



Parliamentary Debates

(HANSARD)

FORTIETH PARLIAMENT
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2019

LEGISLATIVE COUNCIL

Tuesday, 22 October 2019

Legislative Council

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THE PRESIDENT (Hon Kate Doust) took the chair at 2.00 pm, read prayers and acknowledged country.

BIOSECURITY BLITZ

Statement by Minister for Agriculture and Food

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Agriculture and Food) [2.02 pm]: Biosecurity remains one of the most important issues in our state when it comes to safeguarding our agricultural and fisheries industries, and we need all hands on deck. The fifth annual Biosecurity Blitz is underway and calls on members of the public to keep their eyes and ears to the ground for any out-of-the-ordinary creepy-crawlies.

The recent discovery of an exotic spider in Albany highlights the value of community surveillance and initiatives like the Biosecurity Blitz. The spider was reported by an Albany resident, who uploaded photographs via the department's MyPestGuide Reporter app. The department then liaised with the Western Australian Museum and identified it as a slater spider, which hails from the Mediterranean and has never been found in the state before. Fortunately, the spider, now a preserved specimen in the Museum's collection, does not pose a threat to WA's agricultural industry or the natural environment.

Although we got lucky this time, it goes to show how effective the community can be when it comes to monitoring and reporting unusual or damaging insects, weeds, feral animals and aquatic pests. Vigilant surveillance is the cornerstone of a strong biosecurity defence system, giving confidence to our valuable export markets. Anyone interested in helping out can register on the department's Biosecurity Blitz 2019 webpage, while students and teachers can sign up for the school challenge to win prizes. Biosecurity Blitz participants can make reports using the department's free MyPestGuide Reporter, PestFax Reporter or WA PestWatch apps and websites. Not only will they play an integral role in biosecurity, but also it is a great excuse to get outside and marvel at our natural environment.

STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

*Fifty-eighth Report — "Legal Proceedings by the Attorney General —
Authorisation for President to Defend" — Tabling*

THE PRESIDENT (Hon Kate Doust) [2.04 pm]: I am directed to present the fifty-eighth report of the Standing Committee on Procedure and Privileges titled "Legal Proceedings by the Attorney General — Authorisation for President to Defend".

[See paper 3295.]

The PRESIDENT: The report I have just tabled arises from the action brought by the Attorney General against me as President of the Legislative Council, as first defendant, and the Clerk of the Legislative Council, as second defendant. The Attorney General commenced those proceedings on Friday, 27 September 2019, having given notice of his intention to do so through the State Solicitor the previous day. The house had earlier authorised me by its resolutions of 5 and 25 September 2019 to commence proceedings against the Corruption and Crime Commission, challenging the validity of certain notices to produce records, including two notices served on the Clerk. That legal action against the CCC was also commenced on 27 September 2019. The house has not authorised me to defend the Attorney General's proceedings.

Members should note that the validity of the CCC notices to produce records served on the Clerk of the Legislative Council on 10 September 2019 will, among other things, arise as material issues in the Attorney General's proceedings. The two legal actions are likely to be heard together. A failure by me to defend the legal action by the Attorney General would imperil the legal proceedings the house has authorised me to take against the CCC. I have taken the necessary steps, as required by the rules of court, to file an appearance in the action, and I have replied to the State Solicitor's correspondence. The next step is to file a defence. To enable me to proceed with a defence of the action brought by the Attorney General, the report recommends that the house authorises me in similar terms to the resolution agreed to on 25 September 2019. I commend the report to the house.

Made Order of the Day — Motion

On motion without notice by **Hon Martin Aldridge**, resolved —

That consideration of recommendation 1 contained in the fifty-eighth report of the Standing Committee on Procedure and Privileges, "Legal Proceedings by the Attorney General — Authorisation for President to Defend", be made an order of the day for consideration in the Committee of the Whole House for the next day's sitting.

PAPERS TABLED

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

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Seventy-ninth Report — “The Local Projects Local Jobs Program and the Establishment of a Parliamentary Budget Office — Extension of Time” — Tabling

HON TJORN SIBMA (North Metropolitan) [2.08 pm]: I am directed to present the seventy-ninth report of the Standing Committee on Estimates and Financial Operations, titled “The Local Projects Local Jobs Program and the Establishment of a Parliamentary Budget Office”.

[See paper 3296.]

Hon TJORN SIBMA: On 7 November 2018, the Legislative Council referred the inquiry into the government’s Local Projects, Local Jobs program to the Standing Committee on Estimates and Financial Operations and ordered that the committee report to the house no later than 19 November 2019.

