas, about financial responsibility and getting the numbers right. Paragraph 6.2 of the report’s conclusion says —

The data indicates that in 2020-21:

- the Government spent \$30.2 billion from the Consolidated Account, only \$13 million more than expected at the time of the 2020–21 Budget

In percentage terms, that difference is measured in the hundredths of a per cent. I think that shows a high level and a good level of government budgeting and knowing where we are going and what we are doing.

I also want to touch briefly on the government’s succinct response to the report. There were three recommendations, and the government response addressed them all. The government supported the first two recommendations, so it is disingenuous of members to suggest that somehow the government and this committee stand on opposite sides of some sort of argument or some sort of wall, constantly working against each other. Recommendation 1 suggested —

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

I will get to special purpose accounts later, as they are another topic that is often brought up by Hon Dr Steve Thomas in this place. Recommendation 1 was supported by the government. Recommendation 2 suggested —

The Attorney General advise each head of the respective courts of the *Guidelines for communications and relationships between the judicial branch and the legislative and executive adopted by the Council of Chief Justices of Australia and New Zealand on 23 April 2014*.

Recommendation 2 was also supported by the government. The government listens to the recommendations that come out of this committee and takes them seriously. Recommendation 3, which was noted by the government, suggested —

The Government amend section 83 of the *Financial Management Act 2006* to better enable documents, including annual reports, to be tabled in Parliament on non-sitting days.

The government noted this and responded —

Section 65 of the FMA which enables the Minister to inform Parliament if the annual report cannot be laid before each House of Parliament prior to 28 September or dealt with under section 83 is a viable alternative mechanism which worked effectively for a number of agencies in terms of their 2020–21 annual reporting and, as stated by the Committee, did not adversely affect the Committee’s consideration of agencies’ 2020–21 annual reports.

Although the recommendation was for a fix, it would appear it was a fix that was not really needed.

I want to go now to special purpose accounts. I said I would speak about these as I know they are a pet subject of Hon Dr Steve Thomas. I think my good friend Hon Jackie Jarvis summed them up beautifully with a family budget analogy —

... we have our everyday money and we have our savings money. A special purpose account is essentially savings that have been set aside.

I want to set the record straight about special purpose accounts and put some facts into the debate. We currently have about 30 special purpose accounts. The opposition likes to assert that there is some sort of conspiracy or secrecy about the number of special purpose accounts, but that is simply not the case. There is nothing sneaky. There is nothing new about the Treasurer’s special purpose accounts. They are established under section 10(a) of the Financial Management Act 2006 and are completely transparent and publicly reported.

Another fact is that, of the current 30-odd Treasurer’s special purpose accounts, 18 existed when we came to office. The use of these accounts is not unusual or new. It has been common practice under successive governments. I think this is something that needs to be put out there. The addition of Treasurer’s special purpose accounts under the McGowan government is actually a sign of good and stable financial management, which is what this government is known for, not just around the state but around the entire country. Those on the other side of the chamber do not understand, because when they were in government, they funded daily operations on the government credit card. That is essentially what they did.

Let us talk about the debt reduction account. It was used to make physical repayments of debt. Between the 2017–18 financial year and the 2021–22 financial year, \$6.1 billion went through this account, with a further \$1.2 billion payment earmarked in the 2022–23 budget to repay the debt that those opposite left us with.

Another thing to note is that physical repayments of debt should not be confused with net debt. It is projected that, by the end of the 2021–22 financial year, net debt will be almost \$14 billion lower than the projections of those opposite. Hon Dr Steve Thomas may laugh at this, but these were his government’s projections—\$44 billion of net debt. It is now \$14 billion less than what his government projected. My good friend the Deputy Leader of the Government in the Legislative Council often refers to members opposite having spent like drunken sailors during their time in government, and that is exactly what they did—spending on the company credit card, with no understanding of good financial management and no understanding of fiscal management at all.

A significant new Treasurer’s special purpose account in the 2022–23 budget is the \$350 million remote communities fund, which will fund new housing in remote communities, as well as a raft of other things, including clean water and renewable power networks for those communities. These issues were the responsibility of the federal counterparts of those on the other side of the chamber, but the Morrison government abrogated its responsibility and completely de-funded them.

The Treasurer’s special purpose accounts are not hidden—they are transparent and reported. I go back to that key point right at the start that, at the moment, there is a list of 30 special purpose accounts that either have just been closed or are still operating. The opposition comes in here and throws around conspiracy theories and talks about secrecy, but of those 30 accounts, 18 were inherited from the former Liberal–National government.

**Hon Dr STEVE THOMAS:** I was not going to respond in this debate—I was waiting for the first bill to come before the chamber—but I need to pass on a message to Hon Dan Caddy, one that I should have passed on to Hon Pierre Yang a few weeks ago. My birthday has been and gone; it is in early October. If government members are going to stand up and say things that are like a birthday present for me by making comments and instigating debates that I have a lot of fun with, I would appreciate it if they could do it earlier, because that would seem like a birthday present. At least Hon Pierre Yang’s motion was in the right month.

**Hon Pierre Yang:** You’re welcome.

**Hon Dr STEVE THOMAS:** Thank you very much. This one is great.

**Hon Dan Caddy:** He is far more organised than I am.

**Hon Dr STEVE THOMAS:** Yes; he got in a bit quicker.

I will take this opportunity for a late birthday present and address some of the things said by Hon Dan Caddy.

I will jump first, of course, to the debt reduction account. I remember that Hon Dan Caddy was in the budget estimates hearings a week ago today.

**Hon Nick Goiran:** The annual report hearings.

**Hon Dr STEVE THOMAS:** Sorry; the annual report hearings.

I asked questions about the debt reduction account and the special purpose accounts, amongst a few other things, because they are of enormous interest to me. I will remind the chamber what the Labor Party said about the intent of the debt reduction account in case members have forgotten. The Labor Party likes to have a bit history, so we will remember this. The Saturday, 11 February 2017 press release from the then shadow Treasurer, Hon Ben Wyatt, stated —

... a McGowan Labor government will protect future iron ore windfalls from being exploited by future governments, by bringing in laws to allocate 50 per cent of iron ore royalties into a new debt reduction account ...

*Point of Order*

**Hon JACKIE JARVIS:** Deputy chair, I accept that during committee reports the debate widens. I note that Hon Dan Caddy referred to the government response and the recommendation pertaining specifically to this report and hence his discussion on special purpose accounts related to the eighty-sixth report, to which, I suggest, Hon Dr Steve Thomas has not alluded. I am not quite clear where he is going with his remarks.

**The DEPUTY CHAIR (Hon Dr Brian Walker):** I have consulted on this and it is apparent that he is responding to the honourable member and is entitled to do so. There is no point of order.

*Committee Resumed*

**Hon Dr STEVE THOMAS:** Thank you, deputy chair. Nice try! Going forward, Hon Pierre Yang’s points of order will be replaced with those made by Hon Jackie Jarvis. I can see that that might come up at the end of the year.

I will read in those comments again just in case members missed it. The press release states —

... a McGowan Labor government will protect future iron ore windfalls from being exploited by future governments, by bringing in laws to allocate 50 per cent of iron ore royalties into a new debt reduction account ...

Hon Dan Caddy, who was at the annual report hearings, will remember, hopefully, that I specifically asked about the debt reduction account, which has had \$6.1 billion go through it in the last four years. What were iron ore royalties

over that time? In 2020–21, they were \$11 billion and in 2021–22, they were \$10 billion. That is \$21 billion over two years. What is 50 per cent of that \$21 billion for that two-year period? It is not difficult to work out the maths, is it? It is a fair bit higher than \$6.1 billion. It also does not include the two years before that. The debt reduction is \$15-plus billion below what the Labor Party promised it was going to be.

In fact, if members attended the annual report hearings, they would know that every year this government runs through some benefits from the state government Insurance Commission of Western Australia, which is about half a billion dollars a year. What the government calls spending so that it does not have to borrow future debt is just spending: “To avoid additional debt, we spent this money.” It is just spending. What did the government do? The GST top-up money in 2021–22, which was billions of dollars, was simply spent by the government. It was run through the debt reduction account, but only half a billion dollars of government insurance money and bits and pieces came off debt, and that is why this government has reduced debt—well done and congratulations—from \$32 billion to \$30 billion, and it is on its way to \$29 billion before it will go back up again.

**Hon Dan Caddy:** That’s a whole lot less than your \$44 billion, isn’t it?

**Hon Dr STEVE THOMAS:** It is interesting that the member raises that, because the Labor Party loves to refer to the \$40-odd billion.

**Hon Dan Caddy** interjected.

**Hon Dr STEVE THOMAS:** Forty-three billion dollars.

**Hon Dan Caddy** interjected.

**The DEPUTY CHAIR:** Order!

Several members interjected.

**The DEPUTY CHAIR:** Order! I enjoy this cut and thrust as much as anyone else, but I would like to hear the debate.

**Hon Dr STEVE THOMAS:** Thank you, deputy chair.

The Labor Party loves to run the figure of \$43 billion. Do members know where it was? It was in the last budget of the Liberal–National government—government members are absolutely right—but do members know where else it was? It was in the first budget of the McGowan government. In its first two budgets the McGowan government did not say, “We’re suddenly going to pay down debt.” Do members know what happened? Debt continued to rise.

**Hon Pierre Yang:** We had a plan.

**Hon Dr STEVE THOMAS:** The Labor government did not have a plan. It did not change the outcomes. The government did not change the outcomes until the start of the latest boom in 2019, which was the biggest boom we have ever had. The government did not change it. Government members should go back and read the budget papers for 2017–18 and 2018–19; the government retained the debt levels that government members say were so terrible. The government did not come in and say, “We’re good financial managers and through good financial management, we’re going to reduce the debt levels that are proposed, all the way up to \$43 billion.” The government said, “We’ll actually get to \$43 billion. We, the Labor Party, in our first couple of budgets, will get to \$43 billion as well.” What happened? The boom came along and the government did not have to get to \$43 billion; and, luckily for the government, Scott Morrison corrected and underpinned the GST, which, I suspect, the government is putting in danger with its latest fundraising plan, but I will come to that another time. Thanks to Scott Morrison and the price of iron ore, the government did not have to get to \$43 billion, the figure that the government projected that it would get to. There was not a great and massive change; the government simply took advantage of the boom. Well done; it is great that it took advantage of the boom, which is what it should have done.

Let us talk about the other special purpose accounts that I have tried to print on the printer, which never seems to work for me. Hon Dan Caddy is right; a number of special purpose accounts already existed. Some of them, such as the road trauma trust account, have been around for a very long time. What has this government done? It has introduced a plethora of new special purpose accounts at a rate that we have not seen before. It has kept some of the old accounts; indeed, money has been set aside for hospital development. Royalties for regions is a special purpose account, and that has been around since 2009. Hon Dan Caddy is right; a lot of those accounts still exist. They were generally quite modest amounts, but we saw an explosion in the amount of money sitting in special purpose accounts to \$5 billion or \$6 billion.

**Hon Dan Caddy:** The holding account is the biggest.

**Hon Dr STEVE THOMAS:** Sorry. The holding account is intermittently very big because it is used to flow money through. At some points, it has almost nothing in it and at other points, it has a lot of money in it. Commonwealth grants come in and commonwealth grants go out. Money comes in and money goes out.

**Hon Dan Caddy:** It has as much money in it as the rest put together. Just to be clear: we understand things. That account holds more than 50 per cent of all the accounts, and that is one we inherited.

**Hon Dr STEVE THOMAS:** What Hon Dan Caddy needs to look at is the amount the holding account held, particularly prior to the 2019 boom, when we saw an explosion in the number of special purpose accounts. He should look at the proportion of the special purpose account money that was held in the holding account, which was the vast majority of it, and he should look at how much is now held and all the additional accounts. Billions of dollars have been added in.

**Hon Dan Caddy:** All has been reported publicly.

**Hon Dr STEVE THOMAS:** I know it has all been reported. That is right. I do not think it is secret. It might be morally questionable, but it is not secret. What this government is doing is no secret.

**Hon Dan Caddy:** It is paying down debt.

**Hon Dr STEVE THOMAS:** This government is not paying down debt in any significant way. It is squirreling the money away and putting it in the money bin, initially so the Premier can roll around like Scrooge McDuck, but ultimately so the Premier can cut the ribbons he wants to cut on projects and not pay down debt significantly. He thinks he can attach that previous debt to previous governments. The reality is that the debt is owed by the people of Western Australia. It is the government's debt; it is the people's debt. This government has had the greatest opportunity in the history of the economics of this state to pay down debt, and it has twiddled its thumbs. It wants that money—billions of dollars—kept aside, sitting in special purpose accounts. The interest rate has been low, so it has probably got away with it a fair bit. As the interest rate starts to rise, it will be interesting to see how much interest we will end up paying. That is what the government has done, and it is quite blatant about it. It is setting the money aside for its own political benefit, and I love the Christmas present of being able to say so again.

**Hon Dan Caddy:** I thought it was a birthday present.

**Hon Dr STEVE THOMAS:** It is nearly Christmas, too.

**Hon JACKIE JARVIS:** I stand to speak on the eighty-sixth report of the Standing Committee on Estimates and Financial Operations. It is always a good committee report that invokes terms like Scrooge McDuck and spending like drunken sailors.

One of the challenges of being a committee member and speaking about a report in Parliament is that we always need to check and remind ourselves that committee discussions are private, privileged and not to be shared, and then remind ourselves which documents are public and which are not. It is fair to say that we saw some confusion yesterday during the second reading debate. A letter from the Auditor General, which had been declared public by the Standing Committee on Estimates and Financial Operations at short notice, was available to some members and not to others. That appeared to be just a glitch of our internet system.

**Hon Nick Goiran:** I think it was available to all members, but whether all members availed themselves of that is another thing.

**Hon JACKIE JARVIS:** Hon Nick Goiran is indeed right. Once a document is public, it is indeed available to all members. Unfortunately, in that situation, it was not readily available on the internet. Perhaps that is something that the committee needs to look at, but I digress. I actually got up to speak about finding 1 of the report.

I am just checking, deputy chair. Do I have three minutes left? I think I have three minutes on this before we move to the next report.

**The DEPUTY CHAIR (Hon Dr Brian Walker):** Yes, three minutes.

**Hon JACKIE JARVIS:** Thank you. Finding 1 relates to the office of the State Coroner, so I thought I would reflect on that and perhaps provide some information and my overview of that.

I remind members that the function of the Standing Committee on Estimates and Financial Operations is to consider and report on the estimates of expenditure laid before the Legislative Council each year, matters relating to the financial administration of the state, and any bill or matters referred to the committee. The committee also consults regularly with the Auditor General.

During the consideration of annual reports last year, the committee requested a meeting with the State Coroner on the basis that the office of the State Coroner produces an annual report. As is detailed in the eighty-sixth report, the coroner declined to attend, citing a desire to preserve judicial independence. It is also worth noting that the annual report of the office of the State Coroner does not contain any financial information. The annual report of the State Coroner provides statistical information, such as the number of cases investigated, and deals with other matters that it is required to report on annually under section 27(1) of the Coroners Act, like specific reports on the death of persons held in care, which can include people subject to protection orders, people under the custody of police, prisoners and involuntary mental health patients. If the State Coroner had attended and we had looked at the State Coroner's annual report, we would have seen that it contains very little about the financial administration. That is because the Coroner's Court and the office supporting the coroner's report does not receive a separate appropriation in the state budget. That is important to understand. Funding for the office of the State Coroner is incorporated into the Department of Justice's budget.

The committee did not hold an annual report hearing with the Department of Justice. As a member of the committee, I would suggest that was perhaps an oversight on our part if we wanted to consider the financial operations of the State Coroner. If we had examined the Department of Justice's 2020–21 annual report, we would have seen detailed information, such as the number of cases investigated in the Coroner's Court, data on the backlog of coronial cases, the median time to inquest, the number of reportable deaths and the number of death certificates issued. We would have also seen things like the key achievements and other financial matters, which are what our committee is charged to look at.

I will run out of time, so I might have to speak more about this in a future debate on this matter. As I said, it is worth reminding ourselves that the Coroner's Court of Western Australia and the office supporting the court does not receive a separate appropriation. Its funding is incorporated in the Department of Justice's appropriation, and the Coroner's Court's key performance indicators are also contained in the Department of Justice's annual report.

### **Consideration of report postponed, pursuant to standing orders.**

*Joint Standing Committee on Delegated Legislation — Second Report — Annual Report 2021*

Resumed from 16 June.

### *Motion*

**Hon MARTIN PRITCHARD:** I move —

That the report be noted.

As a member of the committee, I think it is beholden on me to make some comments about the annual report, even though in most cases the annual reports are fairly dry. I would like to make a couple of comments. I will not go through the whole committee, but I would like to make a special mention of the chair, Geoff Baker, MLA, and member for South Perth, and the deputy chair, Hon Lorna Harper of this chamber. I think they have done a magnificent job this year and during this reporting period. It has obviously been a challenging year because of COVID-19 and because many of the meetings were over Zoom. I want to pay my respects to the chair for being able to handle that in a particularly incorporative way, allowing all members to make a contribution.

I also want to mention and welcome Hon Steve Martin, who will be joining this committee, according to the report from the Leader of the House this morning. I look forward to working with him.

I also want to pay my absolute respects to the advisory officer and the committee clerk, who have a lot of other responsibilities and are able to do this job as well. I think they have done a remarkable job this year.

I want to make a couple of points. I will not go through the whole report; I do not think that is necessary. I want to go to chapter 2.3 on page 4 of the annual report, which notes the breakdown of issues and concerns we had with the devices that came before the committee. Of the concerns about the instruments that came before us, about 66 per cent were drafting errors. I can understand that. Many of the instruments that come before us are local laws that are put together by municipalities that often do not have the expertise required. Often one area will do a draft regulation and other municipalities will tend to follow suit because it is easy. That creates a domino effect, with the same issue arising over a number of different instruments that come before the committee.

I also want to point out that, unfortunately, a lot of the instruments that come before us are about cats. I hope that the Cat Act might be updated at some point so that it is a little bit clearer to local municipalities what they actually can do in their regulations and local laws. I hope that at some point next year this government might address that legislation.

I want to make a point about access to Australian–New Zealand standards. Most local laws reference standards at some point. It is obviously an easy way to make sure things are done to a certain standard in Western Australia. There are standards for all manner of things and a lot of local laws refer to standards. A previous committee raised the issue of access to Australian Standards and did a lot of work to try to make sure people could easily access them free of charge. Members may have read about this in a previous report, but basically the rights to Australian Standards were sold to SAI Global and the money was used to make more standards and such. SAI Global charges our communities to access those standards. It became particularly difficult to access the standards, it was expensive and people could not share that information. For instance, an electrician could access the standards after paying a fee, but the next person wanting to access them would also have to pay a fee. It became very, very expensive, so there was a view to try to free up access to Australian Standards. This committee took a lead in that. A number of the local laws come before the committee, and the committee often raises this issue with local councils, asking whether they make local standards available free of charge when they reference them. We spent a lot of time trying to make sure that local councils do that because people should know what the law is and they should have free access to the law. That should not be made more difficult by having to pay a fee for access.

Those are the two main things I want to raise about this report. It is a fairly standard report that reports on all the work the committee has done. I must say, most of that work was done by the advisory officer and the committee clerk. I think a lot of committee members find out that a lot of the work is done for them and that the committee makes determinations and decisions based on the work of the advisory officer and the committee clerk. I want to thank them

again for the amount of work they have done. I think the committee is working particularly well. Again, I want to thank the member for South Perth for the way in which he has conducted the meetings, making us all feel very included. I commend the report.

**Hon NICK GOIRAN:** It is not ordinarily the case that I would rise to speak on the work of the hardworking Joint Standing Committee on Delegated Legislation; however, I would like to bring to members' attention something that has occurred recently. The context is the tabling statement that accompanied this particular annual report. The member tabling the report in this house, which I presume must have been the deputy chair said, amongst other things, the following —

The committee scrutinises instruments made under statutory delegation and determines whether the instruments are beyond the scope of the delegated power, or are otherwise in breach of the committee's terms of reference.

One of the matters that was brought to the attention of the Joint Standing Committee on Delegated Legislation was an instrument by the name of the "Public Trustee's Scale of Fees" for 2022–23. This matter went before the committee. I was interested to hear the remarks by Hon Martin Pritchard, who is of course a member of this committee. He identified that from time to time the committee's analysis picks up typographical errors and things of that sort. When it came to the "Public Trustee's Scale of Fees" for 2022–23, I understand the committee identified what is described as a typographical error. As I understand the sequence of events, keeping in mind that I have never served on this committee, the committee identified the error and then the Attorney General or at the very least the Department of Justice responded to the committee in some fashion. I understand that they acknowledged what the committee had found—that there was indeed a typographical error—and gave some form of undertaking. I understand it is the ordinary custom and practice that when these types of things are identified, departments will give an undertaking to the committee. In this instance, an undertaking was given on 13 September that the typographical error contained in clause 23 would be corrected within six months.

I raise this issue because in this particular instance the committee appears to be doing exactly what the tabling statement indicated. The committee scrutinised instruments made under statutory delegation—in this instance the scale of fees for the Public Trustee—and determined whether the instruments were beyond the scope of the delegated power or otherwise in breach of the committee's terms of reference. Might I suggest, deputy chair, that this warrants some form of inquiry. It is all well and good for the Joint Standing Committee on Delegated Legislation to pick up a typographical error in the "Public Trustee's Scale of Fees" for the current financial year; however, would it not be good if the eight members of this committee, on behalf of the people of Western Australia, were able to do more on the "Public Trustee's Scale of Fees" for 2022–23 than merely identify a typographical error? I do not say that to criticise the committee because it appears that it is simply operating within its terms of reference. However, there is a great controversy occurring at the moment about the fees the Public Trustee is charging Western Australians. So much so, that it has led the Western Australian Auditor General to make a number of findings, including the shocking finding that trust fees did not always reflect actual work effort.

Consider that for a moment. The Public Trustee of Western Australia is the person of last resort who is utilised to assist people with financial matters. Financial decisions are made by the Public Trustee on behalf of persons who may not have the capacity to make those financial decisions themselves—for example, a minor under the age of 18 years who has a sum under trust. The Public Trustee charges a fee for that service. Remember that the Standing Committee on Delegated Legislation has been considering the scale of fees. In other words, what fees are able to be charged by the Public Trustee for the coming financial year? It has identified a typographical error. Fair enough. There was one and the Attorney General says that he will fix it sometime in the next six months. But what about the quantum of the fees themselves? The Auditor General said that the trust fees did not always reflect actual work done. The Auditor General also said —

Trust clients are not provided with a clear and easy to understand explanation of the fees that are more likely to be charged to their account.

Hon Peter Rundle in the other place has taken up this matter and pleaded with the Attorney General to do something about it. I understand, as it has been relayed to me, that at first instance the Attorney General indicated that there was some appetite for it to be referred to a standing committee of the other place. In more recent times when Hon Peter Rundle has raised this matter again with the Attorney General, he has been quickly rebuffed and told that will not be happening. The problem I have here is that we have an eight-person Joint Standing Committee on Delegated Legislation that, apparently, because of the narrow terms of reference is not permitted to look into these things. I assume that that is the case and a member of the committee will correct me if that is not the case. I assume that when it looks at the scale of fees for the Public Trustee, apart from looking for typographical errors, which it is allowed to do, I assume unless a committee member tells me otherwise, under the terms of reference it is not able to look at the quantum of those fees and whether the fees that are proposed by the Public Trustee are fair and reasonable. I assume that it is not able to do that because if it were able to do that, one would think the committee would have made some comment about that and possibly even rejected the instruments. I assume it is because of the committee's narrow terms of reference that it is not able to do that.

The question I am putting this afternoon is: is that in the best interests of Western Australia? Might it be time for us to inquire into or reconsider the terms of reference of the Standing Committee on Delegated Legislation so that it can do more than what has happened in this instance? It seems to make a mockery of the system if this hardworking committee of eight members of Parliament is able only to identify a typographical error. Meanwhile the Auditor General of Western Australia is saying, “Hang on a second; the fees that are being charged are not necessarily reflecting actual work done.” Those who are following this matter closely know that following some questions that the opposition has asked, the Premier has now instructed Treasury to do something about this. As was identified earlier by the Leader of the Opposition in this place, we had an annual report hearing with the Department of Treasury just last week. It was identified that it is indeed working on this, but it is going to take some time. I forget exactly when it said that that was coming to an end, but I think it was March or May next year that we might see something occur.

I simply ask whether perhaps the Standing Committee on Procedure and Privileges or some other appropriate body might like to give this matter some consideration, because it seems to me this is a classic case in point. If we have eight members of Parliament who are doing their job but are allowed to look only at the typographical error, and the Auditor General has found something very significant with regard to the quantum of fees, surely we need to look at widening the committee’s terms of reference so that it can look into these substantive matters.

**Hon MARTIN PRITCHARD:** I take a little exception to the language of the previous speaker with regard to looking only at typographical errors. That is obviously one of the things that the committee looks at. It looks at a number of other things. If we turn to the back of the report, we see that paragraph 10.6 states —

In its consideration of an instrument, the Committee is to inquire whether the instrument —

- (a) is within power;
- (b) has no unintended effect on any person’s existing rights or interests;
- (c) provides an effective mechanism for the review of administrative decisions; and
- (d) contains only matter that is appropriate for subsidiary legislation.