The scope of the committee’s inquiry is in two parts. The first aspect of the inquiry revolves around the means by which certain election promises were developed and delivered under the Local Projects, Local Jobs program. The second aspect of the inquiry relates to the establishment of a parliamentary budget office to cost election promises. Although the two aspects of inquiry are related, the committee is in effect pursuing two separate lines of inquiry in order to satisfy the terms of the referral.

On Wednesday, 16 October 2019, the committee resolved to seek an extension of time in which the committee is to report on the referral. The committee considers that an extension of its reporting time is required to enable it to properly consider and discharge its reporting obligations to the Legislative Council in relation to each aspect of the referred inquiry. The committee therefore requests an extension of time in which to report, from 19 November 2019 to 21 May 2020.

Extension of Reporting Time — Motion

HON TJORN SIBMA (North Metropolitan) [2.09 pm] — without notice: I move —

That the reporting date for the committee inquiry into the government’s Local Projects, Local Jobs program be extended from 19 November 2019 to 21 May 2020.

[Leave granted for the member’s speech to be continued at a later stage of the sitting.]

Debate thus adjourned.

STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

Fifty-eighth Report — “Legal Proceedings by the Attorney General — Authorisation for President to Defend” — Made Order of the Day 1 — Motion

On motion without notice by **Hon Martin Aldridge**, resolved —

That the order of the day regarding the fifty-eighth report of the Standing Committee on Procedure and Privileges, “Legal Proceedings by the Attorney General — Authorisation for President to Defend”, be made order of the day 1 for the next sitting of the house, and to remain as order of the day 1 until resolved.

VOLUNTARY ASSISTED DYING BILL 2019

Second Reading

Resumed from 17 October.

HON COLIN HOLT (South West) [2.11 pm]: I will not take up too much of the house’s time, but I will make a couple more points. Last week when I contributed to the second reading debate on the Voluntary Assisted Dying Bill, I used the journey of my father, who died from bowel cancer, and I want to make a couple of extra points about that journey. I left it when I was talking about the need for a specialist opinion, as required by the bill. All through dad’s journey, from going through chemotherapy, radiation and bowel operations to the point that it was decided that it was time for him to go home and be made comfortable, there was never a question about his capacity to make decisions—that is, to either consent to or refuse treatment. He saw a range of GPs and specialists who never sent him anywhere for further assessment of his capacity to make a decision. They would have ascertained that he had that decision-making ability, and in my mind that is exactly how it should have been, because he was very clear in his thinking the whole way through. I certainly never questioned his ability to make a clear decision about consent to or refusal of treatment. I will explore this in a bit more detail, because there are a number of other examples in which medical professionals make assumptions about people’s ability to make decisions or whether they have the capacity to make decisions.

One of those is the implementation or development of an advance healthcare directive. Of course, members will know that an advance healthcare directive is a signed document in which a person outlines their future medical treatment if, at a point in time, they cannot make a decision or give an indication about the type of medical

treatment they want in the future. The Joint Select Committee on End of Life Choices went into them in some detail and recommended that there be further investigation on the uptake and promotion of advance healthcare directives, and the government, through the Attorney General's department, established a group to look into that. I want to explore this in more detail because when people make an advance healthcare directive, they can make a number of different care directives. One example I have come across states, "If I have a terminal illness, I do not want any life-sustaining treatment. Please just keep me comfortable and pain-free until I die." People can write in their advance healthcare directive now. Another one that is often used is, "If my heart or my breathing stops, then I do not want to be resuscitated." Members may be familiar with do-not-resuscitate orders. When people make advance healthcare directives, what is the assumption about their capacity? For all intents and purposes, advance healthcare directives contain very big life and death decisions.

I turn to a template I got off the Department of Health's website. One of the template questions is —

1. **Treatment decision**

In the following circumstances:

People have to fill in the blank lines with the situation —

I consent/refuse consent (cross out or initial one of these)

to the following treatment:

The examples I have given would fit into this template. At the beginning of the template, the notes state —

- To make an advance health directive, you must be 18 years of age or older and have full legal capacity.

That is the way that doctors assess whether a person has the capacity to make decisions. That is what people need to fill out an advance healthcare directive. The footnote says that it pertains to section 110P of the Guardianship and Administration Act 1990, which states —

Making advance health directive

A person who has reached 18 years of age and has full legal capacity may make an advance health directive containing treatment decisions in respect of the person's future treatment.

That is pretty clear, and reiterates what is in the template. In section 4, "Principles stated", full capacity is articulated. It states —

- (3) Every person shall be presumed to be capable of —
 - (a) looking after his own health and safety;
 - (b) making reasonable judgments in respect of matters relating to his person;
 - (c) managing his own affairs; and
 - (d) making reasonable judgments in respect of matters relating to his estate,
 until the contrary is proved to the satisfaction of the State Administrative Tribunal.