The committee does a little more than just look at typographical errors. I was not going to do so, but I will go into more detail on the breakdown of the issues raised during this reporting period. Of those issues, 66 per cent were “drafting errors”, which does not necessarily mean a typo. There can be significant drafting errors, such as a reference to wrong legislation. The advisory clerk does a very good job of looking through and checking all the reference points within the instruments that come before us, so it is a bit more than just drafting errors.

If we look at the issues that were raised during the reporting period, we see that 369 disallowable matters came before the committee and, of the ones that had issues, 12 per cent of them were identified as “beyond power”. This refers to when a local government wants to extend its powers beyond what this chamber allows it to do. Keeping in mind that the delegated legislation committee is really just an extension of this chamber, we asked it to keep an eye on what powers we have delegated to local governments and ensure that those local governments do not go beyond what we, as a chamber, would want them to do. Twelve per cent of the issues identified were “beyond power”. For two per cent, the issue was “uncertainty”, and for another 12 per cent, it was “access to standards”. If we are talking about costs, a previous iteration of this committee and the current committee have been trying to achieve a situation in which access to standards is free.

**Consideration of report adjourned, pursuant to standing orders.**

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

### **LIQUOR CONTROL AMENDMENT (PROTECTED ENTERTAINMENT PRECINCTS) BILL 2022**

#### *Second Reading*

Resumed from 16 November.

**HON DR STEVE THOMAS (South West — Leader of the Opposition)** [2.09 pm]: I am the lead speaker for the opposition on this bill, though I suspect my good friend and colleague Hon Peter Collier will appear very much an equal partner in the debate as we go forward. I know it is an issue that he is particularly passionate about.

In my view, we have probably always had a plague of violence. I will be interested to hear members indicate in their contributions to this debate where they think violence sits in the community. I suspect that I am older than most members in this chamber, having been around a while, and it is certainly the case that there was plenty of violence around when I was a young man. I do not know whether it is significantly worse now, but legislation continues to be introduced and we still make changes to try to address violence. The latest of such legislation is the bill before the house today, the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022. This bill will hopefully make some contribution towards reducing the risk of violence to people, and for that reason the opposition will support it. We have a number of questions around how it will operate and we will make those points as we go along.

The question we should start with is: will this bill make a significant impact on violence, and are there other ways that might be looked at to deliver that outcome? As I said, I actually think there is a plague of violence in modern society. Although there was certainly violence around when I was growing up—I will describe some of that in a little more detail later on—it seems to be more obvious today. I do not know whether that is because it is reported more often because we now have 24-hour news cycles, and news providers are always looking for something to put out there, so we see it more, or whether there is genuinely more violence out there. That is one of the great questions of the age.

In the case of domestic violence, for example, I see no diminishment in violent activity. We have had massive programs and campaigns against domestic violence, but they never seem to be particularly successful. We do not seem to be good at demonstrating to people why violence is bad; in fact, we seem to be very good at encouraging it. There have been some great programs and campaigns against domestic violence, such as the Australia Says No More campaign, which won awards around the world for being a great anti-violence campaign. I do not know what impact it had in terms of reducing rates of domestic violence, but, anecdotally, it would appear to have been very little at all. Although we have good intentions with regard to reducing the incidence of violence in our community, we do not seem to be very good at actually delivering it, and I suspect that this legislation will be the next step in that process.

In respect of domestic violence, I actually take the view that one of the problems with dealing with violence in the community is that we never actually get to the point of saying that all violence is bad. We are very good at justifying violence in certain circumstances, and that starts very early. I do not really want to get into a debate about whether it is okay to smack children, but here is an admission for the Parliament: I have four daughters and I used physical discipline on occasions, but very rarely. I did so following the example of my parents, who also used physical violence very rarely. I will say in relation to the use of physical discipline on children that on the rare occasions on which I used it, I considered it a failure of mine in that I could not find a better mechanism to use than the one that I was resorting to. At that point maybe there were no better mechanisms that I could use; sometimes when things happen, people make very rapid decisions. I always took the position, though, through all those years, that when I smacked my children on those very rare occasions, the fact that I had used violence as a discipline was my failing. I will always hold that position, and if the circumstances were repeated, I would probably find myself in a position in which I resorted to physical violence because I just did not have a better tool. It may come as a surprise to the chamber to realise that I am not perfect; it is something that I realised a long time ago and that my wife reminds me of quite frequently! I do my very best to do the best I can, but there will always be failings.

I think the trend to violence starts early. I am not backwards in coming forwards, and I always love having this debate with people who come to me and say, “Well, I was beaten as a child, and it didn’t do me any harm.” I can pretty much guarantee that I will look at them, listen to their conversation, absorb what they say and think, “Well, I think it probably did, because I think you’re a bit messed up.” I do not generally say that to their face! The truth is, as I have got older and more cantankerous, that I tend to be more straight-talking, and sometimes I think I should say it more often.

**Hon Matthew Swinbourn:** It’s survivor bias: “I survived, so therefore it’s okay.”

**Hon Dr STEVE THOMAS:** That is exactly right. Hon Matthew Swinbourn makes a really good point, as he always does. It is very much based on one’s own psyche and on, “There can’t be too much wrong with me. I think I’m a good person, therefore, the upbringing that I had must have been okay. It might have been a brutal and vicious upbringing. It might have been physically violent, emotionally neglectful or emotionally abusive, but I survived it and I’m okay, therefore it’s okay.” That is why these cycles repeat. In a lot of cases—not all cases—in which domestic violence is perpetuated, there is the idea that people have to be okay with it because we have to be okay. Breaking that cycle is one of those really difficult community actions, and I will come to that in a bit more detail later on. It is very much the case that we justify things like violence because our psyche tells us that it is okay.

There certainly was the idea when I was younger that a lack of violence in some situations was a weakness. That was very much the case in some of the particularly rugged environments that I grew up in. We had our outlets; I enjoyed playing rugby league, which is a pretty physically confronting sport. That provided a pretty good outlet for that sort of thing. Rugby’s the game played in heaven; whether it is union or league is a debate for another day! But we certainly had that opportunity.

In my memory there was probably more confrontation and organised violence in those days, but we are absolutely now in a position, as we were then, in which violence is so frequently glamorised and accepted that we are not very good at saying that it is actually a problem. We do not have to look very far to see that. I am not going to suggest that violence on TV, in movies and, particularly, in video games directly causes violence in the people who enjoy those entertainments. I think that it is hard to prove, particularly in individual cases, anything more than a tenuous link. However, across the stream of society there is no doubt in my mind that it desensitises us to violence and makes violence more acceptable in the community.

I am absolutely certain that we see violence as a positive as much as we see it as a negative, and that is problematic when we try to control violence. On one level, as a community we are suggesting and demonstrating to people that

violence is a reasonable outcome, but at the other end we say that violence is bad. Effectively, we are saying that we accept violence as a reasonable outcome, but only under certain circumstances. As soon as we start to say that there is a set of circumstances under which violence is okay, and a set under which it is not, we have already lost the argument. That becomes a problem, and that is one of the reasons that I think the domestic violence programs are worth studying. They say that in the circumstance in which the victim is a woman—particularly, a woman in a relationship with the perpetrator—that is bad, but society still glamorises and promotes violence generally. It is a very confusing prospect because we cannot have it both ways. Until we get a better handle on how we manage violence in the community, we will continue to struggle. It is amazing that we watch movies in which the reward for the hero or survival is generally revenge, and how often does that revenge take a violent approach? In the old westerns, they got shot. In the martial arts movies, they got chopped, if you will. Not many movies do not have this tinge of a really positive approach to violence. Even some of the good, sensible, gentle movies have it. The movie called *Fried Green Tomatoes*—have I got the right one?

**Hon Stephen Dawson:** At the whistle stop cafe.

**Hon Dr STEVE THOMAS:** It is called *Fried Green Tomatoes at the Whistle Stop Cafe*. It is a lovely gentle movie for the most part, but in one scene the heroine—I do not like using that word because it sounds like a drug; star is a better word—of the movie is beaten to a car parking place, so she smashes her car into the car of the people who took it and everybody cheers. It makes us feel good when a bit of revenge is going on. We are perfectly comfortable when that revenge takes a physically violent approach. Most young men my age went to see the movie only because they were on a date and were trying to impress their partners, who thought it was a very sensitive and New Age thing to do, and it was a good movie. I reckon that if we had surveyed the movie goers in the cinema, I do not think we would have found many people who thought that running a big American sedan into the back of a little car with those two young ladies in it was actually a bad thing. They would say, “I really enjoyed that. That was great. We saw a bit of revenge that had a violent component to it.” That is a very simple and gentle version of the debate. Worse things than that can happen. Some of the movies and television shows that are being watched these days are very good. I enjoyed *Game of Thrones*. My wife watched it and I picked up bits of it but, holy mackerel, is there some violence in it! It is pretty hard to watch something like that and say that it does not aggrandise and glorify violence. Are we any good at putting aside that violence when we actually get back into the community? That is not to say that there is not some kind of base part of human nature that seems to enjoy violence, because in many cases that appears to be the case as well. Plenty of people are not watching a lot of violent movies but are still engaged in violent activities. We have to move beyond that idea.

I started this debate by simply saying that I accept the intent of the government in the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022, which is to reduce violent incidents in nightclub areas. Any intent to reduce violent incidents needs to be supported and rewarded to some extent. We need to try to minimise violence, but until we address the ultimate value and position of violence in our society, all we are doing is just window-dressing. The bill addresses violence, particularly in entertainment precincts. Growing up as a country lad and living most of my life in country regions, I probably had fairly limited exposure to and experience in entertainment precincts. One would think that I do not have much expertise in this area, but for a few years, while I studied for my veterinary science degree at the University of Queensland, I paid my way by working in bars and clubs, so I have some experience of working late after a day at university. Some of my most vivid memories are of working in a place called the Council Club in Brisbane. We would work there until sometimes midnight or two in the morning. On nice nights we would drive to Jupiters Casino and watch the sun come up. We were too poor to gamble, but I tell members what: fuel was a lot cheaper back then, so that was our night out. We saw violence on occasions. I have a somewhat funny story to tell, so I will digress for a little bit.

In my job, I tended the bar and did kegs. In those days, everybody was a general rouseabout. We had specific security people at the door but everybody did a bit of everything. Around October many years ago, the Brisbane City Football Club had its annual wind-up at the Council Club nightclub. The club had rugby league and touch football teams. The rugby league teams were generally Anglo-Saxon men in their late teens and going into their twenties. The women in the touch and rugby league teams were generally Māori. Brisbane had a pretty big Māori population at the time. The husbands of the Māori women would come along as well. The night started out pretty gently, but it kind of kicked off when one man bit off another man’s ear. It progressed to something of an all-in brawl at the time. Being in the midst of that violence is a really interesting place to find oneself. I make this point because I have this funny memory from that night that will live with me to the end of my days. I was roughly in the centre of that group and we were trying to escort the well-behaved patrons out the door to keep them away from where the fights were breaking out. There I was, five foot and seven inches tall and probably a bit smaller in build at that point—definitely a bit smaller in build—and two of the largest men I have ever seen in my life walked up to me. They were two Māori men and I reckon they would have weighed 130-plus kilograms. They were two of the most enormous people I had ever seen.

**Hon Darren West:** It’s not the size of the dog in the fight, member.

**Hon Dr STEVE THOMAS:** There was me and two of them, Hon Darren West. I am not sure how much fight any dog would have under those circumstances, and one generally does not want to find out to be honest. What

happens in those jobs is a bit like what happens when raising children: the best result is when no violence is involved and everyone can get it out of their system. These were two of the biggest men I had ever seen. I will never forget what happened next. They walked up to me and said in the softest, gentlest and quietest voice, “Is it okay for us to bring our wives out now? We just want to make them safe.” So we did that, and there I was saying to these two enormous men that I would protect them and that it would be okay. My ego was boosted enormously on that particular day. I do not know what I would have done if the situation had fallen apart. I got them to bring their wives through, we caught the elevator and we took them down to safety. They were incredibly grateful and it was a lovely moment. I do not know what would have happened if things had turned out differently, but it lives in my memory that in the midst of violence, human nature can deliver some really positive surprises, and I think that is still the case. We still see that happen today. In the midst of violence, suddenly we see people doing good things. One would hope that we see more of that, but, funnily enough, it is not as common as people think. We live in hope.

What should we do to address violence? The government’s proposal is to start to exclude people who display violent behaviours to make particular communities safe. One of the positive things I like about the bill, which is not necessarily the way I see the Labor Party operating generally, is that it takes a relatively, dare I say it, right-wing view of human behaviour. I describe the difference between left wing and right wing as the right wing being about personal reward—personal responsibility and the left wing being far more about communal reward—communal responsibility. That is how I describe it. I know some members are left wing. Communists are the ultimate. They believe that everything they earn should be divided equally amongst everybody else and, generally speaking, if their life goes wrong, it is everybody’s fault. I am the opposite. I believe that you are individually responsible for the position you find yourself in, obviously with exceptions in which people have no choice. Ultimately, if you work hard and get ahead, you should be the greatest recipient of the rewards, but not the only recipient, because there is a reason we pay taxes—to look after everybody else. That is the process.

In the bill before the house today, the government is taking a somewhat right-wing approach, or at least a middle-ground approach. Something that has been said about this government reasonably frequently is that it tends to be a fairly middle-of-the-road government—I resisted the urge to say “mediocre”, so I am going for “middle of the road”. I would not necessarily call some of the government’s policies right wing, but it is not a very left-wing government. What is left wing out there? Gough Whitlam probably had the most left-wing government I can remember. It is interesting to see where Anthony Albanese is going; there might be a contest on. Let us see where that goes. I like the fact that this bill looks at personal responsibility and says, “Actually, your behaviour is your responsibility.” Well done to the government for that. I think that is a message we need to keep reinforcing, but not just in this legislation and not just in particular precincts. It is a rule that we need to apply far more across the board. The problem is that we can shift problems around, but that does not necessarily change behaviour unless it is made more and more difficult.

In debate on a planning bill that was introduced around the COVID emergency provisions, I said that I believed that in Parliament, members should say what they believe and believe what they say. I think that is still a good lesson for members of Parliament. We absolutely want to be true to what we believe in what we say in here. I said it at that point because I thought that if the planning rules were going to be improved on a temporary basis, why would we not want to improve them permanently? As part of this debate, I say to this government that if it wants to improve behaviour, and particularly violent behaviour, in certain precincts, why would it not want to make it much more society wide at some point? I know it is not easy. I know there are all sorts of issues in spreading the non-violence message further afield. There are also greater issues in enforcing the message. I suspect something we will talk about during the second reading debate and also in the Committee of the Whole stage is the capacity of the police to enforce these measures. As we go forward, whether to expand these measures into other precincts will be an interesting question. Obviously, the government has determined the first five precincts in which it wants this legislation to operate in its attempts to control violent behaviour. According to the briefing and my reading of the bill, the precincts will be established under regulation, not under the primary legislation, so there will be an opportunity for the government to shift, amend, put in new precincts and take out precincts, for example. We will have to watch very carefully to ensure we do not just shift the people who are exhibiting bad behaviour from one precinct to another area. That is one of the issues we will face. Ideally, we would try to prevent violence across the board, everywhere we go. If we cannot do that and if we are going to focus on precincts, where we shift that violence to will become critically important.

I understand the intent of the legislation, which is to concentrate on precincts that are basically nightclub precincts, where there is generally a mixture of alcohol and overstimulation—let me call it that. I am always interested in the drinks that people have now that combine alcohol and high levels of caffeine. I do not think I have ever had one but, seriously, if we wanted a recipe for creating hyperactive people who will potentially engage in violent behaviour, we would give them a combined drink to see what happens. I am astounded that it really occurs. I think that society has changed and it has become more common. On other trends, before I move back to shifting the violence, in my day when I was young, we basically drank beer. I am old enough to remember that when I first started, there was no such thing as mid-strength beer or light beer, so we drank beer.

**Hon Stephen Dawson:** You must be really old!

**Hon Dr STEVE THOMAS:** I am getting on now, yes. The good news is that light beers were introduced in Western Australia earlier than they were in a lot of other states. Western Australia sort of led the way in light beer. I found that pretty positive. When I was at university, for example, and I was working in nightclubs, because I was often the designated driver, I discovered a beer that came from Western Australia and it was a Swan white label —

**Hon Darren West:** Special light; it was 0.1 per cent.

**Hon Dr STEVE THOMAS:** Special light, that is right; it was 0.1 per cent. Classically, you would end your night at the nightclub with two beers. Back when I first started —

**Hon Darren West:** You had to drink 86 of them to get drunk!

**Hon Dr STEVE THOMAS:** Well, that is right, I never got drunk. We could talk about a perpetual motion machine. It would just cycle. Ultimately, you could never get drunk.

**Hon Martin Pritchard:** I think you mean that way.

**Hon Dr STEVE THOMAS:** I am just doing a cycle motion; I was not trying to be prescriptive, Hon Martin Pritchard. We can do a biology lesson if he likes! I did one recently on greenhouse gas emissions and what animals produce greenhouse gases at which end, but let us not go there for the time being.

Western Australia led the way very early with the Swan special light. At that point, Queensland had no light beer. Bear in mind that Queensland at that time had one beer and it was spelt “XXXX” because we did not think that anybody could spell “beer”! That is a whole other argument. Western Australia led the way for light beer. A couple of things have changed in society. There are now ranges of beer, but in those days we drank beer. Young people today, in my view, are much more likely to drink stronger drinks. The other thing we did not do in those days was the preloading that tends to occur before people go to nightclubs now. Because nightclubs are expensive, young people go into them fairly charged up. Even when I was working in nightclubs, for the most part I would be dealing with people who had not started drinking before they arrived. It all worked on a fairly regular pattern. Generally speaking, the young women would arrive and they would not drink a heck of a lot, for the most part. The young men would then arrive, presumably following the young women. When they were unsuccessful, they would start drinking more and more heavily as the night went on. I could pick it and manage it. That pattern has changed. People preload a lot more and I think a lot more alcohol is being imbibed at a rapid pace.

The other thing that has changed significantly is the drugs that are available. That has made a significant difference, in my mind. I can remember the arrival of cannabis, and apologies to our Legalise Cannabis Party friends and the crossbench. There is no way it had the violent-impulse impacts that things like methamphetamine do. The levels of violence have also dramatically changed. Again, I come back to my right-wing roots in that it has always frustrated me how the use of drugs has become an excuse for that level of behaviour. Drugs may prompt an extremely violent reaction or violent behaviour, but, somehow, in the system we have, they have become an excuse for violent behaviour. The perpetrator’s defence was that they were high on meth. That might be a statement of the facts, but, in my view, that is not a mitigating circumstance. We will come back to this when we get further into the debate.

As a society, I think we have become very soft on mitigating circumstances. This is where I come to the left-wing versus right-wing argument. The left-wing argument is: “My behaviour is not my personal responsibility. It is society’s fault. I take meth and society makes me do it because I’m not happy—my wife left, my kids don’t love me, my dad hugged me too much or not enough or my mum was cold and distant”, or whatever it is. I think there is an argument for personal responsibility.

**Hon Martin Pritchard:** I think that is very simplistic.

**Hon Dr STEVE THOMAS:** I have enormous respect for Hon Martin Pritchard, but I am going to say this: I think the left wing of politics will always think that is very simplistic, because it does not suit the rhetoric and the position of the left. I think the left wing will always assume that it is too hard to hold people accountable for their behaviour. I am certainly not suggesting that that is where the member was going with this. To be honest, I think there should be philosophical differences between the two sides of Parliament. It would become very bland without that difference, so I am happy for that. We will get to debates about unions in a little while.

**Hon Sandra Carr:** Take some responsibility for your irresponsible and insensitive comments about the causes of violence and social problems, rather than deflecting to unions.

**Hon Dr STEVE THOMAS:** Sorry!

**Hon Sandra Carr:** Laughing at me doesn’t make it any less true.

**Hon Dr STEVE THOMAS:** We have just gone back to classic left now.

**Hon Sandra Carr:** I take that as a compliment, mate.

**Hon Dr STEVE THOMAS:** I am sure you do.

**Hon Sandra Carr:** You stay over there on the right and make a fool of yourself.

**Hon Dr STEVE THOMAS:** That is absolutely fine.

Acting President, we were discussing the prevalence of violence and how we remedy that, and the solution we are about to debate is restrictions on entertainment precincts. One of the things we will have to do is make sure that we do not shift that violent behaviour out of a particular precinct and into another area. We will probably discuss that in more detail in the committee stage.

The intended five precincts are Northbridge, Hillarys, Fremantle, Scarborough and Mandurah. I understand that some indicative maps of where the precincts are likely to be have been floating around. My understanding is that the maps are not finalised and may not even be accurate at this stage, so I do not think there is much point in asking the minister to present them or table them. As I understand, they are very broad areas that will be refined under regulation. They will need to be put together in a way that encompasses where antisocial behaviour will be shifted to.

The concept is making entertainment precincts safe, especially around alcohol. It was highlighted repeatedly in the briefings we had that people have less thought in their decision-making processes under the influence of alcohol. Their inhibitions drop and their self-control is reduced. Those are the predisposing factors that we are trying to control with this, and I think that is reasonable. As I said before, one of the trends we have seen more recently is people preloading before entering those precincts. The bill will identify people, and it will be up to police to identify the people who are considered to be a risk. That is critical. This is about the police identifying high-risk individuals. The indication is that we are not talking about a large number of individuals. In his reply or during the committee stage, the minister might be able to give us an indication of the expected number of people who might be identified. It obviously relies upon police officers knowing their district reasonably well. In my day, in the Brisbane nightclubs, the police unit that serviced central Brisbane was a very stable group. The officers knew everybody, including us.

**Hon Dan Caddy:** Was that the Bjelke-Petersen era?

**Hon Dr STEVE THOMAS:** It was the Bjelke-Petersen era, actually, yes.

**Hon Dan Caddy:** You're showing your age!

**Hon Dr STEVE THOMAS:** He was my local MP.

**Hon Dan Caddy:** That explains so much!

**Hon Dr STEVE THOMAS:** Don't you worry about that! He was based in Kingaroy, and my family was living about an hour north. He was my local member of state Parliament. There you go!

**Hon Darren West:** And Bob Katter was a cabinet minister in his government.

**Hon Dr STEVE THOMAS:** We have digressed a little again, but Bob Katter Snr was my first federal MP. For those who remember, Bob Katter is actually Bob Katter Jnr.

**Hon Darren West:** It's all starting to make sense!

**Hon Dr STEVE THOMAS:** No. There are no particular links there. They divert me, Acting President!

The police will have to know the individuals who they are identifying and targeting. I think there is a reasonable opportunity that that will happen, although we might get to some debate about it. There is always a turnover of police, so the officers will have to be aware of individuals who have been banned for certain behaviour and who will need to be identified when they break those rules. Let us have a debate about that when we get to the committee stage. The bill will instigate a couple of different types of exclusion orders. Police will identify people who are considered high risk, and one of a number of exclusion orders will then be applied for.

As was mentioned in the minister's second reading speech, the term "protected entertainment precincts" was coined in honour of Giuseppe "Pep" Raco. The bill is a general attempt in his honour to improve security and safety in entertainment precincts. From the answers to questions we asked in the briefing, it would appear that this piece of legislation would not necessarily have protected him, because the perpetrator was not a person known to the police to the extent that he would have been caught under these provisions, but that does not at all diminish the fact that the bill is named in his honour. We accept that the intent of making entertainment precincts safer across the board is a worthy and reasonable one. I have no problem with the name, but it does reflect the difficulty of making people safe. In many cases, the perpetrators who will be kept out of these precincts are simply the ones we know. Obviously, first-timers will not be excluded. There is no magic bullet along those lines apart from, as I said at the start of my address, the intent to keep people safe across the board by reducing violence universally rather than in specific precincts.

There are a number of different forms, and exclusions can occur in the five proposed precincts, which, as I said, will be able to be changed, moved, shifted, added to or reduced because they will come in under regulations. The Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022 will create both short-term exclusion orders and extended exclusion orders. The Western Australia Police Force can issue a short-term exclusion for up to six months, which needs to be approved by an officer of the rank of inspector or higher. I am interested, minister, when we get to the details of the bill, the process by which that is likely to occur. We will potentially discuss exactly

how that will occur. Extended exclusion orders can be issued for up to five years for adults and two years for juveniles. They will be issued by the director of Liquor Licensing on application to the Commissioner of Police, which is appropriate given that the police will know, for the most part, what the people who they will be looking at are capable of doing.

There is also a third component in which the exclusion period of five years for an adult and two years for a juvenile will be made mandatory. These will be listed in the act, not separate in regulations, and include the serious offences of murder, manslaughter, unlawful assault causing death, grievous bodily harm, intent to cause grievous bodily harm, wounding, sexual penetration without consent, aggravated sexual penetrating without consent and drink-spiking. Those are all serious offences and I presume, therefore, that any person who is convicted of any of those serious offences will automatically be the subject of a five-year exclusion notice if they are an adult. As I understand it, that notice will commence at the end of a person's prison sentence, otherwise it would not make a lot of sense in having a five-year notice if a person is serving 15 years' imprisonment for murder. One of the issues with that is that it will potentially involve a larger group of people and they might not necessarily be the regulars who turn up in a precinct at any stage. That group of people will not necessarily be known to the police officers who will be serving those five precincts. There will probably be a commissioner's notification process and some form of confirmation that the people in that category can be easily identified by officers in the field. I imagine that the commissioner will come up with proposed operational guidelines as the legislation passes through.

As I said before, one of the issues is that we simply do not want to shift bad behaviour and violent behaviour in particular to just outside a precinct. I know there are some concerns that the Perth precinct, for example, will extend to Northbridge but not necessarily to Leederville. Does that mean that we will push the group of people who are prone to violent behaviour just that little bit further away to a different area where they can re-congregate? I guess at one level, that can be dealt with because the precincts will be put in place by regulations and it will be relatively easy to change them. It is something we need to keep an eye on.

We also need to be cautious that we do not end up moving these people who have violent tendencies further afield to areas where there is not so much nightclub activity, but hotel activity, and we also need to make sure that we do not drive violent activity back into the home, as it were. All those things become part of the natural risk, but I am not suggesting for a minute that the government can do an enormous amount about that; rather, we need to be aware of how that will function.

The bill does not contain many clauses, but debate on the bill will be quite technical. It will hopefully make a significant difference to the way that we deal with violence. At some point, minister, we will have a debate about the trigger points at which these provisions come in. That is covered under division 2, with clause 16 introducing proposed section 152ND. I am talking specifically at this point about short-term exclusion notices. Proposed subsection (1) states —

A member of the Police Force may make an order prohibiting —

I presume that that refers to any member of the police force. They will make an order and get it ticked off by an officer of inspector rank or higher. If that is the case, at what point will it become enforceable? Will it become enforceable when the police officer first makes an order or will the issue of making an order require the tick-off from an inspector or higher officer at that point? Proposed subsection (2) states —

The member of the Police Force must not make the order unless the member is satisfied, on reasonable grounds, that making the order is necessary because —

- (a) the person has behaved in an unlawful, anti-social, violent, disorderly, offensive, indecent or threatening way (whether or not the behaviour arose from, or was related to, the use of liquor); and
- (b) the location where the behaviour occurred —
  - (i) was, at the time the behaviour occurred, a public place; and
  - (ii) was, at the time the behaviour occurred, in a protected entertainment precinct; and
  - (iii) is, at the time the order is to be made, in a protected entertainment precinct;
 and
- (c) there is a risk that, unless the order is made, the person will behave in a way that —
  - (i) causes violence or public disorder in a protected entertainment precinct; or
  - (ii) has an adverse effect on the safety or welfare of persons in a protected entertainment precinct.

We need to explore those provisions when we get to the committee stage of the bill to work out exactly what sort of behaviour will stimulate the production of an order prohibiting a person from entering a precinct. Some of it is

obvious and quite simple, such as behaviour having an adverse effect on the safety and welfare of person, but even then we could debate exactly what it will do. Subsection (2) refers to a person's behaviour being unlawful and antisocial. Some of that behaviour might be relatively mild, but it might be repetitive. We need some clarification as we go through the debate of the sorts of examples and levels that will enforce an order.

Having said that, minister, I do not for a minute suggest that I am not supportive of what the government is attempting to do. We need to work out what it will look like because we have to be careful about making sure that we target the right people and do not interfere with people's ability to go about their normal activities. It is usually the left-wing of politics—the Labor Party—that is so very keen to talk about the rights of people to go about their business and whether government is infringing upon those rights. I am reminded of a debate on a bill some years ago when the Commonwealth Heads of Government Meeting was coming to Perth and there was the prospect that people would be moved on and moved out of precincts and areas. Many Labor members were very concerned about people's rights being protected.

A bill to establish new rules around moving on people, which was a little similar to this bill, was debated on 22 March 2011 in the place that shall not be named—the other house. I refer to the corrected *Hansard*. The member for Girrawheen said —

... our task is to determine whether this bill strikes the right balance between ensuring the necessary level of security for visiting dignitaries and dealing with threats to public safety, without unduly interfering with the rights of members of the Western Australian public to go about their lives without unreasonable interference.

She was concerned that “we are yet to see the plans for the areas that will be declared and restricted”. I am not sure which electorate Dr A.D. Buti represented because it is not stated on the page in *Hansard*.

**Hon Dan Caddy:** Armadale.

**Hon Dr STEVE THOMAS:** I thank the member. The member for Armadale was also a bit concerned that the bill might impinge upon some of the rights of individuals—fair enough. He said there was an obligation to protect world leaders and heads of state. But he also said —

However, we also have an obligation to not throw away our freedoms. There is always a fine line between the two.

...

The police and other authorised officials will be given the power to do X, Y and Z, and there will be no legal consequences for their actions. It is always a concern when people are not held responsible for their actions.

That was the member for Armadale. Police will be given a very similar power under the bill before the house today. I think that is a reasonable outcome. The opposition is supporting the bill, but as we debate left versus right, it is reasonable for the opposition to ask questions, given the questions put by others before.

The member for Armadale raised a couple of other concerns. He said —

One must query whether the minister should seek an amendment to provide a prescribed list of events so that everyone will be clear on what are associated events. The member for Cannington was very astute to point that out. It may be a drafting oversight. I am sure that there was no intention. It is a very important matter ...

Again, the Labor Party was happy to seek details about the sorts of restrictions that might apply to people under those circumstances, and I think it is reasonable for the current opposition to do that. In fact, the member for Girrawheen went on to use a very good line —

It is not unreasonable that we seek some level of clarity on when these powers are used.

There is a history of questioning whether the enhancement of powers to maintain public and personal safety impinge upon the rights and freedoms of individuals. As I said earlier, I take a very right-wing position—that is, you do not have individual rights without individual responsibilities. Therefore, I can comfortably support the bill before the house because I think it is an opportunity for us to demonstrate that we can hold people responsible for their actions, and that is a step in the right direction for the government. I thank the government for that. It is the case that both sides of politics want to make sure the outcomes are reasonable.

There is much more we can talk about, and I am sure that we will when we get to Committee of the Whole. I am a little concerned about the impact of this legislation on the Western Australia Police Force and whether it will require additional resources or resource requirements. I note that the Western Australia Police Force has, at the very least, struggled to maintain numbers. I would say that the morale in Western Australia Police is not at a high point at the moment, and this is another exercise they will be required to undertake. I am sure that my good friend Hon Peter Collier will have much more to say on how the police might manage this aspect of the legislation. It might help if the government manages to increase police numbers somewhere along the lines of its election commitment.

Governments come along and say they will put on so many more police, but they do not count the ones that drift off because it is a difficult job. It is a very tough job. It can be a very lonely job. The survivability—that is properly not the right word to use. The longevity of people in that job on average is not great.

We need to do things so that police feel much more positive about their occupation. Part of that is simply backing them when they need to use legislation like this. On occasions, we need to be on the side of the police. This is not said very often, probably not often enough: when we ask police to step up and provide safety for us, it is important that we support them in that process. In my role on the Joint Standing Committee on the Corruption and Crime Commission, I frequently hear questions about the police. It is very easy to isolate and separate police. In fact, various past committees have asked the CCC to focus more and more of its attention on police because there is this distrust. I actually think the first thing that Parliament and the community can do is show greater trust in police. I suspect that will be required in the enforcement of this legislation.

I understand, and the minister can probably confirm, that, ultimately, the legislation will be challengeable in the Supreme Court. A person on whom an order has been made will be able to immediately challenge it, depending on the level, up to the director of Liquor Licensing. If a person's right to a local appeal under the act has been removed —

**Hon Stephen Dawson:** You cannot go to the Supreme Court if you think there is an error of the law. The law is the law, but if you think that a decision has been made that does not line up with the law, you can go to the Supreme Court.

**Hon Dr STEVE THOMAS:** It will not be appealable except for an appeal based on the inappropriate use of the law. I suspect it will get challenged at some point. Ultimately, any law of the land gets challenged up to the High Court if necessary. There is a process people can go through. That challenge process will probably be useful.

I just want to finish on the point that the legislation will probably be as effective as the level of support police get to enforce it and the level of support they get from the community. If the community wants that safety from police, the community will have to back them not only on this piece of legislation, but also lots of other pieces of legislation. It is generally the police who see the worst aspects of the violence that I think is rampant in the community. It is the police who deal with domestic violence, for example. It is the police who pick up the pieces. Ambulance officers are there, but it is the police who generally put their lives on the line as a part of that process. It is difficult to over appreciate the work that Western Australian police do in the positions in which they find themselves; I think we under appreciate it most of the time. I think we could do a lot more to support their role in opposing violence and support the role police play in picking up the pieces. That includes the bill before the house today, which the opposition will be supporting.

**HON DR BRAD PETTITT (South Metropolitan)** [3.08 pm]: I rise today to speak in opposition to the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022 and express my astonishment at this government's overreach in this bill, with the powers that will be granted to the Western Australia Police Force.

Before I launch into the numerous issues I have with this bill, I want to start by acknowledging the family of Giuseppe "Pep" Raco and offer my condolences for their loss. I have seen the good work that Giuseppe's wife, Enza, has done—her tireless campaign to improve the safety of Western Australia's entertainment precincts. I applaud her efforts to do so. Unfortunately, this bill is not the answer to her good efforts. I think we need a bill that is actually much more effective in addressing what she is campaigning for. Unfortunately, there is very little evidence that it is going to have the desired effect that Giuseppe's family have campaigned for.

I received a letter from Peter Collins, the director of legal services at the Aboriginal Legal Service of Western Australia. Last month he wrote —

The new laws will shamelessly give the families of victims of violent crime in PEPs false hope. Violent crime in PEPs invariably involves a drunken, spur of the moment, spontaneous outburst. The new laws will have little or no capacity to deal incidents of this nature.

At ALSWA's briefing with the relevant Minister, Dr Tony Buti, it was revealed that there is no empirical, evidence based research which establishes that PEPs will achieve the government's desired outcomes.

Dr Nicholas Taylor has looked into similar laws, including the ones enforced in Queensland that allow police to ban people from a similar entertainment precinct for 10 days. I know that in WA we are going much further than that—six months. I will come back to that. His research at Deakin University states —

The number of police-issued patron bans did not significantly predict changes in serious assault, common assault or good order offence trends the weekend following the ban ...

In September 2022, Dr Taylor told the ABC —

"In terms of reducing overall violence in a nightlife precinct, there's very little evidence out there currently, but none of it shows that ... banning of individuals from nightlife areas reduces the overall level of violence within them ...

Following the briefing with government, last month the Law Society of Western Australia released a media statement raising its concerns over this bill. President Rebeca Lee stated —

As a matter of principle, there is no increase in public safety if power is unchecked.

“The new laws are untested anywhere in the world and no assurance has been provided that the principles of administrative and procedural fairness will be available under the new powers.”

In my former role as the Mayor of Fremantle, I actually spent a lot of time working on ways that we could make entertainment precincts and activity centres safer. It is actually an issue that I am really passionate about. Look, it is hard to do it. Interestingly, I think there are ways of having some kinds of prohibitive-behaviour legislation with the right checks and balances, that look very different from the legislation that is in front of us now, that can do this. This bill does not do this. In fact, I feel in many ways that this is the worst bill. It is a bill that over-promises and under-delivers around the key bit of making things safer. Unfortunately, it actually has a whole bunch of other consequences, which I will come to in a minute. I think we should be really concerned about them in terms of our entertainment precincts, which are also activity centres and play places that people use in many different ways.

Sadly, this bill will not be the solution that the government is making it out to be. Instead, this bill hands police unprecedented and unchecked powers. I guess this is at the heart of one of the concerns: it could have detrimental and disproportionate consequences for the most vulnerable and disadvantaged members of our community. What we are talking about here is the legislation. I will come back to it in a second. I know that police are putting together guidelines and the like that will do their best, in many ways, to ameliorate bad legislation. Our job here is actually to make good legislation that does not require regulation or other guidance notes to make poor overreaching legislation better. That is the heart of it.

I want to start by acknowledging something that the Law Society stated —

... such orders may be liberally employed by Police and may unduly affect the homeless, people with mental illness, vulnerable or marginalised groups.

I received a letter this week signed by Social Reinvestment WA, the Western Australian Council of Social Service, Community Legal Western Australia, the Western Australian Network of Alcohol & other Drug Agencies, the Youth Affairs Council of Western Australia, the Western Australian Association for Mental Health, the WA Justice Association, the Justice Reform Initiative and ConnectGroups. They shared their concerns, stating —

#### **Disproportionate impact on disadvantaged West Australians**

We consider that the PEP regime may have significant unintended consequences, including disproportionate impact upon disadvantaged West Australians.

Based on the details of the regime which are publicly available, we consider that the proposed short-term exclusion orders issued by the Commissioner of Police would likely be similar in their effect and application to ‘move on orders’ issued pursuant to section 27 of the *Criminal Investigation Act 2006* (WA) (**Criminal Investigation Act**).

Move on orders already disproportionately impact vulnerable members of our communities, especially people who are experiencing homelessness, those living with mental illness and Aboriginal and Torres Strait Islander people, who are most likely to occupy all three intersections.

There is a wealth of evidence proving that Aboriginal West Australians are disproportionately affected by move on orders, and we consider that the proposed PEP regime will have a similarly disproportionate impact. In 2011 alone, approximately 10,000 move on orders were issued to people of Aboriginal descent even though Western Australia has an Aboriginal population of only 80,000. Western Australia also has the highest rate of Aboriginal incarceration in the entire nation and we are highly concerned that the proposed PEP regime will only serve to exacerbate, rather than address, this issue.

In a letter I have previously mentioned, which I received last month from Peter Collins from ALSWA, he stated —

It is unarguable that these laws will disproportionately impact Aboriginal people; there will be more Aboriginal people having adverse interactions with WA Police, breaches of orders are inevitable, Aboriginal people will become further enmeshed in the court system and this will have a flow on negative impact in relation to Aboriginal rates of imprisonment.

The new laws will also disproportionately impact the most vulnerable Aboriginal people in the community, including those suffering from physical and mental ill health, substance abuse and homelessness. As you would be aware, this cohort of Aboriginal people frequently live rough within the proposed Protected Entertainment Precincts (**PEPs**). Further, many of the community services on which this cohort rely on a daily basis are located within the PEPs. It is fanciful to think that ‘carve out’ provisions designed to enable access to community services within PEPs will operate in a way which will ensure that PEPs are not breached.

The Aboriginal Legal Service WA and the Law Society of WA both expressed concern that this bill has the potential to undermine the state government's commitment to the Closing the Gap target to reduce overrepresentation of Aboriginal people in the adult and youth justice systems. Professor Dennis Eggington, CEO of ALSWA, told ABC online news that the nature of this legislation "followed a disappointing pattern", comparing this bill with the Perth Prohibited Area enforced between 1927 and 1954 in WA. He stated —

"It smacks of the old days when Aboriginal people weren't allowed in town after 6pm, and it actually smacks of a continued colonisation of our country," ...

"Unfortunately, most of our people, by the time they're a certain age, have come into trouble with the law."

Social Reinvestment WA and the other eight stakeholders who wrote to me also drew parallels between the PEP bill before us today and previous policies that imposed discriminatory restrictions on the movement of First Nations people throughout the Perth region. They stated —

... the proposed PEP regime will have a disproportionate impact on Aboriginal West Australians and will therefore likely affect their ability to move freely throughout the Perth CBD. The effect of the regime will, therefore, be reminiscent of the prohibitions imposed on the movement of Aboriginal and Torres Strait Islander people throughout the Perth region between 1927 to 1954 pursuant to the Aborigines Act 1905 (WA).

This legislation, which we can all identify as racist and discriminatory, eventually proved to be ineffective and incredibly resource intensive. While the proposed PEP regime will not specifically target the Aboriginal community, its outcomes may be reminiscent of oppressive policies from a very dark time in WA's history. This must be taken into consideration in order to ensure that future policies work towards rectifying our past and not reliving it.

I also heard from stakeholders in homelessness and the community services sector that have expressed their concerns that people experiencing homelessness are going to be disproportionately affected by the orders and police powers. People experiencing homelessness are going to be prevented from accessing services and resources within the boundaries of the precincts. Protected entertainment precincts will be determined by regulations and new precincts will be able to be added at any time at the discretion of the minister. The borders of the precincts will also be determined by regulations. In correspondence the Aboriginal Legal Service WA said —

(m) It will be only a matter of time before PEPs are extended to entertainment precincts in regional areas; eg the Chinatown area in Broome, further excluding vulnerable Aboriginal people from public space on their own country. It is also a very short step from PEPs to the introduction of laws to declare retail areas like shopping centre protected precincts.

One of the primary concerns regarding this bill is the unprecedented powers it will place in police hands. In the 18 or so months that I have served in this place we have again and again watched as the WA Parliament has granted more and more powers to a very small number of people with no judicial oversight. There are no appropriate checks and balances in place. The discretionary powers being granted to the Commissioner of Police—in fact, the entire police force—are concerning. These types of discretionary powers should be subject to parliamentary oversight or judicial review and, at the very minimum, more consultation with relevant stakeholders, which, based on the feedback I received from numerous stakeholders, I do not believe has adequately occurred.

In a letter to me ALSWA wrote —

(e) The power of WA Police to issue exclusion orders for up to six (6) months, without judicial oversight, will inevitably lead to abuses of police powers against vulnerable Aboriginal people. This is especially so, given it appears that the threshold for the exercise of police discretion to issue an exclusion order will only involve a belief by police that an individual has behaved in a disorderly manner and could cause public disorder. This will mean that the act of drunken swearing at police may warrant the issue of an exclusion order.

The WA Justice Association also sent me a letter, which states —

The Law Society of Western Australia has expressed similar concerns, commenting that the exercise of the powers under the PEP Bill "... should always be subject to judicial consideration particularly to ensure procedural fairness is afforded to a person affected. The Liquor Licensing Commission is not resourced appropriately to be making decisions of this nature."

The WA Justice Association outlined its deep concern that —

... the extraordinary and untested powers created by the PEP Bill are not subject to any form of judicial oversight. Such powers must have stringent checks and balances in place to ensure that they are exercised appropriately and that affected persons are afforded administrative and procedural fairness.

Yesterday I had a briefing with Minister Buti's advisers and the Western Australia Police Force. The idea that the crossbench gets allocated a 30-minute briefing the day before debate is a concern. I put that on the record. A very

short briefing to four members is not how to deal with legislation appropriately. Certainly, if we are serious about giving legislation proper scrutiny, I do not think that is appropriate. Putting that aside, during yesterday's briefing with Minister Buti's advisers and WA police, attempts were made to reassure me that police will not overuse exclusion orders or use the full powers afforded to them in the bill because they will be guided by strict guidelines drafted by the Minister for Police. In an effort to tackle public criticism of this bill, the Minister for Police, Paul Papalia, has told the media —

“They're not going to be giving them out like confetti ...

Commissioner Blanch has said the orders —

... police choose to apply will be done very carefully, under very strict guidelines, and make sure we keep the ones [who] cause the most harm to our community out of those entertainment precincts,”

Unfortunately, none of these assurances have done anything to give me confidence that this bill, which will hand significant power to the police, will not ever be misused. Today we are debating this bill, not guidelines that the police may or may not write and certainly will not make public going forward. The contents of the police guidelines are not outlined in the bill and will not be prescribed in regulations. This bill simply requires the police to issue guidelines in relation to the exercise of power to issue short-term exclusion orders, including the types of behaviour that justify a person being issued an exclusion order and the circumstances and manner in which the exclusion orders will be issued by the WA police.

I was told in yesterday's briefing that the guidelines are an internal police document and will not be made public. Therefore, none of us will have visibility of the guidelines. As was also stated by Minister Buti in the other place last week, the guidelines —

... will not be available for general public access or subject to application under freedom of information legislation, because they will be in an operational document.

All we will have is this legislation and some guidelines that will not be visible to us. That deeply concerns me and I think it should deeply concern many of us. These types of discretionary powers should be subject to parliamentary oversight or, at a very minimum, public scrutiny, and I am certainly not alone in these concerns. Professor of criminal law at the University of Western Australia Meredith Blake stated —

“Providing police with guidance is not a guarantee that that guidance would be followed, nor is it a guarantee that the police officers are educated in the way that they exercise these sorts of powers,”

President of the Law Society of WA, Rebecca Lee, expressed concern stating that —

The police should not be able to make guidelines for their own purpose. The making of guidelines should be used in limited circumstances and be subject to Parliamentary oversight.

The ALSWA wrote —

- (f) It provides no comfort to ALSWA that government and police have asserted that exclusion orders will be subject to stringent police guidelines and used sparingly. ALSWA's experience with vulnerable clients charged with breaching police issued move on orders is that the homeless, the mentally ill and those with substance abuse issues are disproportionately over represented when it comes to issuing move on orders and in breaches of them. As well, ALSWA frequently acts for homeless clients charged with minor offences such as disorderly behaviour where police imposed bail conditions prevent them from entering Northbridge and the Perth CBD. The exquisite irony and injustice involved in the imposition of bail conditions of this type is that an arrest for the breach of these bail conditions will usually involve a refusal of police bail and an overnight remand in custody in relation to an offence which does not have imprisonment as a penalty.
- (g) It is the function of the legislature to enshrine in legislation the factors which determine whether an exclusion order be issued. To leave this crucially important issue in the hands of police is to run a serious risk that exclusion orders will be issued indiscriminately, used as a mechanism of social control and lead to a form of de facto apartheid where significant numbers of Aboriginal are excluded from public space.

I reiterate that the WA Justice Association added its voice to these concerns, stating —

We are deeply concerned that the extraordinary and untested powers created by the PEP Bill are not subject to any form of judicial oversight. Such powers must have stringent checks and balances in place to ensure that they are exercised appropriately and that affected persons are afforded administrative and procedural fairness.

I think members can see there is a strong and consistent set of views there that I think this Parliament should be taking very seriously.

I will move on to another issue which is also of great concern—that is, the inclusion of antisocial behaviour as grounds for police to issue an exclusionary order. Interestingly, “antisocial behaviour” is not defined in this bill

and nor will it be defined in regulations. Instead it will be left to police guidelines to define and advise of its use. Professor of criminal law Meredith Blake at the University of Western Australia has pointed out that although similar powers exist in Queensland—probably a bit more moderately used, but similar—the WA laws will contain one extra word; that is, “antisocial”. She said —

“The problem with terms like anti-social is that they capture a whole spectrum of behaviours from really very minimal to quite serious ...

“And because police exercise their powers on a discretionary basis, that leaves a very wide scope for decisions to be made with a lack of transparency as to the reasons for executing that power.”

Service providers have shared their worries with me that the police do not have the appropriate training required to manage the kinds of complex social issues expected to arise. For example, our police can be trained to identify when an individual is experiencing a mental health crisis to avoid criminalising mental ill health. It is not clear to the stakeholders that I have spoken with what benefit this bill will provide that is not already provided in pre-existing legislation, particularly with move-on notices, violence restraining orders and prohibition orders. The Aboriginal Legal Service WA said —

There is a plethora of powers currently available to police and courts to restrict the movement and activities of individuals. Current move on orders provide police with sufficient powers to exclude individuals behaving in an anti-social manner from PEPs.

Social Reinvestment WA and other organisations made written requests not only to my office, but also to the Premier, Minister Papalia and Minister Buti on 11 October 2022. They received no response from the government. Social Reinvestment WA said —

We would like to see further evidence of the prevalence of incidents of violent crimes in PEPs where move on orders or prohibition orders either would not have applied or would not have been effective at preventing the incident from occurring but one of the proposed exclusion orders would have applied and would have been effective.

Absent such evidence, we query whether the proposed PEP regime will provide a significant benefit to the community through a reduction in violent crime such as to outweigh the significant potential for unintended adverse consequences ...

I also received an email from the director of Liberation Cooperative, which states —

Our concern is that animal rights activists have been charged under the Liquor Control Act 1988 with disorderly conduct for protesting whilst others have been issued barring notices. We believe this is a misuse of the Liquor Control Act; however, upon appeal of the barring notices, the liquor commission upheld their validity. The Magistrate’s Court also upheld the disorderly conduct charge; this is now escalating to the Supreme Court. There is a lack of clarity around what constitutes disorderly conduct. It is not a huge stretch to envision that the new entertainment precinct bans could be used against peaceful (but disruptive) protesters.

It goes on —

As one of the few progressive voices in West Australian parliament, I hope you will raise concern for the vulnerable people who could be directly affected and for activists who speak up —

**Hon Stephen Dawson:** Who was that quote from?

**Hon Dr BRAD PETTITT:** That was from the director of Liberation Cooperative.

I think an excellent point is raised, and it is one that I also raised during my briefing on this bill: there is nothing stopping a wide interpretation of the term “antisocial” from including vulnerable people, activists or protesters exercising the right to protest. I note that Commissioner Blanch has publicly rejected the idea that the orders will be used in place of move-on notices that ban people from particular areas for 24 hours. However, nothing in this bill will actually prevent the police from using protected entertainment precincts to target vulnerable and disadvantaged members of our community, or threaten protesters and activists with exclusion orders instead of move-on notices.

This leads me to a further point around the separation of powers between judiciary and the legislature around mandatory sentencing. In addition to the orders under proposed section 152NZJ, a person convicted of a serious offence in a protected entertainment precinct will be subject to a mandatory exclusion period of up to five years that will prohibit them from all protected entertainment precincts. This bill imposes an additional punishment on offenders who have served their sentence and then become subject to these orders post-sentence. I believe this proposed section of the bill will create a dangerous grey area that does not adequately respect the separation of powers between the legislature and the judiciary. The use of mandatory sentencing, regardless of the circumstances or the rehabilitation of the individual, exposes the community to unfair punishment. Noongar law academic and human rights expert Hannah McGlade recently said —

“Any law that retrospectively punishes someone after they have finished their custodial sentence goes against the ethos of rehabilitative justice,” ...

“Money should be spent on Indigenous welfare and social justice groups to help Noongar people. Laws like these are so disappointing.”

It is an indictment on the justice system that we continue to punish those who are supposed to have been rehabilitated by the state and who have served their time. Further, does this government not trust the judiciary to hand out appropriate penalties for crimes committed? It does not appear so, as the government is happy to impose additional penalties on these individuals. In their letter, Social Reinvestment WA and others wrote —

The proposed measure to impose mandatory exclusions orders on individuals convicted of committing a serious offence in a public place in a PEP will preclude the exercise of judicial discretion and will amount to another form of mandatory sentencing. Mandatory sentencing laws have a disproportionate effect upon Aboriginal Australians and are opposed by both the Law Council of Australia and the Law Society of Western Australia. Further, there is no evidence to suggest that mandatory sentencing deters criminal offending.

ALSWA also points out —

... bail and parole conditions, Post Sentence Supervision Orders and High Risk Serious Offender supervision orders provide ample scope to restrict the movement of individuals charged with, and/or convicted of, violent offences.

That makes it pretty clear. I would be interested to know what this extra part does in addition to those, other than perhaps, I think, putting in further mandatory sentencing and undermining that clear distinction between judiciary and legislature.

I acknowledge the government’s attempt to create a review provision for individuals impacted by exclusion orders to seek a variation or revocation, but as I have already stated, the lack of judicial oversight is concerning.

On behalf of ALSWA, Peter Collins reportedly stated to the media —

“The appeals process will be non-existent. It’s a complete furphy, it won’t happen,” ...

“Because these people don’t have the resources or the wherewithal to be able to undertake the process.

“And legal services like the ALS are so under the pump when it comes to workloads, we are not going to be able to accommodate the needs of these people to undertake an appeals process.”

This bill specifies that any application for a review of a short-term exclusion order must be made within one month of the order being issued, and the application must be in a form approved by the commission and accompanied by a prescribed fee. In yesterday’s briefing, I was informed that this fee is already prescribed, but no-one could tell me the cost; someone said it is approximately \$250. Various service providers and stakeholders have raised concerns with me about the application for review process generally, and specifically that the prescribed fees could prohibit vulnerable people in our community from submitting an application.

Furthermore, ALSWA has said —

It is inherently unlikely that Aboriginal people will have the resources ... to be in a position to seek an exception to exclusion orders for work, residential, education, health and other approved purposes. The first time that organisations like ALSWA will be aware that an exclusion order has been issued against an individual will be when the individual appears in court charged with a breach.

Along with various stakeholders and service providers, I am concerned that what has been framed in public discussion of this bill by the Labor government as exemptions to these orders are, in fact, offences in breach of the orders. This effectively means that exemptions can be raised as a defence only once a criminal charge has been brought. It is also a deviation from the original Liquor Control Act 1988, which states that work is a valid exemption, while this PEP bill lists work as only a valid defence. Defences when entering an entertainment precinct place an unnecessary burden on the criminal justice system and reverse the burden of proof in a way that may be extremely onerous to people experiencing homelessness or accessing homelessness services. Would it not be wiser to seek exemptions for specific purposes as a prescribed category? This could be attached to an order instead.

I plan to raise other concerns as debate on the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022 continues, but I would like to conclude my contribution to the second reading debate with suggestions shared with me by Aboriginal Legal Service of Western Australia that I believe have been previously shared with the minister’s office in writing, but not implemented. I will quote from its correspondence at length —

ALSWA calls for the laws to be abandoned but failing that, urge the following amendments and suggestions be considered:

- the inclusion of an Aboriginal impact clause in the new laws which enables the monitoring of the impacts of the new laws on Aboriginal people and the recording of relevant data in this regard;
- increase the funding for, and the capacity of, the Nyungar Patrol to assist Aboriginal people in PEPs to enable them, when needed, to exit a PEP to a safe place;
- employ social workers in PEPs at night to provide practical assistance and address underlying issues;

- make it mandatory for all clubs and bars etc to employ Aboriginal security officers;
- amend the exclusion time to between 7pm and 7am only;
- exclusion orders to be issued only by a court, rather than police;
- the relevant factors to be taken into account by a court in issuing an exclusion order be included in the new laws; and
- reduce the size of proposed exclusion areas to minimise the impact of the new laws on the most vulnerable and disadvantaged.

There are some good suggestions there. I will certainly be raising some of them when we go into Committee of the Whole.

Before I conclude my second reading contribution, I seek leave to table three letters that I have referred to on numerous occasions during this speech. One each from the Aboriginal Legal Service WA, the WA Justice Association and Social Reinvestment WA, which was signed by the Western Australian Council of Social Service, Community Legal Western Australia, the Western Australian Network of Alcohol and other Drug Agencies, the Youth Affairs Council of Western Australia, the Western Australian Association for Mental Health, the WA Justice Association, the Justice Reform Initiative and ConnectGroups.

[Leave granted. See paper [1879](#).]

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

**HON DR BRAD PETTITT (South Metropolitan)** [3.42 pm] — without notice: I move —

That the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022 be discharged and referred to the Standing Committee on Legislation for consideration and report by 14 March 2023.

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services)** [3.43 pm]: Acting President, we may well seek to pause for a moment until we get a copy of the motion before the house.

The government is not in a position to support this referral. Drafting of this legislation has taken almost 12 months. I am advised that over 10 drafts required complex provisions that have been well thought out. It is important that this legislation is in place before the busy summer season, which traditionally sees a significant increase in the number of people visiting and enjoying our entertainment precincts. During drafting of the legislation, consultation was undertaken with a range of agencies—the Western Australia Police Force; the Departments of Justice; Premier and Cabinet, Aboriginal engagement and community policy units; the State Solicitor’s Office; and the Parliamentary Service Commissioner. The exclusion order regime builds on existing powers to issue barring notices and prohibition orders. This is not a completely new concept. Protected entertainment precincts are a new concept but considered necessary to capture behaviour that occurs outside licensed premises—for example, in public places. This legislation has come about because of a tragic death. We certainly support it and we do not support its referral to a committee.

**HON DR STEVE THOMAS (South West — Leader of the Opposition)** [3.45 pm]: I was seriously contemplating supporting the motion proposed by Hon Dr Brad Pettitt to refer the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022 to a committee. I listened carefully to the debate when I was in the chamber and on monitors when I was outside. In my view, the questions raised by Hon Dr Brad Pettitt and the position that he has put will not be helped by the referral of the bill to a committee because the member is, as I understand it, implacably opposed to the intent of the bill. I know that he would perhaps prefer that research be carried out to find alternatives to the bill, and there is some merit in that, but that would simply defer the implementation of the bill while those things that are, in large degree, completely extraneous to the bill before the house are looked at. Although I was initially inclined to support the bill, the member’s argument to defer the bill does not necessarily assist because the member is pretty much implacably opposed to the bill. As much as I would like to give the hardworking members of the Standing Committee on Legislation some work to do, unfortunately, based on the arguments put, this is not the bill with which to do that. The opposition will not be supporting the motion to refer the bill to the Standing Committee on Legislation.

**HON DR BRIAN WALKER (East Metropolitan)** [3.47 pm]: I heard the words of the Leader of the Opposition and I understand where he is coming from, but I disagree. We have very clearly heard that the intent of the mover of the motion is to support the intent of the bill, but that the method of it being carried out is open to abuse and the legislation will cause an injustice, which is, in my view, unacceptable. Therefore, a review by the Standing Committee on Legislation is appropriate. I take it on board that the Leader of the Opposition intends to oppose this motion, but I make it clear that I and the Legalise Cannabis WA Party will support the motion.

**HON WILSON TUCKER (Mining and Pastoral)** [3.48 pm]: I rise to support the motion moved by the honourable member. I support the intent of the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022. We heard that it took around 12 months and multiple drafts to put this legislation together. It is a serious piece of legislation that will have serious consequences such as providing more power to the police. Whenever we talk about providing more power to the police, we need to broach that topic with the level of scrutiny and seriousness that it

deserves. The hardworking members of the Standing Committee on Legislation would probably appreciate a bit of work. Even though considerable effort has gone into this bill, I think it could be bolstered by reviewing this legislation and certainly looking at any monitoring and oversight and how it will operate on the ground. I think that is deserving of a level of scrutiny and the committee would do a good job of informing this house on some of those aspects. I support the amendment.

**HON SOPHIA MOERMOND (South West)** [3.50 pm]: I support the motion moved by Hon Dr Brad Pettitt. I think the points he brought forward are incredibly valid. If there is any risk of unwanted consequences leading to further disenfranchisement, further racism or further inequality, that needs to be prevented and we have the opportunity to do so. Although the intent of the bill is very good and I acknowledge the amount of work that went into it, I think the points brought forward certainly require further consideration.

**The ACTING PRESIDENT (Hon Dr Sally Talbot)**: I notice Hon Dr Brad Pettitt is seeking the call. I just remind the honourable member that, as the mover of the motion, he is deemed to have already spoken on the motion and because it is a procedural motion, the mover does not have the right of reply. There are, of course, other reasons he might be seeking the call.

**Hon Dr Brad Pettitt**: Sorry, I was not given the call to speak. That is why.

**The ACTING PRESIDENT**: Honourable member, it is classified as a procedural motion and you moved the motion. That is deemed to be your opportunity to speak on the motion.

**Hon Dr Brad Pettitt**: I will seek some clarification behind the chair; thank you.

**The ACTING PRESIDENT**: You may like to have some conversations behind the chair to clarify that situation.

#### *Division*

Question put and a division taken, the Acting President (Hon Dr Sally Talbot) casting her vote with the noes, with the following result —

#### *Ayes (4)*

Hon Sophia Moermond	Hon Dr Brad Pettitt	Hon Dr Brian Walker	Hon Wilson Tucker ( <i>Teller</i> )
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#### *Noes (27)*

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

Question thus negated.

#### *Second Reading Resumed*

**HON PETER COLLIER (North Metropolitan)** [3.57 pm]: I stand to support the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022. In doing so, I commence my contribution by offering my heartfelt sympathy to the family of Giuseppe “Pep” Raco and, in particular, his wife, Enza, and the work she and her family have done to get to this stage of the bill. Mr Raco suffered a fate that is not worthy of any individual. He was buying a kebab in Northbridge. He was hit from behind and lost his life. Unfortunately, that pretty much represents a lot of situations at our entertainment precincts throughout metropolitan Perth and in the regions at the moment. Anything we can do to prevent that from occurring again is to be applauded. Having said that, I have some issues with the bill. I will go through those issues, but the intent of the legislation has my support. Anything we can do to remove that scourge of violence from our entertainment precincts needs to be supported. Mr Raco’s family sought action following his passing. First of all, they created a petition titled “Coward’s Collar” that sought specific legislation to deal with one-punch attacks and to call for mandatory minimum sentences of 10 years’ imprisonment and five-plus years of prohibition from all licensed premises and entertainment precincts. They wanted something to ensure there was a deterrent for such actions that took Pep’s life. Danny Green ran a very similar campaign for a number of years, which has been very effective—the Stop the Coward’s Punch campaign. It is to try to get through to people that these actions, usually done on the spur of the moment and usually fuelled by alcohol, have consequences, not just for the perpetrator of those actions, but, most significantly, the victims. In this instance, Mr Raco lost his life. I understand the logic behind this legislation and I like to think that it will provide for a positive outcome in making our entertainment precincts safer.

I will comment on some elements of the bill and then I would like to quite extensively go through the issues I have with its implementation as I think that the Western Australia Police Force is going to have massive issues implementing this legislation. It is all well and good for me, a humble opposition backbencher, to stand up and say

how wonderful it is going to be and that it might lead to a reduction in crime, particularly in our entertainment precincts, but I seriously have some doubts. Ideally, I would like to think that those doubts can be placated, although the only real way we will be able to find that out is that the proof will be in the pudding in a year or so.

Hon Dr Brad Pettitt is not here at the moment, but we were given quite a comprehensive briefing and I was very grateful for it. I would like to thank Jennifer Shelton and Donna Kennedy from the Department of Local Government, Sport and Cultural Industries; Laurie Panaia and Wayne Hendry from WAPOL; and Adelaide Kidson and Russell McFarlane from Minister Buti's office. They gave us all the information that we wanted and answered as many questions as they possibly could. It is important when we debate a piece of legislation such as this that we are empowered with knowledge. Knowledge is power. In our instance, it is very important that when we scrutinise this legislation, we have as much information as possible.

Having said that, the exclusion orders that will be implemented will be done by regulation. Five initial precincts have been nominated: Hillarys, Scarborough, Fremantle, Mandurah and Perth. I get that as far as the metropolitan area is concerned—no-one would disagree that several other areas could be included, but at least it is a start. I am very cognisant of the fact that each of those five precinct areas is worthy of consideration with regard to exclusion orders.

The first question I would ask is: given the current extent of crime in some of our regions, particularly the Kimberley and the goldfields, why was consideration not given to nominating a precinct in the regions? That would have been eminently sensible. I cannot think of one reason why that did not occur. I would like to think that that will be considered in the near future. Members hear on a daily basis, and I certainly hear, about the crime wave in Broome and Kalgoorlie. I know that Hon Neil Thomson hears similar complaints. We would like to get some explanation about why the regions were not considered. Burswood is an interesting omission. I read from the debate in the other place that because Burswood has its own security, that is not needed. I have to say that did not jell with me. I hope there is a better explanation than that. Burswood is a cesspool of violence early on some mornings. Burswood is a great entertainment precinct, but it should also have been worthy of consideration.

The consultation on this bill is a big one for me, minister. I will go through a couple of the areas that Hon Dr Brad Pettitt went through, particularly on consultation with the Aboriginal community. I mentioned in the briefing that as a former Minister for Aboriginal Affairs, I still have very close links with Aboriginal people. They are very, very concerned about this piece of legislation. The minister has a job of work to get Aboriginal people onside. I am also concerned about the lack of consultation with local government. I understand that the City of Perth was not consulted on this bill. I hope I am wrong about that. I would have thought that local governments of all persuasions desperately needed to be consulted on this bill.

I turn now to exclusion orders. An exclusion order can be sought when a person behaves in an unlawful, antisocial, disorderly, offensive, indecent or threatening way in an entertainment precinct, and the person being in the precinct could cause violence or public disorder or impact the safety of others. That is eminently sensible. A short-term exclusion order may be issued by the Commissioner of Police to exclude a person for up to six months, with the approval of an inspector. The police can also apply to the director of Liquor Licensing for an order excluding a person for up to five years. The maximum term of exclusion for juveniles will be two years. The penalty will be imprisonment for up to two years and a fine of \$12 000. In anyone's language, that would be a deterrent.

I turn now to mandatory exclusion orders. It will be an offence for a person convicted of any of the following offences—if committed in a prescribed entertainment precinct—to enter such a precinct for a period of five years. The offences are murder, manslaughter, unlawful assault causing death, grievous bodily harm, wounding, sexual penetration without consent, aggravated sexual penetration without consent, and drink spiking. The five-year exclusion period will pause during the time the person is in prison and will recommence upon their release. The penalty will be imprisonment for up to five years and a fine of \$12 000. It would take a brave person to suggest that any of those conditions are not worthy. People who indulge in that sort of behaviour should, quite frankly, be excluded.

The defence provisions are interesting. A person who says that they need to be in a particular precinct for a certain reason will be considered sympathetically. The following will be defences for entering a prescribed entertainment precinct: attending a person's own residence; attending another person's residence to provide care; work or educational purposes; receiving a health or welfare service; receiving legal advice; being in lawful custody; complying with a written law or attending court; attending a religious ceremony; an Aboriginal person fulfilling a cultural practice or obligation; and undertaking permitted travel. The final and interesting reason is undertaking an authorised union activity. The minister probably knew that this would be coming. I would like to know why attending an authorised union activity has been included as a discrete defence. I am concerned that some of these defences are quite subjective and might be difficult to police. A person could, quite frankly, go into one of these precincts and say that they are a casual worker or that they have gone there for training or a host of other things. I am not being a cynic. I am being a realist. We dealt with the same issues when we were debating the tattoo legislation for bikies. There is a lot of subjectivity with regard to these defences. I guess we could flesh that out in more detail in Committee of the Whole House. I would like the minister to provide an explanation so that we can make sure that there is no subjectivity. This is from the notes provided to me by the advisers, and also by going through the bill. These defences cannot be subjective. There must be a clear-cut understanding of why a person has been excluded and whether an exception should be granted.

I turn now to the review provisions. A person who has been issued with a short-term exclusion order can seek a variation or revocation by the Commissioner of Police. If an order has a term of more than one month, it can also be appealed to the Liquor Commission. A person who has been issued with an extended exclusion order can seek a variation or revocation of the order by the director of Liquor Licensing or they can apply to the Liquor Commission for a review.

Oversight and scrutiny of these reforms will be undertaken by the parliamentary commissioner, the Ombudsman, and a report will be required after three years of operation of the new provisions to identify any impact on any particular group in the community. That will provide a window of opportunity for some people, and that is good.

Overall, it is as simple as that. In the briefing, we were provided with maps of the proposed precincts. That was good. I have to say that those maps are not public at this stage.

**Hon Stephen Dawson:** They are not final, member; they are indicative.

**Hon PETER COLLIER:** That is right; that is what we were told. I will not go into too much detail, suffice to say that the maps looked eminently sensible to me. One thing I did notice is that those maps contain a number of residential streets, not only in Northbridge but also in Hillarys and Scarborough—everywhere. Will this legislation capture a person who has committed one of these crimes in their own home?

**Hon Stephen Dawson:** No.

**Hon PETER COLLIER:** It will not? That is good. Otherwise, I was going to say that it will be a very slippery slope in terms of subjectivity.

I would now like to go through a couple of issues with the implementation of this legislation. I discussed some of these with the advisers when we had our briefing the other day. I am very supportive of the intent of the legislation, which is to prevent violence in our entertainment precincts, using “Pep” Raco as a very vivid and powerful example. However, I have serious reservations about whether the government will be able to implement it practically. I draw upon the words of a former Commissioner of Police, Karl O’Callaghan, in a recent opinion piece. I am sure the minister has seen it. I read in part what he states, because it pretty much captures my reservations and how I feel —

If the PEP legislation is meant to be a deterrent, it fails on most levels, given that these types of crimes are largely opportunistic and, except for drink spiking, are rarely pre-meditated. These crimes are largely driven by excessive alcohol and/or drug consumption and are committed when rational thinking and reason are seriously impaired.

The legislation also fails at the level of making ... continuous police presence, a condition under threat by the seemingly unstoppable exodus from our police.

Observers have cast doubt on the ability of police to properly enforce the PEP bans, raising questions about how offenders will be identified and tracked. Police Commissioner Col Blanch poured cold water on those questions ...

While it is commendable to see the Police Commissioner reassuring us about how well trained his officers are, his claim is unconvincing. Are we expected to believe that of the thousands of people in a PEP at night that a newly graduated officer will know who is banned and who is not? That, of course, is in addition to knowing who is on the Sex Offenders Register, who has received a move-on notice and (maybe in the future) who is on the Banned Drinkers Register.

That pretty much captures my reservations. When I read that article, I found myself nodding because it is true. I cannot for the life of me ascertain how police will be able to remember or know who is excluded. We were informed in the briefing that they would be quite small in number, but there are a couple of issues here. The Western Australia Police Force has serious issues with police numbers, and I will go through that in a moment. I will talk also about Operation Heat Shield and a few other matters that have increased police presence in some of these precincts, but this legislation has a real practical problem. The tenure of police officers is four years in one location. That tenure will continue; it will be churned. What happens if a new officer comes into the area and is not familiar with who is on the exclusion list or who the people are? This stems from comments from the Commissioner of Police. I have great respect for the commissioner and WAPOL. I have tremendous respect for WAPOL; it is doing an extraordinary job under very challenging circumstances. However, when the police commissioner said that police officers “know their patch”, I thought that was good. In many instances, they do, particularly in the regions, but in Northbridge or Hillarys on a Friday or Saturday night. How on earth can we expect our police officers to know—as Karl O’Callaghan said, as with the sex offenders register and a raft of other exclusion registers—that someone is on that exclusion list? What tools does the government have at its disposal to prevent someone who is excluded from one precinct hopping off to another precinct—going off to Scarborough or Hillarys if they have been excluded from Northbridge or even taking a trek down to Mandurah? That is what I would like to know. It is a reasonable thing to ask. I do not know how we are going to implement that, if someone has been excluded. I had another point to make about that—I will remember it in a moment—about whether police have the capacity to identify and recognise those in an exclusion zone, because that in itself is problematic.

There has been a lot of talk, particularly in the past 18 months, about increased police numbers. This brings me back to whether police have the capacity at the moment to deal with this. I asked the specific question in the briefing whether there would be additional resources for police and the precincts to deal with this new legislation, and the answer was no. There will be no additional police in these precincts, yet they will be asked to do their standard work plus the additional work with the other exclusion categories as well, plus now another exclusion category. Bikes, sex offenders and a raft of other groups have been excluded, plus those that come under this legislation. No additional resources will be provided. In addition, the police force is under serious pressure. Operation Heat Shield, which was introduced several years ago to manage antisocial behaviour in the CBD and in regions of Western Australia, is one avenue, but there will not be anything above and beyond that. Operation Heat Shield provides an increased presence, but that is to deal with problems that already exist. I take, for example, a media statement by the Premier and the then police minister in 2020 headed “Operation Heat Shield to deliver a major policing boost this summer.” It states —

- Operation Heat Shield funded again, off the back of its success in 2019–20
- Police to target crime and antisocial behaviour during summer months
- More police on the beat in the CBD, suburbs and regional WA
- Major boost to policing hours to increase police patrols and targeted operations to tackle burglary, theft and family violence
- Previous Operation Heat Shield resulted in 2,500 arrests

A media release from the new police minister on Tuesday, 14 December 2021 basically said the same thing —

- New measures announced to tackle antisocial behaviour in CBD and Northbridge
- Measures include investment in Aboriginal liaison and security service RooForce
- Increased police presence with a mobile command post in Yagan Square

This goes to the essence of the problem in the police force at the moment. Police are being asked to do more and more on a daily basis in an increasingly complex society and as we are coming out of COVID, more and more people are getting out into the entertainment precincts, and now police are going to be given another responsibility. I cannot see how they will be able to do it practically. I would like the minister to confirm that no additional officers will be devoted to implementing this legislation; that this will be in addition to the current responsibilities of police officers in the precincts and no additional resources will be provided. I have been told by people in the know who have been around policing for a number of years that one of the groups that would potentially also value-add to this legislation is the regional operations group. I have asked some questions over the past week about the role of ROG and it appears that it falls into that category. The role of the regional operations group is to assist the districts and regional investigations unit with the apprehension of high-harm offenders and other priority offenders, the provision of support capability for critical incident or emergency management incidents and the provision of a public order response capability. It appears that its role will fall into the category of enforcing this legislation. I request feedback from the minister on that because I will ask some questions on this during the committee stage. The regional operations group currently has 120 dedicated officers. Its operational base is at Neerabup, ROG north; Warwick, ROG central; and Rockingham, ROG south. As at 17 November 2022, the ROG is allocated to the Joondalup, Mirrabooka and Mandurah districts, so it does cover areas under this legislation, but, again, are we asking more of a particular group within the police force that is in addition to their already established resources?

We do not need a PhD to work out that an industrial dispute between police and the government has been going on for months now. One of the biggest issues to come out of it is that police feel that more and more is being expected of them. They desperately want to have a switch-off category within their conditions so that when they go home, they can switch off. They desperately want to be recognised for the job of work they are doing. I want to make sure that we are not getting to the point at which we keep adding to their responsibilities every time we introduce a new piece of legislation, because that appears to be the case. For example, there has been no increase in the number of officers in the regional operations group in the last three years. Will responsibility for this matter be added to their role? If it will be, that will be just another thing that police will have to do.

I turn now to the number of police officers. The government has been very public and very glowing about the fact that it is going to have 950 additional officers over the next four years. Taking away the attrition, I am talking about the number of additional officers, which means there should be about 7 500 officers. We are nowhere near that and that concerns me. As we add more and more responsibility to our police officers, the well-vaunted increase of 950 officers appears forlorn. This was reinforced about 12 months ago. I am going back 12 months for a reason, minister. On 30 November 2021, I asked —

What is the total number of police officer vacancies in Western Australia at the moment?

That is when the trend of resignation from the force started, which is a tragedy. Police officers are committed individuals, so there is evidently something wrong. If we are asking more of them on a consistent basis, I cannot see the tide turning. This was 12 months ago.

The Minister for Emergency Services answered the question. He said —

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

The McGowan government is delivering 950 extra police officers over four years, the single largest increase in police officer numbers.

Hon Sue Ellery interjected by saying, “That’s great. How many?” Hon Stephen Dawson said —

There are 950 extra. Over 400 new officers will have graduated this year.

He then went into a blurb about what the government was doing. That was 12 months ago, minister.

**Hon Stephen Dawson:** Honourable member, as you are aware, I am a minister representing in this place.

**Hon PETER COLLIER:** I know; I am not having a go at the minister.

**Hon Stephen Dawson:** I am just making the point.

**Hon PETER COLLIER:** That is all right. I promise the minister that I am not having a go at him. All I am doing is reading the answer that he provided. I take on board that he is acting in a representative capacity.

Based on those figures—this is for the benefit of members—that would have meant 350 additional officers in 2021, 200 additional officers in 2022, 200 additional officers in 2023, and 200 additional officers in 2024. That is 950 additional officers. On 30 June 2020, there were 6 637 officers so that means that by 30 June 2024, there should be 7 587 officers, or an increase of 950. The government is really going to have to do something. The numbers are nowhere near that. After one year, there was an increase of 290 officers, but the increase should have been 350. After two years, there has been an increase of 370 officers, but the increase should have been 550. Although recruits are graduating, of more alarming concern is the number of officers who are resigning. For example, in the entirety of 2017, 143 officers resigned. To the end of September this year—ideally, today I will get some figures for October—371 had resigned, and I still have three months of figures to get, yet in the entirety of 2017, the figure was 143.

The number of new recruits is an interesting figure. In 2017, there were 2 945 applicants and 199 graduates. In 2021, there were 2 548 applicants—that is 400 fewer than four years before—but 446 graduates. There are twice as many graduates. A number of issues have come through in answers to questions I have asked about the physical standards and the graduating standards for the police force. That is an issue for another day; I do not want to harp on that today.

My point in raising these issues is to say that we are now dealing with a situation in which the number of Western Australia Police Force officers is on the decline. There has been a decline in the number of officers over the last 12 months. I will repeat that: there has been a decline over the last 12 months. From June 2021 to September 2022, there has been a decrease of 16 officers. Members might say that it is only 16, but, guys, let us remember that there should have been an increase of over 200. That is a massive turnaround.

As I have said, I support the intent of the legislation. That is not the issue. But if we are going to be asking our police officers to enforce this legislation when we are also giving them much more responsibility, I think we are going to have some issues. Ideally, I would like to think that in two or three years, crime rates in Northbridge, Scarborough, Mandurah and Hillarys will start to decline and we will not have the situation that we had with “Pep” Raco in which he lost his life; we will have sufficient police officers to enforce this piece of legislation. This is the third piece of legislation that I have contributed to in less than 12 months in my capacity of being responsible for policing issues. We are asking more and more of them, yet we are seeing a decline in the number of police officers.

The next issue I turn to is response times in those areas. Again, we need to consider this in determining whether we can implement this legislation. For the benefit of everyone, the response time is the time that police take to respond to particular crimes. The response times are put into grades of service and priorities. A priority 1 incident means that there is an imminent threat to life and a serious offence incident is in progress and urgent attendance is required. A priority 2 incident means that there is a serious offence incident in progress and immediate attendance is required. Unfortunately, the figures are not impressive. In 2016–17 in the entire metropolitan area, the response time for a priority 1 incident was 6.2 minutes. In 2021–22, it was 7.8 minutes, so it has increased. In Armadale, which is one of the other precincts, the response time for a priority 1 incident was 4.1 minutes. That has gone to 7.7 minutes. In Fremantle, the time is pretty much the same; it has gone from 7.8 minutes to 7.7 minutes. In Mandurah, the response time for a priority 1 incident has gone from 5.6 minutes to 9.4 minutes. In the Perth district—that includes Northbridge—the response time for a priority 1 incident has gone from 2.9 minutes to five minutes.

How are we going there, President? Do you want me to come up for breath?

**The PRESIDENT:** You may.

**Hon PETER COLLIER:** Thank you.

Debate interrupted, pursuant to standing orders.

[Continued on page 5751.]

**QUESTIONS WITHOUT NOTICE****FORRESTFIELD–AIRPORT LINK — SOIL CONTAMINATION****1212. Hon Dr STEVE THOMAS to the Leader of the House representing the Minister for Transport:**

I refer to the minister's answer to question without notice 1193 asked yesterday, 22 November.

- (1) On what specific infrastructure projects across Perth has Forrestfield–Airport Link spoil been used?
- (2) How much FAL spoil has been used on each of those projects?
- (3) Is there a physical barrier under and/or around the spoil stored at the 777 Abernethy Road site to prevent PFAS seeping into the environment beneath the stockpile?
- (4) Is the storage site at 777 Abernethy Road lined or double-lined to prevent PFAS leaching into the ground or groundwater?

**Hon SUE ELLERY replied:**

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

- (1)–(2) At NorthLink, approximately 30 000 cubic metres have been used; at Kenwick rail freight facility, approximately 120 000 cubic metres; and at Forrestfield–Airport Link, approximately 160 000 cubic metres.  
Beneficial re-use of approximately 250 000 cubic metres of soil on the Great Eastern Highway bypass interchanges project has recently commenced.
- (3)–(4) The concentrations of PFAS in the soil are below the human health and ecological assessment criteria in the *PFAS national environmental management plan*.

**NATIVE FOREST — LOGGING — TRANSITION PACKAGE****1213. Hon Dr STEVE THOMAS to the minister representing the Minister for Forestry:**

I refer to the Western Australian government's \$80 million Just Transition Plan for the timber industry to provide support to native forestry workers and businesses, and to the 28 October 2022 closure date for applications for forestry businesses.

- (1) As at 14 November, what was the balance of the \$80 million Just Transition Plan?
- (2) What is the current total level of funding for the Collie transition package, and how does this compare with the \$80 million for the timber industry?
- (3) Does the government's disparity in support reflect the voting patterns in Collie versus the timber industry?

**Hon ALANNAH MacTIERNAN replied:**

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

- (1) The \$80 million native forestry transition plan includes \$19.3 million towards the workforce transition plan, \$26.9 million for the business transition plan and \$30 million for the industry and community development programs. As at 14 November 2022, 61 workers had been paid under the workforce transition program, totalling \$1 629 300. As at 11 November, 24 businesses had been approved to receive a business transition program payment and had been sent letters of offer totalling \$21 616 960. The first of the industry community development programs, the small business development and diversification program, has opened and will close on 31 January 2023.
- (2) This question should be referred to the Minister for Regional Development.
- (3) In addition to the \$80 million native forestry transition plan, the state government has also committed \$350 million to grow plantation forestry.

**BROCKMAN PROPERTIES — CARNARVON****1214. Hon COLIN de GRUSSA to the Leader of the House representing the Minister for Housing:**

I refer to 10 Tonkin Crescent and 12 Tonkin Crescent, Brockman.

- (1) For the last two years —
  - (a) how many times has each property been broken into;
  - (b) how much money has been spent on refurbishing each property; and
  - (c) how many weeks has each property been tenanted?
- (2) How much has been spent by the Department of Communities over the last two years on security patrols along Tonkin Crescent?

**Hon SUE ELLERY replied:**

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

I note the suburb was not mentioned in the question that was lodged, so I assume that somebody worked out that that is the Tonkin Crescent that the member referred to, but he did not put it in his question.

- (1) Commenting on individual properties presents a security risk and could significantly compromise the privacy, security and safety of future tenants and surrounding residents. However, should the member seek a confidential briefing, the minister's office can provide one.
- (2) The Department of Communities has invested approximately \$19 668 for nightly patrols in the Brockman area.

## PRINCIPAL SHARED PATHS — COMMUNITY TRAVEL SURVEYS

**1215. Hon TJORN SIBMA to the Leader of the House representing the Minister for Transport:**

Regarding the \$231 951 paid by the Department of Transport to Painted Dog Research Pty Ltd in the 2021–22 financial year for market research, can the minister provide a copy of the community travel surveys referred to on page 194 of the annual report?

**Hon SUE ELLERY replied:**

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

I table community travel surveys relating to the Mitchell Freeway principal shared path and the Fremantle railway line principal shared path.

[See paper [1880](#).]

## GUARDIANSHIP AND ADMINISTRATION ACT — STATUTORY REVIEW

**1216. Hon NICK GOIRAN to the parliamentary secretary representing the Attorney General:**

I refer to the answers to my questions without notice 520 and 605 last year regarding the review of part 9E of the Guardianship and Administration Act 1990.

- (1) Does the Attorney General recall informing the house that a report on this review is to be tabled by no later than 7 April 2022?
- (2) Will the Attorney General table the most recent briefing note or similar document he has received regarding this review and its report?
- (3) If no to (2), why not?

**Hon MATTHEW SWINBOURN replied:**

I thank the member for some notice of the question. The following answer is based on information provided to me by the Attorney General.

- (1)–(3) In 2021, in accordance with the governance requirements of its evaluation and review steering committee, the Department of Justice established a project reference group to facilitate and guide the review of the amendment act and prepare the report on the review. The PRG prepared a discussion paper for distribution to stakeholders and consulted widely during the review. Stakeholder views were collated and analysed to inform the PRG's findings and recommendations in relation to the amendment act, which will be included in the final report. I table a copy of this discussion paper, and note that the final report will be tabled as soon as practicable.

[See paper [1881](#).]

## CARERS RECOGNITION ACT — REVIEW

**1217. Hon DONNA FARAGHER to the Leader of the House representing the Minister for Community Services:**

I refer to the *Review of the Carers Recognition Act 2004: Report to Parliament* tabled last year.

- (1) Have all 12 recommendations been implemented; and, if not, why not?
- (2) If not, will the minister list the status of each recommendation and when it is expected to be implemented?

**Hon SUE ELLERY replied:**

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

- (1)–(2) The Department of Communities has been working with key stakeholders, including the Carers Advisory Council, to develop appropriate responses to each of the recommendations of the review. All recommendations are in progress and are anticipated to be completed by 30 June 2023.

## BANKSIA HILL DETENTION CENTRE — TRANSITION SUPPORT

**1218. Hon PETER COLLIER to the parliamentary secretary representing the Minister for Corrective Services:**

- (1) After juveniles are released from Banksia Hill Detention Centre, are they provided with any support as they transition back into the community?
- (2) If yes to (1), what support is provided?
- (3) If no to (1), why not?

**Hon MATTHEW SWINBOURN replied:**

I thank the member for some notice of the question. The following answer, which is very long, is based on information provided to me by the Minister for Corrective Services.

- (1) Yes.
- (2) The Department of Justice provides release support, dependent on the manner in which a young person is released—that is, to freedom, on bail, sentenced to a community-based order or early release on a supervised release order.

When a young person is released to freedom, there is no legal remit for continued engagement with the department. In instances when there have been or continue to be self-harm or suicide concerns, parents and caregivers are informed both verbally and in writing to be in early contact with a GP to facilitate a mental health plan, or emergency services if risk is acute.

Interventions for young people on bail are short term and focus on stabilising accommodation placements and behaviours. They also focus on laying groundwork for a potential community-based outcome. Goals, however, need to be achievable in a short-term window of opportunity.

Young people who are sentenced from custody to a community-based order or released on a supervised release order have an allocated youth justice officer who provides comprehensive individualised case management addressing all matters relevant to that particular young person. This can include, but is not limited to, accommodation, structured recreation, education and vocational pursuits, mental health and disability supports, alcohol and other drug counselling and therapeutic programs targeting their offence-specific behaviour.

The Department of Education has youth transition coordinators who work with education and training services, youth justice services and the Banksia Hill Detention Centre Education Service, to research, develop, implement and monitor educational reintegration plans to support young people to access appropriate pathways to a range of training and employment options upon release from custody.

The youth transition coordinators commence working with a young person and youth justice staff up to six weeks prior to a young person's release from custody to support and refer the young person to appropriate pathways. In addition, a co-located child protection and family services case manager provides a conduit between the Department of Communities, Banksia Hill and youth justice services in terms of case managing young people in custody or being released from custody who are in the care of the CEO of the Department of Communities.

A justice liaison officer from the National Disability Insurance Agency is also co-located at Banksia Hill Detention Centre, who assists in the reviews of young people in custody to identify those registered with the NDIS, updates their justice interface and reviews support plans with the aim to link youth justice services to address any gaps in service.

- (3) Not applicable.

**The PRESIDENT:** You were not wrong about the length of that question, member.

## ROEBOURNE REGIONAL PRISON — AIR CONDITIONING

**1219. Hon Dr BRAD PETTITT to the parliamentary secretary representing the Minister for Corrective Services:**

On how many occasions did people present to the Roebourne Regional Prison medical centre for treatment or advice due to heat-related conditions between October 2021 and April 2022?

**Hon MATTHEW SWINBOURN replied:**

I thank the member for some notice of the question. The much mercifully shorter answer is based on information provided to me by the Minister for Corrective Services.

According to the Department of Justice's electronic health online system, there were 10 presentations for heat rash at Roebourne Regional Prison during the period 1 October 2021 to 30 April 2022.

BANKSIA HILL DETENTION CENTRE — NEURODEVELOPMENTAL IMPAIRMENTS —  
FOETAL ALCOHOL SPECTRUM DISORDER

**1220. Hon WILSON TUCKER to the parliamentary secretary representing the Minister for Corrective Services:**

I refer to research conducted by the Telethon Kids Institute in 2017 that found that 89 per cent of young people in a representative group of Banksia Hill Detention Centre detainees had at least one form of neurodevelopmental impairment and 36 per cent were diagnosed with foetal alcohol spectrum disorder.

- (1) Does the department of corrective services screen for neurodevelopmental impairment?
- (2) If yes to (1), how many children have been identified as having a neurodevelopmental impairment, such as FASD, at —
  - (a) Banksia Hill; and
  - (b) Casuarina Prison's unit 18?
- (3) If no to (1), why not?

**Hon MATTHEW SWINBOURN replied:**

I thank the member for some notice of the question. The following very long answer is also provided to me by the Minister for Corrective Services.

- (1)–(2) A formal screening instrument is not used, as the diagnosis of a neurodevelopmental disorder requires more than screening and there are no screening instruments available that would adequately capture the full range of neurodevelopmental impairments.
  - (a) For Banksia Hill Detention Centre, departmental records indicate that, as at 22 November 2022, there are nine detainees with a confirmed diagnosis of foetal alcohol spectrum disorder, four with a confirmed neurodevelopmental disorder not otherwise specified, four with a confirmed diagnosis of a communication disorder, seven with a confirmed cognitive/intellectual disability, four with a confirmed diagnosis of attention deficit hyperactivity disorder, two with a confirmed specific learning disorder and one with a confirmed diagnosis of autism spectrum disorder. It is noted that some detainees have multiple diagnoses. There are currently 19 detainees with a disability flag notification on the total offender management solutions system.
  - (b) For unit 18, department records indicate, as at 22 November 2022, there are four detainees with a confirmed diagnosis of FASD, three with a confirmed diagnosis of ADHD, two with a confirmed communication disorder and two with a confirmed intellectual disability. It is noted some detainees have multiple diagnoses, there are currently seven detainees with a disability flag notification on TOMS.
- (3) The formal diagnosis of neurodevelopmental disorders is a specialised task that requires a range of health and mental health specialties. For example, to formally diagnose FASD, a paediatrician, speech pathologist and neuropsychologist all need to complete a battery of assessments. Corrective Services does not have specialist staff on site to perform these assessments. The psychological and mental health staff on site are trained and employed to work with detainees to address risk, adjustment and criminogenic issues rather than specialist disability needs. Psychological staff on site at Banksia Hill are able to perform a range of initial assessments that provide a starting point to indicate whether further specialised assessment is warranted. Corrective Services also consults regularly with Department of Communities disability services staff, who provide specialist advice and training to Corrective Services staff as required.

POLICE — EXCESSIVE FORCE ALLEGATIONS

**1221. Hon SOPHIA MOERMOND to the minister representing the Minister for Police:**

In 2020 it was revealed that the use of excessive force by Western Australia Police Force to de-escalate situations had risen by a staggering 54 per cent and that there had been 180 investigations of excessive force by officers resulting in 88 of them being penalised.

- (1) How many investigations of excessive force by WA Police were there in 2021 and to this date in 2022?
- (2) How many officers were penalised for excessive force in 2021 and to date in 2022?
- (3) How many officers were suspended or dismissed in 2021 and to date in 2022 due to use of excessive force?

**Hon DARREN WEST replied:**

I thank the honourable member for some notice of the question. On behalf of the minister representing the Minister for Police I provide the following answer. The following information has been provided by the Minister for Police.

To enable an answer to be requested of police, I ask that the honourable member provide the source for the claimed statistics in the statement preceding the questions.

## CANNABIS — PROSECUTIONS

**1222. Hon Dr BRIAN WALKER to the parliamentary secretary representing the Attorney General:**

I refer the Attorney General to the recent, high-profile pardoning of those with simple cannabis possession convictions in the United States. On how many occasions have minor cannabis offence charges, as defined in section 8B(1) of the Misuse of Drugs Act 1981, been laid before WA courts in the past year, and how many of those charges led to a conviction?

**Hon MATTHEW SWINBOURN replied:**

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

## EMERGENCY SERVICES — STAFF

**1223. Hon MARTIN ALDRIDGE to the Minister for Emergency Services:**

I refer to the shortage of Department of Fire and Emergency Services mechanical technicians and auto-electricians.

- (1) By FTE, how many mechanical technicians are currently employed and, by FTE, how many positions remain vacant?
- (2) By FTE, how many auto-electricians are currently employed and, by FTE, how many positions remain vacant?
- (3) By FTE, how many staff have been attracted to positions since the attraction and retention incentive was created?
- (4) Noting that this incentive expires on 31 December 2022, will DFES have successfully recruited a full cohort of technicians by this time?

**Hon DARREN WEST replied:**

I thank the honourable member for some notice of the question and on behalf of the Minister for Emergency Services I provide the following answer.

- (1)–(4) There is currently a team of five full-time equivalent mechanical technicians employed at the Department of Fire and Emergency Services. We are actively recruiting for both of the two full-time equivalent auto-electrician roles available, and to bring the mechanical technician team up to nine. The attraction and retention incentive has helped fill one of the vacancies in this team. Given natural attrition and the high demand for skilled labour across Western Australia and the nation, DFES will continue to actively recruit until all vacancies are filled. As I mentioned last week, if any honourable members know of anyone who wants to take on one of these important roles, I encourage them to apply. DFES offers flexibility to join on a casual or part-time basis, in addition to full-time and regular employment.

## FIONA STANLEY HOSPITAL — CLADDING — FIRE RISK

**1224. Hon NEIL THOMSON to the Leader of the House representing the Minister for Health:**

I refer to question without notice 475 asked in the Legislative Assembly on 7 September 2021 regarding combustible cladding at Fiona Stanley Hospital.

- (1) Can the minister confirm that dangerous cladding on Fiona Stanley Hospital has commenced being replaced?
- (2) When will it be replaced, given five years have now passed since the Grenfell Tower tragedy?

**Hon SUE ELLERY replied:**

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

On behalf of the minister, I request the honourable member place the question on notice.

## PERTH CHILDREN'S HOSPITAL — INQUIRY

**1225. Hon STEVE MARTIN to the Leader of the House representing the Minister for Health:**

I refer to the independent inquiry into Perth Children's Hospital tabled on 9 November 2021.

- (1) Will the minister please provide the status of each of the 30 recommendations from the inquiry?
- (2) Can the minister provide a time line or priority order for implementation of those recommendations still outstanding?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question. I will make this point again: that is a considerable amount of information required to be collated in a very short time.

**Hon Neil Thomson** interjected.

**Hon SUE ELLERY:** I am addressing Hon Steve Martin.

The minister's response is that she requests that the honourable member place the question on notice.

ALBANY HIGHWAY–MENANG DRIVE — INTERCHANGE

**1226. Hon Dr STEVE THOMAS to the Leader of the House representing the Minister for Transport:**

I refer to the approval given to Main Roads WA to construct the Albany ring-road and the minister's answer to question without notice 1122 answered on 16 November 2022.

- (1) Can the minister please define the geometric realignments to the location proposal area made to encompass ramp 3 at the Menang Drive and Albany Highway graded interchange, including maps of the realignment?
- (2) When were the geometric realignments made?
- (3) What approval was sought and granted for the geometric realignments?

"Geometric" is a hard word to say!

**Hon SUE ELLERY replied:**

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

- (1) The geometric realignments were made to accommodate the reorientated grade separation, such that Menang Drive passed over the top of Albany Highway.
- (2) They were made in mid-2020.
- (3) No additional approvals were required.

BIODIVERSITY, CONSERVATION AND ATTRACTIONS — DECLARED PESTS

**1227. Hon COLIN de GRUSSA to the minister representing the Minister for Environment:**

I refer to the proposed memoranda of understanding between recognised biosecurity groups and the Department of Biodiversity, Conservation and Attractions for the control of declared pests on land controlled by DBCA.

- (1) Have draft MOUs been provided to RBGs for their consideration?
- (2) Within what time frame does DBCA expect that the MOUs will be executed, bearing in mind many of the volunteers who participate in RBGs are currently focused on the state's record grain harvest?
- (3) Is the minister confident that the proposed MOUs will provide adequate legal liability protections to the volunteers involved with RBGs upon the transfer of restricted chemical permits from DBCA to licensed pest management technicians?
- (4) When will the current restricted chemical permits held by DBCA expire, and is any consideration being given to extending the permits to provide sufficient time for the RBGs to review and come to an agreement with DBCA on the MOUs?

**Hon STEPHEN DAWSON replied:**

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

- (1)–(4) The Department of Biodiversity, Conservation and Attractions collaborates with recognised biosecurity groups through memoranda of understanding to undertake pest animal control programs across multiple tenures, including lands managed by DBCA. DBCA, the Department of Health and the Department of Primary Industries and Regional Development have endorsed a new process that ensures restricted pesticide permits are issued in accordance with legislative requirements, particularly the *Code of practice for the safe use and management of registered pesticides containing 1080, PAPP and strychnine*.

DPIRD and DBCA have recently communicated the new process to the RBGs. DBCA is organising workshops with each RBG over the coming weeks to work through the permit process, land access authorities and an updated memorandum of understanding to support the renewal of permits that expire on 31 December 2022.

The memoranda of understanding do not provide legal liability protections to volunteers involved in RBGs. Legal liability protection is an internal corporate governance issue for an incorporated body.

FIRM CONSTRUCTION — BAYSWATER TRAIN STATION

**1228. Hon TJORN SIBMA to the Leader of the House representing the Minister for Transport:**

I refer to the decision to cancel FIRM Construction's work on the Bayswater train station Metronet project.

- (1) When was FIRM Construction appointed to work on the project?
- (2) What was the nature of FIRM Construction's contract or subcontract on the project?
- (3) What was the dollar value of FIRM Construction's portion of work?
- (4) What is the value of invoices paid by the state government to FIRM Construction to date?

**Hon SUE ELLERY replied:**

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

- (1) In March 2022.
- (2) It was for construction works on the station building.
- (3) The dollar value was \$29.6 million.
- (4) The contract was with Evolve Bayswater Alliance.

## HOME STRETCH PROGRAM

**1229. Hon NICK GOIRAN to the Leader of the House representing the Minister for Child Protection:**

I refer to the Home Stretch program and the answer to my question without notice 1178.

- (1) Is the minister aware that the government promised to invest \$37.2 million on this program?
- (2) Is the minister aware that the government has allocated only \$9.5 million for 2022–23?
- (3) Further to (2), is the minister aware that \$4.5 million and \$2.4 million have been earmarked for Yorganop Association and Anglicare WA, respectively?
- (4) How much and to whom is the remainder earmarked for, and when will it be allocated?

**Hon SUE ELLERY replied:**

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

- (1) Yes, \$37.2 million has been committed from 2021–22 to 2024–25 with a staged statewide expansion of Home Stretch WA.
- (2)–(3) Yes.
- (4) Current funding allocation includes the following Home Stretch WA providers: Mission Australia, \$2.4 million; Salvation Army, \$2.4 million; Yorganop Association, \$4.5 million; and Wanslea, \$1.5 million. The remainder of the funding will be allocated throughout the staged roll out of the service provision across the state.

## MIDLAND COMMUNITY HEALTH HUB

**1230. Hon DONNA FARAGHER to the Leader of the House representing the Minister for Health:**

I refer to the Midland community health hub that will bring together services across the Child and Adolescent Health Service for children, young people and their families on one site in Midland.

- (1) Has a site been confirmed for the Midland community health hub; and, if yes, where is the location?
- (2) If not, what is the current status of the Midland hub?

**Hon SUE ELLERY replied:**

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

- (1) Yes. The Midland community health hub will be located at 1 Midland Square, Midland, as part of the state government's major upgrades to the former Landgate building.
- (2) Not applicable.

## POLICE — RESIGNATIONS

**1231. Hon PETER COLLIER to the minister representing the Minister for Police:**

How many police officers resigned in October 2022?

**Hon STEPHEN DAWSON replied:**

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

The Western Australia Police Force advises that it was 45.

## CHARLES STREET PLANNING STUDY

**1232. Hon Dr BRAD PETTITT to the Leader of the House representing the Minister for Transport:**

Main Roads has backed down to community opposition to its plans to widen the road reserve along Charles Street, stating that less than 50 per cent of people supported it.

- (1) What percentage of those surveyed supported the planning concept?
- (2) What percentage of those surveyed opposed the planning concept?
- (3) What was the cost of the now abandoned Charles Street planning study?

- (4) Will other similar duck-and-dive projects proposed for Applecross, Scarborough and Belmont be reconsidered in light of this community feedback?

**Hon SUE ELLERY replied:**

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

- (1)–(2) The percentage of respondents who supported the proposal was 46.
- (3) The study was completed as part of Main Roads Western Australia’s standard road planning activities.
- (4) Different projects produce different consultation results. This was a planning study to update an existing planning control area.

GOVERNMENT REGIONAL OFFICERS’ HOUSING — BROOME

**1233. Hon WILSON TUCKER to the Leader of the House representing the Minister for Housing:**

I refer to my previous question without notice 1130 regarding Government Regional Officers’ Housing properties in Broome.

- (1) Of the 413 GROH properties, how many are owned by the Housing Authority, as opposed to leased or under some other arrangement?
- (2) Is there a waitlist for eligible public servants to be placed in a GROH property in Broome?
- (3) If yes to (2), what is the average wait time?

**Hon SUE ELLERY replied:**

If I can assist the member as the Leader of the Government in the Legislative Council, I remind him that the arrangements that big agencies like the Department of Education, police and Health have is that they take hold of a whole range of properties. The Department of Communities does not have information about the properties that those big agencies hold. The member might want to think about crafting his future questions in that way. The answer that has been provided is as follows.

- (1) Of the 413 GROH properties in Broome, a total of 79 are owned by the Department of Communities and 334 are privately leased.
- (2)–(3) The Department of Communities does not operate a waitlist for GROH. Client agencies continually submit and update requests for GROH to enable them to forecast and meet the changing demand as part of their workforce planning. The requests fluctuate during the course of the year as business needs change, and do not always indicate an immediate demand for housing.

FIREARMS ACT

**1234. Hon Dr BRIAN WALKER to the minister representing the Minister for Police:**

I refer the minister to his media statement of March 2022 announcing plans to revise the Firearms Act.

- (1) Has the public consultation phase announced in that media release been concluded; and, if so, on what date did it conclude, how many submissions were received and/or bodies consulted, and will the minister table a list of those organisations that had input to date?
- (2) If no to (1), on what date is its conclusion envisaged?
- (3) Can the minister confirm that it is his intention to bring forward a bill for a new and updated Firearms Act within the lifetime of this Parliament?

**Hon STEPHEN DAWSON replied:**

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

The following information has been provided by the Minister for Police.

- (1) No.
- (2) In the third quarter of 2023.
- (3) Yes.

ROAD SAFETY — SPEED AND TRAFFIC CAMERAS — OUTSOURCING

**1235. Hon MARTIN ALDRIDGE to the minister representing the Minister for Road Safety:**

I refer to the request for information listed on the Tenders WA website regarding the road safety camera strategy.

- (1) Does the state government intend to outsource the operation of speed and traffic cameras to private organisations?
- (2) On what date did the request for information open, and when will it close?
- (3) How many submissions have been received to date?

(4) How many organisations attended the information event, in person or online, held on Monday, 14 November? Please table the documents for this request for information.

**Hon STEPHEN DAWSON replied:**

I thank the honourable member for some notice of this question. The following information has been provided to me by the Minister for Road Safety. I note that as the question was asked on 16 November and lodged on that date, the answer is current as of that date, and remote approval was provided by the Minister for Police.

The Road Safety Commission advises the following.

- (1) No.
- (2) It opened on 7 November 2022 and will close on 23 November 2022.
- (3) The number of submissions will be known at the close of submissions.
- (4) Eleven—all organisations attended online.

#### LANDGATE OFFICES — SALE

**1236. Hon NEIL THOMSON to the minister representing the Minister for Finance:**

I refer to the sale of the Midland Landgate building.

- (1) Did the amount paid in stamp duty on the transaction reflect the sale price?
- (2) If yes to (1), is the minister confident that the state has complied with the appropriate legislation?
- (3) If yes to (2), on what basis does the minister have that confidence?

**Hon STEPHEN DAWSON replied:**

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

- (1)–(3) The Commissioner of State Revenue exercises his statutory functions and powers in an independent manner and is not subject to direction in respect of those functions or powers. The Commissioner of State Revenue has established assessment practices to ensure the correct tax liability is assessed on a transaction. These practices are well established and supported by legislation, and are in place to provide the community with confidence that the state's tax and grant schemes are administered in a fair and equitable manner.

#### LEGAL PRACTICE BOARD — LEGAL SERVICES AND COMPLAINTS COMMITTEE

**1237. Hon STEVE MARTIN to the parliamentary secretary representing the Attorney General:**

I refer to the legal services and complaints committee of the Legal Practice Board of WA.

- (1) Can the committee operate without a community representative?
- (2) Do the community representatives receive an allowance or meeting fee?
- (3) Is the Legal Practice Board responsible for the payment of that allowance or meeting fee?
- (4) If no to (3), who is?

There is a question (5) that has escaped me, parliamentary secretary!

**The PRESIDENT:** Has the member finished his question?

**Hon STEVE MARTIN:** It has gone.

**Hon MATTHEW SWINBOURN replied:**

I thank the member for some notice of the question. I think he might have realised it sought an opinion! In any event, the following answer is based on information provided to me by the Attorney General.

- (1)–(5) Meetings of the legal services and complaints committee require a community representative, who is entitled to remuneration and allowances. With respect to the issue of responsibility for payment, the Attorney General has asked the Department of Justice to look into this issue with the Legal Practice Board.

#### STATE BUDGET 2022–23 — COMMONWEALTH FUNDING

**1238. Hon Dr STEVE THOMAS to the minister representing the Treasurer:**

- (1) What is the total projected revenue that WA will receive from the commonwealth across all revenue streams in each year of the 2022–23 budget and each forward estimate year?
- (2) How much of this funding reduces demands on the state's own expenditure?
- (3) How much of the commonwealth funding is contingent for concurrent state funding?
- (4) Of the total in (3), how much of the required funding is currently unbudgeted in the state budget for 2022–23?

**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) This information is published in the budget papers each year, including on page 80 of the 2022–23 budget paper No 3. To assist the honourable member, I seek leave to have the information incorporated into *Hansard*.

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

Year	Total Commonwealth Grants to Western Australia (\$m)
2022–23	14,135
2023–24	14,777
2024–25	14,337
2025–26	14,446

- (2) Commonwealth funding does not reduce demands on the state's expenditure, but it is a major source of funding for the state's expenditure requirements. In 2022–23, it is estimated that 37 per cent of Western Australia's revenue will be provided by the commonwealth. This is the lowest proportion of funding from the commonwealth of any state, with commonwealth funding provided to other states averaging 48 per cent of revenue.
- (3) The majority of tied grants, which make approximately 50 per cent of total commonwealth grants to Western Australia, are contingent on concurrent state funding.
- (4) Nil.

**QUESTIONS ON NOTICE 1049, 1050 AND 1051***Answer Advice*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [5.04 pm]: Pursuant to standing order 108(2), I wish to inform the house that answers to questions on notice 1049, 1050 and 1051 asked by Hon Dr Brad Pettitt, MLC, on 19 October 2022 of me, the Leader of the House representing the Minister for Housing; Lands; Homelessness; Local Government, will be provided on 29 November 2022.

**EMERGENCY MANAGEMENT AMENDMENT (TEMPORARY COVID-19 PROVISIONS) ACT — STATE EMERGENCY COORDINATOR — ADVICE***Question without Notice 1209 — Answer*

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services)** [5.04 pm]: I provide an answer to Hon Martin Aldridge's question without notice 1209 asked yesterday.

I am advised by the State Emergency Coordinator —

- (1) None.
- (2)–(3) Not applicable.
- (4) No.

**PRISON OFFICERS — DRUG TESTS  
YOUTH DETENTION***Questions without Notice 1200 and 1208 — Answers*

**HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary)** [5.05 pm]: I provide answers to Hon Sophia Moermond's question without notice 1200 and Hon Dr Brad Pettitt's question without notice 1208, both asked yesterday, which I seek leave to have incorporated into *Hansard*.

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

**Question without notice 1200 —**

- (1) For the date range 23 November 2021 to 22 November 2022 — 1505 tests on 1112 officers (ie 393 officers were tested more than once in this period). Of these, 27 tests were conducted at BHDC on Youth Custodial Officers and 183 tests conducted at the Academy on Trainee Custodial Officers.
- (a)–(b) 47 confirmed positive results. Of the 47 confirmed positive results, 42 were the result of medications where a valid prescription was held. Three were for medication without an appropriate prescription. The remaining two related to positive tests for cannabis (THC).
- (c) A disciplinary process was commenced on one prison officer who resigned during the process and received a reprimand. The other prison officer resigned prior to a disciplinary process being commenced, no further action was taken.

**Question without notice 1208 —**

- (1) A comprehensive review of the youth custodial operating policies and procedures has commenced to ensure compliance.

**OFFICE OF THE PUBLIC ADVOCATE — REPRESENTED PERSONS —  
NOTIFICATION OF DEATHS**

*Question without Notice 1207 — Answer*

**HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary)** [5.05 pm]: I refer to question without notice 1207 asked yesterday by Hon Nick Goiran, which sought the tabling of the Office of the Public Advocate practice standard for the notification to key parties on the death of a represented person. I now table those documents.

[See paper [1882](#).]

**ROAD SAFETY — SPEED AND TRAFFIC CAMERAS — OUTSOURCING**

*Question without Notice 1235 — Point of Order*

**Hon MARTIN ALDRIDGE**: I rise to raise the matter of the answer to question without notice 1235 provided in question time today by the Minister for Emergency Services representing the Minister for Road Safety. It was a five-part question, to which I received an answer to the first four parts. I believe an omission may have been made in answer to this question. The first question is listed on the minister's answer provided, but a number is not listed against it, so there may be a formatting error. I ask the minister to reflect on that answer for tomorrow's sitting.

**The PRESIDENT**: Thank you, member. I suspect that that is a point of clarification as distinct from a point of order, but I am sure the minister has heard your request.

**QUESTION WITHOUT NOTICE 1022 — MINISTERIAL RESPONSE**

*Matter of Privilege — Ruling by President*

**THE PRESIDENT (Hon Alanna Clohesy)** [5.06 pm]: I have considered the matter of privilege raised on Tuesday, 22 November by Hon Martin Aldridge under standing order 93(2) in relation to the possible misleading of the Council in answers to questions without notice. Standing order 93(5) provides that, upon a matter of privilege being raised in the house, the President shall determine whether —

... there is some substance to the matter —

And, if so —

refer the matter to the *Procedure and Privileges Committee* for inquiry and report to the Council.

The question as to whether “some substance” exists in relation to a particular matter requires me to make a preliminary assessment. Importantly, standing order 93(5) does not require me to undertake a detailed inquiry into the correctness of an answer provided to a question without notice.

On 25 October 2022, question without notice 1022 sought information about —

... the \$104.5 million disaster recovery package for communities impacted by cyclone Seroja —

Including the amount spent to date out of that fund. On the following day, 26 October 2022, an answer to the question was incorporated into *Hansard*. The answer listed some specific expenditure items and stated —

The Department of Fire and Emergency Services (DFES) and our recovery partners have done an outstanding job in supporting the recovery from Tropical Cyclone Seroja. With over \$25.42 million dispersed to date.

In a member's statement on 27 October 2022, Hon Martin Aldridge expressed dissatisfaction with the answer provided, particularly as to whether the quoted figure of \$25.42 million had accurately addressed his question. Hon Martin Aldridge followed up the matter with question without notice 1161 on 17 November 2022. The minister's answer reiterated the information previously provided, with the addition of an answer —

No-one has ever stated that \$25.42 million of DRFA funding has been expended.

In the absence of any procedural concerns with an answer arising from the standing orders, it is not for me, as President, to rule on the sufficiency of the answer. A much quoted ruling of President House from 12 August 2010 states —

... whatever way the question may be answered, that is the answer. That does not mean that some people will like the answer and that does not mean that everybody has to agree with the answer, but that is the answer that is presented to the Parliament.

I am of the view that, *prima facie*, the answers given by and on behalf of the minister were not false, knowingly misleading or an attempt to substantially obstruct the work of the Council. Hon Martin Aldridge stated that he exhausted all the options available to him to get greater clarity from the minister. I advise that there are still a number of options available to the honourable member. The member may, for instance, place a question on notice seeking more fulsome financial information, lodge a freedom of information application, put forward a motion on notice seeking an order of the Council that the minister table relevant documents, ask questions during the current annual

report hearings of the Standing Committee on Estimates and Financial Operations, or write to the Standing Committee on Estimates and Financial Operations and request that it consider inquiring into the matter in detail. I am of the opinion that there is no substance in the matters raised by Hon Martin Aldridge and, accordingly, I will not refer them to the Standing Committee on Procedure and Privileges.

### **LIQUOR CONTROL AMENDMENT (PROTECTED ENTERTAINMENT PRECINCTS) BILL 2022**

#### *Second Reading*

Resumed from an earlier stage of the sitting.

**HON PETER COLLIER (North Metropolitan)** [5.11 pm]: Prior to the break, I was talking about response times for Western Australia Police Force priority 1 and priority 2 incidents in the proposed entertainment precincts; they are quite disturbing. Response times for priority 1 and priority 2 tasks in each precinct have increased since 2017. I remind members that WA Police Force defines a priority 1 incident as —

Imminent threat to life. Serious offence/incident in progress. Urgent attendance required.

A priority 2 incident means —

Serious offence/incident in progress. Immediate attendance required.

The reason I said I am concerned is that there has been an increase in the amount of time it takes to respond to those incidents, which shows that our police are under pressure. The actual percentages over those districts just reinforce the point. Let us look at Fremantle, for example. These all go from 2016–17 to 2020–21. Priority 1 incident response in Fremantle has fallen from a 75 per cent success rate to 71.4 per cent, while priority 2 has fallen from 76.7 per cent to 72.5 per cent. Mandurah had a 100 per cent success rate for priority 1 incidents in 2016–17 but fell to 84.6 per cent by 2020–21, while priority 2 fell from 74.2 per cent to 66.6 per cent. The Perth district, which includes Northbridge, went from a 100 per cent success rate for priority 1 incidents in 2016–17 to 83.3 per cent in 2020–21, and priority 2 went from 86.8 per cent to 82 per cent. I am not saying that to make a political point; I am saying that to reinforce the point that I have established over the last half an hour—that is, I have no problems at all with the intent of the legislation. I am supportive of the intent of the legislation. Ultimately, of course, I like to think that we will see a reduction in antisocial behaviour in those protected precincts, but it is very difficult for police to take on an added responsibility when they continue to be under pressure.

What a difference 40 minutes makes! I received a response this afternoon to a question on resignations from WA Police Force in October 2022—that was another 45! The total resignations from WA Police Force from January to October 2022 is 416. That is extraordinary; 416 police have resigned. I take members back to 2017 when it was 143. It is even more alarming that we still have two months to go—November and December. On current trends, the number of officers who have resigned from the force this year will be close to, if not exceeding, 500 officers—500! That in itself is an issue of concern but that is an argument for another day. My point is that those figures about the response times show that, yet again, our police are under enormous pressure. If we want to retain police officers in the force, we have to value them, but if we are going to value police officers, we need to give them additional resources when we introduce new legislation that provides more responsibility for them.

We now have a situation in which yet another piece of legislation will provide additional responsibility to police but there are no additional resources—none at all. If that is contrary to the information that was provided in the briefing, I would like to hear it; if not, I would like it clarified that in fact there are no additional resources, given their increased responsibilities. No wonder police are adamant that we need to improve their conditions because they deserve them. Although the intent of this legislation is good, we cannot turn a blind eye to the fact that police are under increasing pressure.

Before I conclude, I mentioned that I wanted to talk about some unintended consequences of this legislation. I want to talk about two particular groups that Hon Dr Brad Pettitt has referred to. The minister will appreciate that I have saved the best until last; I will be using my final contributions to bring down the government.

**Hon Stephen Dawson:** Hit me with your best shot!

**Hon PETER COLLIER:** Ye of little faith!

Like Hon Dr Brad Pettitt, I do not treat this flippantly at all. There are some genuine concerns from groups, particularly those who are marginalised members of our community, who feel threatened by this piece of legislation. They feel that it will specifically target them and they need a voice. I thank Hon Dr Brad Pettitt for raising a number of these issues and I would just like to reinforce that. In doing so, I will read some concerns raised in a letter provided to me and, I am sure, most members, by the Law Society. It states —

In a media statement on 14 October 2022, the Law Society President, Rebecca Lee raised concerns about the introduction of these laws, particularly as:

- there is existing legislation in place that already precludes people from certain areas and with consequences of imprisonment;

- the laws impose an additional punishment on offenders who have served their sentence and then become subject to these orders post-sentence for up to five years (by the mandatory orders); and
- the exclusion orders are to be issued by police officers for up to six months with no court oversight at all. It is unclear if these will be exercised when a person is charged, or whether police do not have to rely on any offence/conviction at all.

Ms Lee said “It is concerning that there has been limited consultation given the extent to which the new laws will impact the community. The apparent appropriate intent to promote public safety and encourage families to frequent these precincts may be negatively outweighed by the impact of unconscious bias and the lack of judicial oversight. As a matter of principle, there is no increase in public safety if power is unchecked.

The new laws are untested anywhere in the world and no assurance has been provided that the principles of administrative and procedural fairness will be available under the new powers. The police should not be able to make guidelines for their own purpose. The making of guidelines should be used in limited circumstances and be subject to Parliamentary oversight. Policing decisions should be amenable to judicial scrutiny. With respect, the Government needs to stop rushing legislation into Parliament, which is becoming the norm and not the exception.”

In addition, the Aboriginal community has been very vocal in raising its concerns about this piece of legislation. I draw from a story that was on ABC News on Wednesday, 12 October 2022. This story pretty much captures all the information that has been provided to me about the concerns of Aboriginal groups throughout Western Australia about these proposed laws. It states in part —

A coalition of Aboriginal community groups and homelessness services have written to the WA government raising concerns about its proposed new Protected Entertainment Precinct laws.

Represented by Social Reinvestment WA, the organisations fear the laws will disproportionately impact Indigenous people and the vulnerable, and have asked government to address points of concern.

The Aboriginal Legal Service WA (ALS WA) also said it had not been consulted and held serious fears over the impact Protected Entertainment Precinct (PEP) laws might have.

The organisation’s CEO, Dennis Eggington, said there was little evidence PEP Laws would prevent violence, and he had no doubt Aboriginal people would make up many of those hit with bans.

“This state has got to start treating its First Nations people as equals, and it’s a terrible, terrible disgrace that in 2022 after all we’ve been through, we’ve now got these orders in place,” he said.

The article further states —

Social Reinvestment WA co-chair Glenda Kickett said being targeted by police was a commonly held fear among Aboriginal people in WA.

“That’s just been historical practice for us,” she said.

“We don’t want to see our young people continue to be targeted and placed in prisons or detention centres, where we’ve already got a lot of over-representation of our young people.”

In WA’s adult prisons, 40 per cent of the population is Indigenous, and in juvenile detention that figure is 74 per cent.

“We all feel strongly about the way government responds to crime in this state,” Ms Kickett said.

“We’re really wanting the government to invest back into communities, rather than putting more money into apprehending people for issues that are sort of really vague criminal activity.”

The article further states—

ALS WA director of legal services Peter Collins said another concern was the difficulty he expected vulnerable people would face accessing the appeals process if wrongly stung with a six-month ban.

“Because these people don’t have the resources or the wherewithal to be able to undertake the process.

“And legal services like the ALS are so under the pump when it comes to workloads, we are not going to be able to accommodate the needs of these people to undertake an appeals process.”

Mr Collins also questioned where the government expected people to live upon release from prison if they had previously lived in Perth or Northbridge, especially if they were homeless.

He said the best outcome would be if the legislation was scrapped altogether, and the next best would be if the government made sensible amendments following consultation.

He goes on to say —

The government has said exemptions will be in place to allow people to access services.

To conclude, minister, as I have said, I am definitely supportive, as is the alliance, of the intent of this legislation. Ideally, anything that we can do as a community to reduce crime, particularly violent crime, in memory of “Pep” Raco, will be a good thing. Having said that, I believe the government will have problems with the implementation of this bill. I would like to think that in the minister’s reply, he will respond to the issues that I have raised, and we will address those further in the committee stage. Other than that, I reinforce that I will be supporting the legislation.

**HON NEIL THOMSON (Mining and Pastoral)** [5.23 pm]: I also stand in support of the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022. I want to pass on my condolences to the family of Giuseppe “Pep” Raco. I also want to pass on my feelings of concern and sadness to those people in our state who have been affected by violence. That trend sadly seems to be increasing, particularly in my part of the world, the north of this state, in not only the Kimberley, but also some other regional centres. Liquor control, and the Liquor Control Act, which this bill seeks to amend, has been an area of considerable discussion in my part of the world for some time. I am interested in the fact that the government is now prepared to introduce significant changes that will enable the Western Australia Police Force to make arbitrary decisions in this area, although they will be based on certain criteria, as has been outlined at length by some of the previous speakers.

My local community has been calling for some time for parts of the Liquor Control Act to be looked at, particularly the provisions that relate to the control of liquor outside licensed premises. The act provides for licensees to manage the behaviour of people within licensed premises. The Minister for Emergency Services made the point in his second reading speech that these amendments will enable the police to act, we would say quite appropriately, when people behave in an antisocial or disorderly way in any of the five precincts that will be prescribed in the metropolitan region and effectively place a ban order on those persons. The people in my region have been talking about this for some time. We have been trying to get the government to look at the banned drinkers register, which has a head of power under the Liquor Control Act. There is also a voluntary process that has been entered into by the liquor accord in the Kimberley, with the cooperation of licensees, particularly around the sale of packaged liquor.

This bill to amend the Liquor Control Act, which we assume will come into operation shortly, will set an important precedent for the tone of some further reforms that I would have liked to see in this bill to ensure that the banned drinkers register will operate more effectively. Some suggestions have been put forward by my community through local government. I specifically reference the Kimberley Regional Group, which is made up of the four Kimberley shires. That group has played a big role in advocating for this and has taken it upon itself to initiate the implementation of the first steps. It took some time, but it eventually got the government on board. The banned drinkers register has some limitations. It has been rolled out to other parts of the state, such as the goldfields, for example. People in the Kimberley are calling for exactly the same provisions that will now be brought in for entertainment precincts in the metropolitan region.

I therefore welcome this bill, because I sense a change in the government’s approach. I believe the bill should go further and allow a police officer to effectively sign off that a person be automatically placed on the banned drinkers register. For example, a person who has committed any of the offences listed in this bill in relation to the mandatory provisions might automatically be placed on the banned drinkers register. Now that the government is setting the tone, we should move onto that area. I am disappointed that the bill has not taken on that part of the equation. That would be even more effective in dealing with the scourge of alcohol and drug-fuelled violence, particularly alcohol-fuelled violence, that is causing a lot of the problems that we are seeing in our entertainment precincts. For example, a police officer can sign someone onto the Northern Territory’s banned drinker register quite readily. I have said many times in this place that the Western Australian banned drinkers register has not been working properly because there are not enough people on the register. It is important that we get more people on the register because if we focus on the cause of these problems and get right down to the basis of the issue, excessive alcohol often creates violent behaviour.

I have some sympathy for Hon Dr Brad Pettitt after listening to his comments. Although I do not agree with everything he raised, I understand his concerns. For example, he raised issues relating to the duration of banning orders without judicial oversight. In fact, provisions in the Northern Territory’s banned drinker register enable police officers, social workers and a range of public officers to place a person on the banned drinker register for a short period while enabling some judicial review to be undertaken in order to determine whether the ban is for an extensive period. Philosophically, I would be more comfortable if banning orders retained a level of judicial oversight, particularly when they are in place for a much longer period. In saying that, I support the government’s move. It is good to see that we have crossed the Rubicon, so to speak. We have said that we are going down this path and we will allow the police to make the orders, with procedures in place that will enable them to ban people from purchasing alcohol for an extensive period based on certain behaviours, without judicial review. If I were a minister, I would not introduce the legislation to this place in that exact way. Given that we are now going down this path, why are we not dealing with some of these other issues, particularly those relating to the source of the problem? We have a situation of looking in the rear-view mirror.

Although I support, in the vernacular, the creeps and crims of this world who come out of jail to automatically be banned from certain places, that is also an admission of the fact that we are not rehabilitating people in the justice system. That is an issue. I have no hesitation in supporting this legislation as I agree that those creeps and crims should not be around places with vulnerable people; we see too much of that going on. I am sure that those creeps and crims who have rehabilitated—some of them become rehabilitated within the justice system—will see this additional penalty, an extrajudicial penalty, as a small price to pay for the terrible actions for which they paid the price within the justice system. I am sure they will not hold that against the state.

I imagine that after they are rehabilitated, they would have a great sense of regret and remorse. I do not think we should be sensitive about that. Addressing some of the concerns raised by Hon Dr Brad Pettitt, the ones who are genuinely rehabilitated will probably not feel it is such a bad thing to be imposed with this additional penalty because if they have committed a heinous crime, they will not be allowed into entertainment precincts. That is absolutely fair enough.

Let us look at this legislation. I am pleased that it contains a regulation-making power to increase the number of locations of these precincts. As I said at the beginning of my speech, we have a horrendous situation involving alcohol-fuelled violence and crime in the north of our state, which is wearing the community out. The situation is getting worse. Very sadly, the data is clearly on the up. Although there has been a downward trend in the number of crimes in the Perth region, that is not the case in the Kimberley. For example, I refer to issues relating to family assault. During the three months of the last quarter of 2022 versus 2007, the number of family assaults reported in the Kimberley rose from 86 to 356—a 314 per cent increase. People say that there is better reporting, and that is great but it is not just a case of better reporting; there are more and more cases of terrible alcohol-fuelled violent assaults. Non-family assaults, which is the sort of thing we would expect to be reported right across the board because somebody who does not know somebody gets assaulted, rose from 169 in that same quarter back in 2007 to 258. That is the figure for just one quarter in an area with a population of around 30 000 people.

By the way, these rates are 16 times the rates of the metropolitan area. We are targeting areas such as Northbridge and Hillarys, and rightly so, but the big problem is in the Kimberley. It is really bad in that area. The rate of assaults on people in the Kimberley per head of population is 16 times higher than in the Perth metropolitan area. It is a crisis of huge proportions.

We can talk about the tourism and entertainment precincts in the north, and the doof parties. I note the terrible case of a young woman who was sexually assaulted on Cable Beach last May. These incidents occur because creeps and crims target these venues and take advantage of people in vulnerable situations. That is why I am calling for the government and whoever has the power—I assume it is the liquor licensing division; maybe it rests with the minister, which can be clarified—to amend by regulation the addition of one of the precincts in Broome. That would be fantastic and certainly provide a more welcoming space for tourists in the town. It is not good for our tourism reputation. Prior to COVID, a European cruise ship sailed into Broome. There was such shock and horror from patrons on the cruise ship about the level of antisocial behaviour. I heard anecdotally—I assume the minister received advice—that the cruise company said it would never go back to Broome because of the antisocial behaviour.

Sadly, we get used to it. I think Hon Ben Wyatt was up there just before the last election. About 300 or 400 community members attended a crime forum in the Broome community centre. We were talking about this very issue, the terrible crimes that are committed, the antisocial behaviour, the challenges of the police and what we could do about it. At the end of the forum I was driving home and there was a queue of traffic and, sadly, a woman—I hate to say it, but this is the harsh reality that you get used to—was naked from the waist down, lying on the road. Another young woman had got out of her vehicle to assist, and I jumped out of my car to assist with the situation. A lot of cars just meandered around that vehicle and tried to get out of the way or turned around and went in the other direction. It is challenging. I was then verbally assaulted by a drunk person. Obviously something nefarious was going on and it certainly was not a good situation. I was on the phone to the local police. This was right after a crime forum, next to Male Oval in the heart of Broome. It highlighted for me the situation. The police arrived and that woman was taken away. I do not know whether there was a sexual assault but it certainly did not look very good. Prima facie it looked as though that could have been going on. Certainly someone there was acting in a very threatening way towards that person and it was only because the other community member and I intervened that we managed to get the police to attend the situation. They came fairly rapidly, which was great.

That is just not on. Those sorts of behaviours are not on in Perth and they are not on in Northbridge, Hillarys, Kununurra, Broome, Carnarvon or Kalgoorlie. We need to do something about that. We need to extend the precincts. We need to make sure that we deal with the challenges related to alcohol. I ask the government to not just look in the rear-view mirror, but to consider some of the causality factors. The issue has been raised in this place. Our deepest sympathies go to the family of Giuseppe “Pep” Raco and I congratulate them for driving change through the legislative process. However, my concern is that we are not completely tackling the issue with this bill. It will lay a foundation that can be used and the principles can be applied, and I have outlined why. The source of a lot of these problems is the abuse of alcohol and some of the challenges that flow from that.

That is why we need to deal with the rivers of grog that get into our communities. We saw the Aboriginal women in Fitzroy Crossing rise up against foetal alcohol spectrum disorder and violence that were causing issues to such a huge extent and to try to get change. We know that some of those changes and their effectiveness will need to be reviewed over time, as will this legislation. I am sure there will be changes to it going forward because it is important that we deal with this matter correctly.

Let us see how we can use the principles outlined in the legislation that will give capacity for police to effectively ban someone from being in a certain location and not focus on just a geographical location but on access to alcohol and other things to drive some of the rehabilitative options in the community. This is the key: we need to rehabilitate the people who have fallen into the terrible trap of alcohol abuse and, of course, the terrible scourge of family and non-family violence and sexual assault—those sorts of things that are tearing our communities apart.

As I said, I support the legislation, as my colleagues do. It is far from perfect, but it will lay an important foundation. There will probably need to be an assessment of its function and effectiveness going forward. Hon Peter Collier raised very important issues around the resourcing of police. Changing the law is not good enough; these things need to be resourced. This goes right back to the family-related issues in my community in the north. My humble attempt in my community was to hold the community crime forums in February this year. I tabled a report in this place about some of the solutions. I will refresh people's memories on that because it relates to this bill. One or two of the great ideas that were put forward by the community have been picked up by the government. I congratulate the Minister for Regional Development for finally getting the diversion facility going. She was running a bit late on it, but it finally got up. The community is watching. This has got to work. The issues around substance abuse and the need for sobering up facilities in each town were raised. We have to get the programs working to be preventive, not just punitive. We should not have just a punitive approach to this. Human nature, sadly, can be very dark, especially for those who slip down the slope of abuse and who unfortunately had disadvantage in their lives. Plenty of people in my part of the world are in that situation. They have had terrible disadvantage, particularly young people whose family situation is unbelievably terrible—beyond anyone's comprehension unless it has been seen firsthand. Sobering up facilities need to be focused on. I would like to have seen more around the preventive side. Alcohol rehabilitation and mandatory drug rehabilitation for parents of children who offend need to be focused on. The bill addresses young people who might be excluded. They might have committed certain crimes and they are then excluded for shorter periods, but would it not be great if we focused more on getting young people into a situation that was safer so that they did not commit those crimes? That goes to the heart of some of the challenges we have seen recently in the media. The Premier was asked about the age of criminal responsibility. I support his view. I do not think anything is to be gained by reducing that because it is not about the age of criminal responsibility; it is the fact that these kids are doing the crimes in the first place. It is what we do with those kids when they commit those terrible crimes. Some of them are crimes against persons; some are terrible assaults, putting people's lives at risk. There are some horrendous examples. It is what you do to have that focus on rehabilitation. Sadly, we are not seeing that with Banksia Hill Detention Centre; we are seeing quite the opposite. We are seeing the brutalisation of young people in that situation.

I hope the little step that is taken with the Myroodah station project is the start of the change. I will be the first to congratulate the government. I am not here because I want the government to fail. I need the government to not fail because if it does not fail, that is better for all of us. It is better for our community and it is better for those young people.

My final point is about making the banned drinkers register work. That goes right to the heart of this. Would it not have been great to see provisions in this bill to allow police officers and public officers to just say, "You're on the banned drinkers register; you won't be able to purchase alcohol at any venue for two to five years"? It could be a shorter period, after a judicial review, which is what I would have preferred. That concern was raised and I think it was fair enough.

Those are my main points. In summary, I support this bill. It is laying down the principle for further change. There will be no excuse now. The government cannot say that it cannot do it. It cannot say that the legislation is not fit for purpose. That is the excuse that I have heard about the banned drinkers register. If we can do it for these precincts, we should be able to do it with the banned drinkers register. We should be able to include regional centres that are high on the entertainment venue list. Quite frankly, I do not know why the bill focuses just on entertainment precincts. People are being harmed by these creeps and crims who are doing the wrong thing not just in places where they are having a good time, but also in places where they are going about their normal day-to-day business. Unfortunately, and sadly, some dysfunctional young people have been set terrible role models by these creeps and crims who keep doing the wrong thing. I support this bill, but I want to see more.

**HON WILSON TUCKER (Mining and Pastoral)** [5.51 pm]: I rise to speak on the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022. As I mentioned in my brief contribution on the motion to refer the bill to a committee, I support the intention of this bill. I support what the government is trying to do with this bill in reducing crime in these entertainment precinct areas. My concern is whether the bill will be effective in achieving that goal of reducing crime and how it will be implemented.

I have two main questions about the crux of this bill. The first question is: will this bill deter crime in these areas? As a hypothetical, if someone goes into Northbridge and they have an intention of committing antisocial behaviour, will the deterrent of being banned from the area prevent them from committing that crime? Will there be a reduction in or a deterrent to crime in these areas based on a ban being put in place? The other question is: will this legislation not just disperse people from these entertainment precinct areas into other areas to commit crimes there? As another hypothetical, is a serious offender less likely to reoffend if they are banned from these entertainment precinct areas or will they just reoffend somewhere else? In that way, we will not be reducing crime in Western Australia; we will just basically be pushing it out to other areas. We know that the government is trying to prevent crime in these precincts, but I am asking for the evidence to support the government's contention that crime will be reduced as a result of this bill. Will we just be forcing the police into some elaborate whack-a-mole scenario whereby serious offenders will be committing crimes in other areas instead of in these entertainment precincts? Police will potentially be less equipped to deal with serious offences committed by people in areas outside of these entertainment areas. They obviously congregate in these areas, so it is easier for police to manage them than if they are dispersed into the wider metropolitan area. So far, I have not received an adequate answer to both these questions.

In taking a broader look at this, my initial reaction was that I do not believe police intervention is a good thing. If there is a heavy-handed response, there will be a heavy-handed reaction. We heard some commentary about that from Hon Neil Thomson. The WA government and police should strive to de-escalate the situation rather than potentially pouring fire on the situation and escalating it. We should try to address the root cause rather than attack the symptoms. This is obviously a very lofty ideal and is easier said than done. I acknowledge and appreciate that we live in a society with a broad spectrum of people. People in Western Australia come from different backgrounds and they have different thoughts, feelings and desires, so it is hard to create one-size-fits-all legislation. There will always be edge cases or people who will find ways around things.

What I am suggesting—I am not arguing against the proposal in this bill—is that it is okay if we create laws that target a minority for the betterment of a wider cohort of people. I support the intention, but it is really about the implementation of the bill and whether the government has done its homework properly to make sure that this legislation will work as intended. I am asking for the evidence. I would like to see the homework that the government has done on this bill and also what the government and the police have tried previously. It feels as though we are taking a very heavy-handed approach with this bill. It feels as though the bill is an acknowledgement that everything else has failed and this is scraping the bottom of the barrel. We have tried multiple things and now there is this concession that we cannot get on top of this antisocial behaviour. A level of serious crime is happening and stronger police intervention is required, and that is what this bill is seeking to deal with. As I mentioned in my comments on the referral motion, when we talk about extending the powers of the police—I acknowledge that this is minor—we are slowly progressing to a future scenario in which our civil liberties and freedoms are being encroached upon. That is something that we should take a serious look at. Certainly, it is a job for Parliament to demand answers about whether the bill will work as intended and whether these expanded powers for the police are required in this case.

The WA government has the luxury of looking at other jurisdictions to see how similar laws have worked. A number of countries have put in place similar hot-spot policing laws. Denmark has stop-and-search zones, which are aimed at barring violent offenders from popular nightlife areas in a bid to reduce violence. A report produced by Lund University in Denmark found that the stop-and-search zones were not effective and were not reducing crime and that the legislation was not working as intended. Another example a lot closer to home that I think all members will be familiar with is the lockout laws in Sydney. There have been a lot of negative ramifications and impacts for the business owners and licensees that operate in the entertainment precincts where the lockout laws are in place. The evidence shows that there has been a reduction in crime in those areas where the lockout laws are applied, but the evidence also shows that there has been an uptake in crime in areas surrounding the lockout areas. Basically, people are just being dispersed.

I am going to take a leaf out of Hon Steve Thomson's book and share a personal story on this subject—and it does not involve 82 mid-strength beers, unfortunately!

**Hon Stephen Dawson:** Honourable member, you said Steve Thomson.

**Hon WILSON TUCKER:** I meant Leader of the Opposition Hon Dr Steve Thomas. I thank the minister for the correction.

Several members interjected.

**Hon WILSON TUCKER:** There are a lot of Steves in this chamber; some would argue too many!

Several members interjected.

**The DEPUTY PRESIDENT:** Order!

**Hon WILSON TUCKER:** I was living in Seattle in 2020 under the fairly volatile Trump regime. We saw the death of George Floyd. A heavy-handed approach by a police officer in Minneapolis sparked nationwide protests and a lot of riots broke out. Seattle is a very liberal or left-wing city. It is very blue. I think a lot of the media outlets

just give the votes to Washington and basically attribute them straightaway. Same with California—they do not really need to count them. They know it is a blue left-wing bastion. We saw all these left-wing groups coming out as a result, like in the Black Lives Matter protests. They did escalate to a degree.

I am not sure whether members are familiar with CHAZ and CHOP. CHAZ is the Capitol Hill autonomous zone. Capitol Hill is basically the Northbridge equivalent of Seattle. I was living in Capitol Hill, sort of on the outskirts, on the quieter side. After the fact, the Capitol Hill autonomous zone was renamed Capitol Hill occupation protest area or CHOP, something like that. Basically, the police did not go in there; the people largely took it over. The police fled their precinct in an attempt to sort of de-escalate the situation. They were really close to this area in which the people were protesting. They basically just gave people this area and did not enter it for around, I think, two weeks. In an area within which there is no police, we would expect a level of sort of lawlessness, crime breaking out and complete chaos. But that was not case—certainly for a while. I will preface this.

For at least the first half of the lifetime of CHAZ, it was a really peaceful place where people were staging talks. Mayor Durkan of Seattle commented that it was quite a lively, festival sort of environment. It was during the pandemic as well, so a lot of people took the opportunity to get out of their house and mingle as best they could. But that was really sort of social and lively atmosphere where people were sharing knowledge of protests and handing out pamphlets and drinking beers—whatever you needed to do. It is America so guns got involved and it eventually turned violent with the death of two teenage boys. Trump was also inflaming the situation by tweeting that he would send in the National Guard. Eventually, the mayor stepped in and took back control of this place. I just raise this story not because I am suggesting that we should implement a similar CHAZ-style model in Northbridge or these other entertainment precincts, but it is a model under which we do not need authoritarian regimes. We do not need to just come in with more restrictive rules, which is what we are seeing here. Other models are available. Whether we want to classify them as left wing or right wing, there are other ways to do this. I agree with Hon Neil Thomson when he says that we should look at this more holistically and try to work out why we are seeing these levels of incidents here, rather than just trying to control people by putting more rules in place and potentially inflaming the public.

I will leave it there for now. I have a lot of questions and I think we would be best served if I ask them during Committee of the Whole. To date, I am of the view that I will support the passage of this bill through the second reading stage. I have a lot of concerns about how this bill will be implemented and I have a lot of questions. To get a level of confidence at which I will support the bill through committee, I will ask a lot of questions to try to uncover exactly what the government has done in terms of homework and looking at other jurisdictions, and the levels of confidence it has around how these laws will work. I am certainly one who will have a bias for action. A level of certainty should be uncovered as we march forward with these decisions. I am suggesting that we should not reach a level of 100 per cent confidence because I do not think we can ever achieve a 100 per cent level of confidence when we talk about these laws. We can look at other jurisdictions' data and statistics and try to apply them to the WA experience. But there is certainly a lot of friction when we talk about passing legislation. This is what we are dealing with now and we are unlikely to see another amendment to this or another version of this for a long time, so we need to make sure that we have done it correctly and that it will work as intended. I will certainly ask those questions to uncover whether the government has done adequate homework on this legislation. I would like to know whether there will be some level of monitoring and also whether statistics and data will be available to the public and Parliament for us to assess whether this bill is working as intended.

This is my final point. Yesterday the crossbench received a joint briefing. I think it was in the late morning and it was a 30-minute briefing for four members of Parliament. This is obviously a very complicated and potentially serious piece of legislation. I think it is ridiculous and disingenuous for the government and the minister to not allow the crossbench more time to get across the legislation, have the briefing, write notes, digest the legislation and come up with something half-intelligent. I think it is disrespectful to the crossbench and I certainly think it is disrespectful and disingenuous for this place given the short time that we have for a very complicated matter. I have a lot of questions for which I would like answers to have a level of confidence to further support the passage of this bill. Now we will have to go into committee. Rather than my questions being answered as part of the briefing, the legislation will have to be fleshed out as part of the committee stage.

**HON DR BRIAN WALKER (East Metropolitan)** [6.07 pm]: My party and I will support the Liquor Control Amendment (Protected Entertainment Precincts) Bill 2022—in principle. We have all seen the terrible news coming from these precincts where uninvolved people are struck down and killed in acts of wanton stupidity. None of us would say that this is acceptable—none. Points were made earlier about the rate of non-family assaults being 16 times higher in the Kimberley, but at least it is good that we are making a start in Perth. We should try to take it elsewhere.

Why would someone like me be opposed to this bill? It has to be said I am not opposed to the bill. I am opposed to the unintended consequences of the bill passing in its current form, because it is all very well to put out a bill that intends to do something good, but if the actual effect of that bill fails or falls short, we have failed in our duty as members of Parliament to put forward adequate legislation. We listened earlier to the very comprehensive report on this bill by Hon Dr Brad Pettitt. I note also with great thanks that Hon Wilson Tucker pointed out how little time we have had to deal with this legislation. I have a relatively simple job because I am a simple doctor—members

may laugh—so I am looking at what we could say here that would be of benefit to this bill. In looking at all the horrible events that gone on, I notice one common uniting factor. It is not poverty. It is not homelessness. It is not ethnicity. It is nothing else but the simple factor of alcohol.

The single most unifying factor is alcohol. I might mention methamphetamine as well. A bus driver friend of mine says he knows which kinds of drug addicts get on the bus, and he says that alcohol-affected people are nasty. The methamphetamine-affected people are also nasty but the cannabis-affected people are very mild and placid. He knows what is going on. There are plenty of other drugs available as well. The current trauma that we as a state are facing is due in large part to a drug that is legally available. I can point to a spot in Cottesloe where within two minutes in any direction I can find four outlets selling alcohol. It is very easy to get. There is plenty of alcohol available, with unlimited access. We have a problem caused by alcohol and we have unlimited access to alcohol, yet we ask ourselves in all seriousness what the problem is. The penalty for drinking alcohol in Saudi Arabia is probably having your head cut off. That is a little bit drastic, I think, but it solves the problem.

Alcohol as a drug does a number of things. Members who have seen me imbibing one gin and tonic at lunchtime will have noticed that I thoroughly enjoy that. It is drinking the whole bottle that is the problem. Yes, I have done that, but with whiskey, and it was not a good outcome. It is never a good outcome when alcohol is consumed in anything other than a moderate intake. It is a central nervous system depressant. That means that if people take enough of it, it will depress a person's breathing and ability to respond to vomit and the person could suffocate, drown or stop breathing. Alcohol is deadly. It kills 6 000 people a year in Australia yet we allow it freely in our precincts. It is there because we enjoy it and, as a central nervous system depressant, it allows us to do things we would not normally do, like streaking naked across the street for a bet.

**Hon Darren West:** What's wrong with that?

**Hon Dr BRIAN WALKER:** I have done that, too. The inhibition of the control systems is part of the problem. With that, now comes a problem, because if someone is aggressive for whatever reason and the control systems that suppress that aggression are uninhibited, we will have a problem with violence. That problem is present in not only all these precincts, but also widespread family situations when people come back drunk and abuse partners and children, to the point at which post-traumatic stress disorder is now a major problem throughout our society. That is because of alcohol. It is a blight on our society. I could talk for hours about alcohol. As a doctor, I deal with the problems it causes. People ask, "How do I get off alcohol? How do I manage to survive without alcohol?" I have seen quite a few people fall into their grave after a long and difficult course. That is fine as long as they do not hurt anyone else. The problem with alcohol is when people interact with other people and commit violence or drive their car when intoxicated or do things that they would not normally do. It is a blight on our society. That leads, of course, to antisocial behaviour.

We have another problem, as Hon Dr Brad Pettitt pointed out, which is how we define "antisocial behaviour". To put that into context, when the police do their job—it is a very difficult job to do—how do they know whether someone is reaching for a KitKat when they could be reaching for a blunt force weapon? A police officer might react to someone's aberrant behaviour because the person's movements look suspicious and that person could end up with a fractured skull. Police officers need to protect themselves because, heaven knows, enough of them are assaulted on a regular basis. How do we define "antisocial behaviour"? Another problem, which was pointed out earlier, is that antisocial behaviour can be very dependent on a person's circumstances. For example, I read today about someone whose skull was fractured because he carried a poster with an unparliamentary word on it. The police officer took offence and smacked him one and the person ended up with a fractured skull. He was assaulted because of antisocial behaviour by displaying a foul word in public. That was antisocial behaviour. How appropriate was the response to that? Can we trust our police? I hope we can. Can we trust police officers? It brings to mind the husband and wife who were pulled from their car and beaten by a police officer who then denied the fact despite it being on video. It took much effort by the white middle-class couple to manage the claim of police brutality. How difficult would it be when unsuitable behaviour is applied to someone who is homeless with a darker skin colour who is living on the edge? All these points can be brought to mind. It is certainly very possible that we will have issues simply because of the definition of "antisocial behaviour". Is that suitable? Is the definition fixed enough in legislation that we can be sure that the police response will be adequate? Members, I think not. Therefore, we are at risk of putting into legislation a law that enshrines the possibility of causing harm to others, and that is unacceptable. How can we look ourselves in the mirror if we allow legislation that causes harm to others to come on board?

I heartily support the excellent choice of precincts. It could certainly apply to other areas of our nation as well, but why has it taken so long? I note also that the main problem is alcohol, as I said before. It is a foundation in our society. It is firmly entrenched in our society. It is accepted. We toast each other with alcohol. It is normal and acceptable. A barbecue is not complete without a beer in one hand, but in other parts of the world someone who drinks alcohol would be put in prison or executed. It is defined by the government of the day. However, we have some regulations on alcohol. The blood alcohol level when driving, for example, is .05. If someone drives with a blood alcohol level above .05, they can be convicted of driving under the influence. The reason .05 is the limit is that we can calculate that the number of car accidents more than doubles for drivers with a blood alcohol level

above .05 than for drivers with a zero blood alcohol level. Think about that. Any amount of alcohol while driving is liable to increase the risk of causing an accident in which someone might be either injured or killed. The correct response ought to be to have a zero tolerance approach for alcohol in all cases of driving. That would be sensible, but we have mandated .05 because alcohol is such a ubiquitous part of our society. Is it acceptable to us, as legislators, that we allow something to happen that risks causing double the number of car accidents? I would hope that the answer from members would be that it is not and that we should reconsider this. If we allow that to be the case, how about we accept that alcohol as a problem needs to be addressed, not the person who is causing the problem?

What makes alcohol preferable as a social lubricant? Why—members are expecting this—do we not allow people to consume cannabis? The logic behind this is quite clear. If alcohol is costing us not just hundreds of millions of dollars, but potentially billions of dollars, why would we want to ban something that has the opposite effect? I have yet to hear of a cannabis user going on a rampage and beating people up or killing other people in a cannabis-fuelled rage. It just does not happen. We do not tolerate the consumption of cannabis, but we tolerate alcohol. We want to limit that by putting in these sensible laws to prevent people from coming into conflict in society. Basically, the whole point is that this is a matter of our perspective, or our attributes. We allow the consumption of alcohol but ban safe alternatives that give pleasure. We have to consider whether we are doing the right thing by allowing a dangerous drug and banning a safe drug. This is, perhaps, just of minor interest in the bill, but I am pointing it out as a causation. We need to deal with removing the cause of the problems instead of trying to fix the results. That costs money and it costs lives. Until we address this, no matter what laws we put in place, people will still be killed in Northbridge because of alcohol. People will still be killed by a one-punch coward's punch. That is despicable, but we will allow that because people will be allowed to enter those precincts and imbibe and get involved in confrontations and more people will be hit. It is only then that we will apply the law and say that the offender cannot come back—one strike and you are out. I prefer zero strikes.

We could move on, but I suspect we will be called to order fairly soon. The question here is also about the police force. We owe a huge debt of gratitude to our police officers, who are working hard to keep us safe. There is a huge responsibility on their shoulders, and I thank them for that, but they also need proper judicial support. The laws we have so far, as has been pointed out by Hon Dr Brad Pettitt, are based on regulations that the police are going to enact without us having any oversight. We are not aware of how they are going to do that, when they are going to do that and how correct it is going to be. The question we have to ask ourselves is: do we 100 per cent trust our police to do the right thing at all times?

Debate adjourned, pursuant to standing orders.

## LEADERSHIP WA

### *Statement*

**HON SHELLEY PAYNE (Agricultural)** [6.20 pm]: I rise briefly tonight to chat about some of the guests I had for lunch on Tuesday. I would like to thank my colleague Hon Sandra Carr for joining me. I had some of the participants from Leadership WA's Rising Leadership program. This is a really great program that is run by Leadership WA. I had one guest from Esperance, Jayde Guest, who is a rising leader in Esperance and who has previously done a lot with our Chamber of Commerce. She has developed her own online app for starting a small business. We also had a guy named Dillon Elliot from Wongan Hills. Out of the 25 participants in the Rising Leadership program, they were the only two from regional WA.

I want to also give a shout-out to the Mt Burdett Foundation in Esperance, which sponsored these regional participants in this leadership program. Mt Burdett Foundation was started by Chris Reichstein, an Esperance farmer who recently passed away and left his farm and this foundation so that it can support people in Esperance and across the regions.

It is really great that we can have regional people participating, because the program that ran over the past few months involved multiple trips to Perth to join with the other participants. Some of the other participants who came for lunch yesterday included Sharon Whitby, who is working to support Aboriginal businesses in the regions; Suma Kaja, who is a consultant with the mining industry; and Ashleigh Gregory, who works with the Western Australian Council of Social Service. It was really good to chat with Ashleigh about her work with food security and a great program they are doing, the Community Organised Resource Exchange, which is a really great online platform that businesses can sign up to. It is designed to link businesses to give to charities some of the surplus items they might have. She wanted to talk about how the government could support getting the word out about this program so we can link people up if they have surplus items that they can give to charities. This program is really good because it can help in times of natural disaster as well. I am hoping we can give them a bit of a hand to get the word out about more businesses signing up for the program and finding a way to use some of the surplus things they can donate. There was also a girl named Moira Aynsley from Foodbank.

Leadership WA runs a few programs. It has a signature leadership program as well as some aspiring leadership courses. Recently it has been holding forums around the regions, including one in Esperance recently, and that was through its Leading Australian Resilient Communities program. It was called the Future Forum, and it was

a way to get some leaders in Esperance to come together and chat about building a better future for Esperance. This program is also running in the midwest. It will be in Geraldton on 29 November and in Mingenew and Yuna early next year. Its goal really is to bolster leadership skills across regional Western Australia.

One of the speakers at the Future Forum event in Esperance was Liz Ritchie, who is the CEO of the Regional Australia Institute. It was really interesting to hear about some of the work that the federal government has funded for the institute to create the document *Regionalisation ambition 2032*. It has targets for building up regional Australia. The document talks about the framework being designed to help direct actions of government, industry and the community towards achieving a greater proportion of Australians living prosperously in the regions by 2032. Some of the areas it looks at include jobs and skills; livability; population; productivity and innovation; and sustainability and resilience. For instance, some of its global targets for Australia include increasing regional Australia's digital inclusion index; improving access to transportation services in the regions; increasing the rental vacancy rates; and increasing the life satisfaction and wellbeing scores of Australians living in the regions. That is really great work that it is doing to look at how we can build stronger regions across Australia.

Applications are open now, because Leadership WA is delivering a five-day intensive leadership program in the regions as well. It is going to be running a program in Kalgoorlie for goldfields–Esperance, as well as one in Geraldton next year. If members know of aspiring leaders that they think might be interested, I ask them to encourage them to join these programs.

I also want to give a shout-out to all the regional women out there who are standing up. It was interesting; the attendance at the forum in Esperance was more than 50 per cent women. In fact, the team at Leadership WA is actually 100 per cent women; it has 11 staff, and the CEO and directors—everyone there—are women. It is really great to see a lot of women standing up to try to promote leadership opportunities, especially for people in the regions.

### CHARLES STREET PLANNING STUDY

#### *Statement*

**HON NEIL THOMSON (Mining and Pastoral)** [6.25 pm]: I rise to talk about the disarray in our land use planning system at the moment under the Minister for Planning, as was highlighted by the amazing backflip of Olympic gymnastics proportions in relation to the Charles Street upgrade. This really demonstrates how much this minister has held the Western Australian Planning Commission in contempt over the last few years. To go out and place in the community such a detailed proposal without socialising it in the normal way just demonstrates how dangerous this minister is. That project has now been set back by a year or several years—who knows? It is a very important project. Charles Street needs to be upgraded and there needs to be an allowance for the traffic demands of the 3.5 million people who are projected to be living in the metropolitan area by 2051. We need to proceed with it, but the right body to do that is the Western Australian Planning Commission. We have seen how this minister has sidelined that body. This year, in an answer during question time, it was revealed that the capital cities committee, a committee that has played a very important role in the deliberations and design of the future of Perth, has not held a single meeting this calendar year. We have seen how local governments have been sidelined from major decisions. The City of Vincent was obviously blindsided by this process.

I am not going to comment on the specifics of the proposal, but we have to do something. It is a challenging environment, but unfortunately we have now had this backflip by the minister in that process. I was actually out on Charles Street an hour before the backflip, doing a video for my social media to encourage people to make submissions. I am encouraging people to get involved in the process, but sadly this has been handled very badly. I do not know how the minister goes about decision-making in this process. Maybe she heads out to West Swan thinking, “Okay, I’ll head out to one of my rental properties to check on the tenants, and we have a situation of congestion, so I’ll get on the phone to the Commissioner of Main Roads to ask how we can get something delivered to make it happen.” That is what the minister is doing instead of working in collaboration with Main Roads, the chairman of the Western Australian Planning Commission and the director general of the Department of Planning, Lands and Heritage, and bringing back the primacy of our planning profession in the design of our city into the future. Instead, the engineers are brought together; there is this fixation with engineering solutions. It results in a pretty much finished product being rolled out into the community while the minister says that the government is going to consult. Of course, people will react, because they are shocked. It is very telling. I do not want to make light of this. It is a very serious issue. I managed to get the transcript of the video that was put out for consideration, before it was taken down. I ask the minister genuinely, “What part of this is now so bad that you are not going to proceed with it?” I will not read the whole transcript, because it is quite long. It states, in part —

Extensive transport investigations have demonstrated that while Charles Street can meet the growing demand of north–south traffic, the key challenges are the intersections with east west links.

In response to these challenges the traditional approach to addressing increasing congestion is to build wider roads and bigger intersections, but these solutions offer nothing to pedestrians and cyclists trying to cross them, or the communities who create their lives around them.

Given the constrained nature of Charles Street, it was necessary to develop —

Listen to this —

creative solutions, thinking beyond two dimensions. Planners have developed innovative vertical bypass solutions—what you might call a duck and dive.

These vertical bypass options provide a compact, elegant solution when compared to the traditional approach.

Okay. This video went up as part of the consultation. The Labor Party has so many spin doctors. It spent its time trying to find a solution, it got some engineers to put together a design, and the government wanted to ram it through. It then went out for consultation, and suddenly all this innovation, creativity and thinking beyond two dimensions was thrown out the window. Who knows how much that process cost? That process was sent back. It was just not on.

I can imagine the phone call that came from the Prime Minister's office. The Minister for Planning says, "Oh! The Prime Minister is calling me! This is fantastic." She picks up the phone, but it is not the Prime Minister. It is actually the Assistant Minister to the Prime Minister, Hon Patrick Gorman, and he says, "What are you doing, Rita Saffioti? You're upsetting all my constituents in the electorate of Perth." The next minute, there is another phone call, and it is the Minister for Housing, Hon John Carey. The minister is thinking that she must be very popular today. He says, "What are you doing? The City of Vincent is up in arms. All my friends and colleagues there are ready to sign up to the Greens Party—who knows? They're ready to walk." I can just see the panic that struck the minister, and all that innovation and creativity was suddenly thrown out the window.

All I would say to the Minister for Planning is talk to the chairperson of the Western Australian Planning Commission and sit down with the land use planners and experts, who have done so many good pieces of work. We are about to see off Hon Alannah MacTiernan. She was at least a consultative and inclusive Minister for Planning. As a public servant, I went to the huge workshop that she ran a few years ago for Network Cities. I was very impressed with the way that minister included people to talk about how this city should look. We need to address this. Sometimes governments have to make hard decisions. I am not going to criticise the Charles Street program. We could argue for duck-and-drive structures. Planners do not really like dive structures because they tend to create isolation in the surrounding area. There were a lot of great graphics in that plan, and a lot of extensive work was done. The fundamental issue was that the land use planners should have had some gentle discussions with the community. The planning commission should also have been involved. Every time I ask about planning matters, I find that the planning commission is becoming less and less involved. The planning commission should be involved. That is because there is a mechanism in the metropolitan planning scheme to enable a gentle way of obtaining the land and houses that we need by acquiring that voluntarily over time. I saw that process happen with the widening of Great Eastern Highway. About 50 per cent of the properties that needed to be acquired for that work had been acquired before that process even began. That meant that the community was already on board for that change.

We need to think long term. I also say to Minister Saffioti that we need to have strategic land use planning. I do not think that is part of the minister's vocabulary. I do not think the minister understands what that means. She wants to get up there with a great big lever and ring the Commissioner for Main Roads and put together a plan and ram it through because she is worried about congestion. She needs to be strategic about these things. She also needs to bring on board not only the community but also her parliamentary colleagues, particularly her cabinet colleagues. I dare say that she also needs to bring on board her federal parliamentary colleagues. I would suggest that some harsh words have come back to the minister. She has performed a backflip that is of Olympic proportions and deserving of a gold medal. We can speak lightly. I hope the minister will now learn a lesson and will get involved and sit down with the planning experts, because we need this transport link to work. I can read so much from the transcript of that video, because it is vital for our city at 3.5 million people that we enable our public transport system and general transport network to operate efficiently and well.

#### **MID WEST CHAMBER OF COMMERCE AND INDUSTRY BUSINESS EXCELLENCE AWARDS**

##### *Statement*

**HON SANDRA CARR (Agricultural)** [6.36 pm]: I rise tonight to acknowledge an event that occurred recently in the midwest. It was organised by the Mid West Chamber of Commerce and Industry and was the Business Excellence Awards. I note that this evening, the member for Geraldton, Lara Dalton, has brought into the President's gallery Joanne Fabling, her friend and also CEO of the Mid West Chamber of Commerce and Industry. Jo runs that organisation incredibly well. She is a great leader for local businesses in Geraldton. She is also a great exemplar of what can happen when businesses and business leaders collaborate well with government leaders. I congratulate Jo for her collaboration. Also in the gallery tonight is Todd West, president of the Mid West Chamber of Commerce and Industry board. I hope I have got the title right; I apologise if I have not. He is another great collaborator and leader in the Geraldton business community. It is great to see them working together with Lara and in the gallery this evening.

I want to give the Mid West Chamber of Commerce and Industry credit for the Business Excellence Awards. It was an excellent event from all accounts. I was devastated that I was not able to attend the event this year; I did get to go the previous year. I have heard many good things about it. I have also heard about the creative use of the venue. It is great that the Mid West Chamber of Commerce and Industry is showing great leadership in helping to invigorate spaces within the community.

I want to mention a couple of the winners of the event on the night. I have a few favourites among the winners. I would particularly like to mention the Northern Agricultural Catchments Council. It is based in Geraldton but it obviously covers the whole northern agricultural region. That organisation won a Business Excellence Award in the not-for-profit and Aboriginal engagement categories. The Northern Agricultural Catchment Council has a biodiversity team, a coastal team and a sustainable farming program. It also works alongside traditional landowners to encourage the reinvigoration and use of traditional knowledge to improve conservation outcomes and protect cultural heritage. I would like to comment on the Aboriginal engagement award. That is a worthy recognition of the excellent program that it offers and what it does. The program was launched in 2017 in the form of the midwest Aboriginal ranger program. It provides excellent opportunities for Aboriginal people in the midwest region to engage with natural resource management and deliver on-the-ground conservation with a strong cultural emphasis on caring for country, which also allows them to show some of the leadership that it offers with its connection to country. We are aware that we can learn so much from that group as it demonstrates how we can care for country and become more grounded in caring for country as we move about this place.

I would also like to mention Geraldton Streetwork Aboriginal Corporation, or “Streeties” as it is known colloquially in the midwest. It has established the Gunnado On Country training team. That program is building the capacity of, I believe, 10 Aboriginal youth in conservation and land management studies through a partnership between Streeties and Central Regional TAFE.

The team has undertaken some erosion control and seed collection and established a nursery at Gunnado Farm. There is also a Women on Country training program. The Northern Agricultural Catchments Council won in those two categories of the Business Excellence Awards.

Another category winner that I was really excited about was the Innovation Excellence Award winner, Midwest E-Waste. The formidable and incredibly persistent Mike Barker has overcome all sorts of adversity and resistance from various parts of the community to deliver a service that is incredibly close to his heart. He is passionate about recycling e-waste and a whole range of products. He has a site in Geraldton that will take monitors, printers, modems, old power boards, circuit boards, laptops, game consoles, old electrical equipment—you name it! He will do bread tags and container lids. He probably would not even know who I am, but I went in there a few years ago to have a look—I am a bit nosy and I need to know everything! He was so generous with his time. He took me around and showed me what he was doing with big old washers and how he crushes up glass, which can be put into paving and concrete and whole range of products. It is a fantastic initiative, and I was quite gobsmacked that he had to push so hard to get some uptake with all of those things. To me, it is such a clever solution to a waste problem that continues to grow. I congratulate Mike Barker and the Mid West Chamber of Commerce and Industry and the judges involved in choosing the award recipients. It was brilliant to see Midwest E-Waste get an award.

I would also like to acknowledge New Leaf Connect, not least of all because it is one of our recent regional economic development grant recipients. Elyce Tunbridge of New Leaf Connect is based in Dongara in the midwest. She had a seed of an idea to deliver a very customised tourism experience that celebrates all the produce and experiences the region has to offer. Her tourism experiences go to places like Three Springs, Carnamah, Northampton and Mingenew and even out to a place called Burnt Barrel in the Chapman Valley area. She offers all kinds of experiences: farm stays, all the great food that we have to offer, and sea lion experiences in Jurien Bay, making the most of what the midwest has to offer. For some of the pirates among us, she also does an experience at the Illegal Tender Rum Co, which happens to be another RED grant winner. We are seeing the fantastic community benefits of the RED grants that Minister MacTiernan has been delivering. It is fantastic to see someone like Elyce Tunbridge and her New Leaf Connect business being recognised.

Lastly, I want to recognise one of the local legends of Geraldton, Tyson Overston, who won Business Person of the Year at the Mid West Chamber of Commerce and Industry Business Excellence Awards. Tyson is a dynamic, innovative and thoughtful man, and he runs a business called Sweet Orange Productions. As the name suggests, it creates and delivers events and all sorts of things, which probably understates the value that he brings to the community. His brainchild is the Shore Leave Festival, which members might have heard of. It is the ultimate seafood festival. It celebrates all that the midwest has to offer, particularly the Geraldton–Dongara region—the beautiful fresh seafood, the culture and all the other food and adventures.

One of the highlights of that event is the Abrolhos Long Table Lunch. I do not know if anyone has had the opportunity to experience that. People can go via boat or plane and head over to the Abrolhos. They set up a beautiful long table lunch. It is very fancy, for people who like a little bit of indulgence. It has beautiful food. I am speaking purely from vicarious experience as I have not yet been. It is on my bucket list. It looks absolutely amazing, and everyone who has been raves about the experience. I will give a bit of a plug to that event. It is happening from 27 to 30 April next year. I suggest members pop that date in their diaries right now and lock in the opportunity to head to Geraldton and experience the midwest. Maybe jump on one of the New Leaf Connect tours of the region. There is something for everybody, and experiences can be tailored to the kind of holiday or tourism experience that people would like to have in the region. There could be a bit of food, a bit of rum and a visit to a sea lion. Elyce Tunbridge from New Leaf Connect can organise all of that.

I would like to thank the Mid West Chamber of Commerce and Industry for celebrating all the local businesses. There are so many worthy businesses in the midwest and so many people contributing to the vitality, the tourism opportunities and the developing jobs and infrastructure that make the midwest such a thriving and welcoming place to visit.

### **DIRECTORS' LIABILITY REFORM BILL 2022**

#### *Receipt and First Reading*

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

#### *Second Reading*

**HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary)** [6.45 pm]: I move —

That the bill be now read a second time.

The Directors' Liability Reform Bill 2022 will limit and standardise the provisions in the Western Australian statute book that impose personal criminal liability on officers of bodies corporate in a body corporate's offending in circumstances in which those officers have failed to take all reasonable steps to prevent the offending.

The bill has had a very long gestation. Directors' liability reform was one of 27 deregulation priorities under the National Partnership Agreement to Deliver a Seamless National Economy, a now-concluded project that was overseen by the Council of Australian Governments' National Federation Reform Council through the business reform council working group. On 29 November 2008, COAG agreed to increased harmonisation across Australian jurisdictions in the imposition of personal criminal liability on directors for corporate fault. There was a drive to reduce provisions that impose personal criminal liability on directors for corporate offending and harmonise these provisions using a principle-based approach. This was because, and I quote from the official guidelines produced by COAG —

... there appeared to be an increasing tendency for such provisions to be introduced as a matter of course and without proper justification, and because of a concern that inconsistencies in the standards of personal responsibility both within and across jurisdictions were resulting in undue complexity and a lack of clarity about responsibilities and requirements for compliance.

COAG developed an agreed set of principles to guide this reform, which are as follows. First, when a corporation contravenes a statutory requirement, the corporation should be held liable in the first instance. Second, directors should not be liable for corporate fault as a matter of course or by blanket imposition of liability across an entire act. Third, a "designated officer" approach to liability is not suitable for general application. Fourth, the imposition of personal criminal liability on a director for the misconduct of a corporation should be confined to situations in which there are compelling public policy reasons for doing so—for example, the potential for significant public harm that might be caused by the particular corporate offending; liability of the corporation is not likely on its own to sufficiently promote compliance; and it is reasonable in all the circumstances for the director to be liable having regard to factors including: the obligation on the corporation and, in turn, the director is clear; the director has the capacity to influence the conduct of the corporation in relation to the offending; and there are steps that a reasonable director might take to ensure a corporation's compliance with the legislative obligation. Fifth, when the fourth principle is satisfied and directors' liability is appropriate, directors could be liable when they have encouraged or assisted in the commission of the offence or have been negligent or reckless in a corporation's offending. Sixth, in addition, in some circumstances it may be appropriate to put directors to proof that they have taken reasonable steps to prevent the corporation's offending if they are not to be personally liable.

In 2015, a version of this bill was introduced into Parliament by the previous Liberal–National government. However, that bill did not progress; indeed, it was never brought on for debate and it lapsed when Parliament was prorogued in 2017. The current bill is an updated version of that 2015 bill. Demonstrating the McGowan Labor government's commitment to bipartisan microeconomic reform, the bill's policy intent has been maintained and it is substantially the same as the 2015 bill.

I will briefly go through the bill's key policy underpinnings. The first point to note is that the bill's reforms will apply to "officers" as defined in the commonwealth Corporations Act 2001. The bill's title reflects the nomenclature used in the original COAG reform project and associated principles and guidelines, which referred to directors' liability. The bill will not operate as a standalone act with enduring force once it is passed, and the amendments it makes to the Criminal Code and other legislation make it clear that they apply to officers of bodies corporate rather than only directors.

I note that the bill's focus is purely on provisions that make officers personally criminally liable for offences committed by bodies corporate in circumstances in which the officers have not taken all reasonable steps to prevent the body corporate committing the offence. I will refer to this type of liability as derivative liability. The bill does

not seek to delete or amend any provisions that make bodies corporate criminally liable, nor will it affect any provisions that make officers liable for offences they have committed directly. The bill will not affect situations in which officers are liable as accessories because they have been involved in a body corporate's offending.

The bill upholds the COAG principles by deleting provisions that impose a blanket derivative liability for all offences in an act. When it is considered that particular offences in an act merit derivative liability, the bill replaces the deleted provisions with a reference to one of the three standard derivative liability provisions proposed to be included at sections 39, 40 and 41 of the Criminal Code and specifically imposes liability when the underlying offences merit such liability. This is a departure from the present system, under which most pieces of legislation contain provisions that state that officers may be prosecuted in respect of every offence in the act.

Proposed section 42(2) of the Criminal Code included in the bill provides that the bill's amendments do not affect the liability of an officer, or any other person, under chapters II, LVII, LVIII and LIX of the Criminal Code. These chapters contain provisions relevant to what is commonly known as accessorial liability, such as sections 7, 562, 563A and 563B.

In some instances, the bill will delete legislative provisions that impose a mixture of accessorial liability and derivative liability. Once the bill is passed, officers who are accessories to offences committed by bodies corporate under those acts will be capable of being prosecuted using the relevant provisions contained in these chapters of the Criminal Code.

The bill will substantially reduce the number of provisions in Western Australia that reverse the onus of proof, requiring an officer to prove that they took reasonable steps to prevent the body corporate from committing particular offences. The bill retains a reversed onus of proof in respect of some particularly serious offences—for example, offences in the Medicines and Poisons Act 2014 that relate to the manufacture or supply of dangerous poisons. The bill will, of course, not prevent agencies from prosecuting bodies corporate that commit offences, or from prosecuting officers who were involved in the commission of offences. It will remove or standardise only the extra layer of liability that allows agencies to prosecute an officer when they have failed to take all reasonable steps to prevent the body corporate from committing the offence.

I want to make it clear that an officer will not be liable in circumstances in which there are no reasonable steps that they could have taken to prevent a body corporate from committing a particular offence. In this context, I refer to the case of *Miller v Miller* [2011] HCA 9, in which the High Court considered section 8 of the Criminal Code, which also uses the language of "reasonable steps". In that case, the majority of the High Court noted that section 8(2)(c) "does not require that there have been some steps available ... of the kind specified in that paragraph." Similarly, the provisions that will be inserted into the Criminal Code by this bill are not intended to result in a situation in which an officer may be convicted of failing to take all reasonable steps when no reasonable steps could have been taken. In determining what amounts to reasonable steps, the court must consider the knowledge of the officer about the commission of the offence, whether the officer was in a position to influence the body corporate's conduct in relation to the offence, and any other relevant matter.

There are some differences between the bill that was introduced into Parliament in 2015 and the bill before us today. For instance, the numbering in the draft provisions of the Criminal Code has changed and the bill has been updated to reflect changes to the statute book. In terms of more substantive changes, I draw members' attention to the following. Firstly, the bill no longer proposes to amend the Mines Safety and Inspection Act 1994 on the basis that the relevant provisions have been repealed and replaced by the Work Health and Safety Act 2020, based on national model work health and safety laws.

Secondly, the 2015 bill proposed to amend section 109 of the Taxation Administration Act 2003, with consequent amendments to the Duties Act 2008, the Land Tax Assessment Act 2002, the Pay-roll Tax Assessment Act 2002 and the Stamp Act 1921. These amendments have been removed from the 2022 bill for two reasons. The first of these reasons is that section 109 of the Taxation Administration Act 2003 imposes accessorial liability and was therefore not included in the Council of Australian Governments' original director liability reform commitment. There was no agreement to remove or standardise accessorial liability provisions. The second reason is the importance of ensuring that Western Australia's tax legislation remains consistent with contemporary measures to address illegal phoenixing schemes and to ensure that bodies corporate comply with their tax requirements. I note that the equivalent provision in the commonwealth's Taxation Administration Act 1953, section 8Y, also remains in place following the commonwealth's implementation of the COAG reforms to officer liability.

Thirdly, the 2015 bill proposed to delete section 154(3) of the Mining Act 1978, which imposes accessorial liability on officers of bodies corporate. However, the 2022 bill does not propose to delete this section, given that the relevant section imposes accessorial liability only.

Fourthly, the 2015 bill previously proposed to remove derivative liability from the Emergency Management Act 2005. Following further consultation with the Department of Fire and Emergency Services, the 2022 bill provides that derivative liability will apply to particular offences in that act that warrant it. The bill was amended in the other place to include reference to a direction given under section 77O(1), a new section that was inserted

by the Emergency Management Amendment (Temporary COVID-19 Provisions) Act 2022. Directions made under section 77O(1) will be treated in the same way as those made under section 71(1) of the EMA in respect of the liability of officers for a failure by a body corporate to comply with a direction.

Finally, a review clause has been included that requires that the operation and effectiveness of the amendments made by the bill be reviewed after five years, with the resulting report to be tabled in Parliament.

The bill before the house takes a sensible and measured approach; that is, it does not strip derivative liability from Western Australian legislation altogether, so that officers are never held appropriately accountable for their failures to prevent bodies corporate from offending. Neither does it maintain the present approach, in which officers are, by and large, exposed to personal criminal liability in respect of every single offence that a body corporate might commit. The bill holds officers to account in appropriate circumstances. It ensures that when legislation looks to impose derivative liability, it does so not as a general blanket provision but rather with specific consideration of the seriousness of the offence and the extent of the liability that ought properly be imposed on an officer to act as a deterrent and protect the public. The bill steers a steady path through the statute book, substantially reducing the number of derivative liability provisions, and further confining those provisions that reverse the onus of proof, whilst leaving in place a sufficient layer of regulation to ensure that officers of bodies corporate take all reasonable steps to protect the public from corporate offending.

Pursuant to standing order 126(1), I advise that the bill is a uniform legislation bill. It is a bill that will ratify or give effect to a multilateral or intergovernmental agreement to which the government of the state is a party. On 29 November 2008, the Council of Australian Governments agreed to increased harmonisation in relation to directors' liability.

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

[See paper [1883](#).]

Debate adjourned and bill referred to the Standing Committee on Uniform Legislation and Statutes Review, pursuant to standing orders.

*House adjourned at 6.56 pm*

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