There is the presumption that people can make decisions until someone says, "Hang on a minute. We think there are some problems", and that person needs to prove that that is the case. Advance healthcare directives presume that people have the capacity to make their own decisions. There are similar provisions in the bill, although they are not directly lifted from that. Clause 6 states —

- (2) For the purposes of this Act, a patient has *decision-making capacity* in relation to voluntary assisted dying if the patient has the capacity to —
 - (a) understand any information or advice about a voluntary assisted dying decision that is required under this Act to be provided to the patient; and
 - (b) understand the matters involved in a voluntary assisted dying decision; and
 - (c) understand the effect of a voluntary assisted dying decision; and
 - (d) weigh up the factors referred to in paragraphs (a), (b) and (c) for the purposes of making a voluntary assisted dying decision; and
 - (e) communicate a voluntary assisted dying decision in some way.
- (3) For the purposes of this Act, a patient is presumed to have decision-making capacity in relation to voluntary assisted dying unless the patient is shown not to have that capacity.

That suggests that there is consistency with what we expect from advance healthcare directives and people making decisions about their life and how they will be treated, and how this will apply under this legislation. In my opinion, that is the right way that it should be done. If there are any doubts by the consulting or coordinating practitioners,

there is proposed section 25, “Referral for determination”. I want to paint the picture again. We assume that people who will sign up to or qualify for voluntary assisted dying, after meeting all other qualifications, will have capacity—that is, presumed capacity. But if any doubt exists, proposed section 25 provides —

- (1) Subsection (2) applies if the coordinating practitioner is unable 19 to determine whether —
 - (a) the patient has a disease, illness or medical condition that meets the requirements of section 15(1)(c); or
 - (b) the patient has decision-making capacity in relation to voluntary assisted dying as required by section 15(1)(d).
- (2) The coordinating practitioner must refer the patient to a registered health practitioner who has appropriate skills and training to make a determination in relation to the matter.

There will be a presumption that a person will have capacity—my dad’s case was a perfect example of that because he had capacity—but if there is any doubt, the bill provides that they must be referred to the right practitioner or specialist for assessment.

I will now take the argument one step further. Think about someone who has been rushed to hospital in a coma. They cannot communicate and, obviously, they cannot assent to or refuse medical treatment. What will the medical team do in that situation? In an emergency, they act immediately, because their first action is to save life. But what will happen when someone in a coma, who cannot give permission for what is about happen to them, is taken to hospital and they do not require urgent treatment? What will the medical team do? Firstly, the medical team must ask whether the patient has an advance healthcare directive. If they do, the medical team must do what it says in the advance healthcare directive. Remember, the advance healthcare directive was made way back when there was a presumption of capacity. If there is no advance healthcare directive or it does not have the specifics of “If I get this, I want this treatment”, the medical team must go to something known as the hierarchy of decision-makers. That means that they basically have to ask the patient’s family members to make a decision. I downloaded from the website of the Office of the Public Advocate a page titled “Hierarchy of treatment decision-makers”, which notes —

Where an AHD does not exist or does not cover the treatment decision required, the health professional must obtain a decision for non-urgent treatment from the ... person in the hierarchy who is 18 years of age or older, has full legal capacity and is willing ... to make a decision.

The first person in the hierarchy is an enduring guardian with authority. If there is no enduring guardian with authority, next in line is the guardian with authority. If there is no guardian with authority, the next person is the spouse or de facto partner. Next on the list is an adult son or daughter, then a parent and then a sibling. If none of those people are found or are unwilling to make a decision, the next person in the hierarchy is the primary unpaid caregiver. If they cannot be found, the next one is other person with close personal relationship. That is the hierarchy that applies to an incredibly important decision on someone’s behalf, even for a wife, brother, sister or child.

Within the hierarchy of decision-making, there is still the presumption of full legal capacity. That will only come into question when a medical team asks, “Does this person have the mental capacity to make a decision on behalf of someone else?” If they do not have capacity, the medical team will need to go to another decision-maker. Again, it is making a presumption about decision-making capacity in a life or death situation. I think that that is an important consideration. I know that there has been some talk about the automatic mandatory referral of some patients under the voluntary assisted dying legislation to a specialist psychologist or psychiatrist to ascertain whether they have the capacity to make a decision. That would be a very unusual step, because we do not do that in other life and death situations.

To round off dad’s story, I would say that dad had exceptional palliative care. When I asked mum whether she thought he was in pain towards the end, she said, and I would go along with her, that he was probably one of the very lucky ones. The MS Contin did the trick; any time he wanted more, mum would give him more. I can absolutely say that he was very peaceful at the end of his days and that he was one of the lucky ones who had exceptional palliative care at home. He was able to die at home with mum looking after him in his last few days, with some visits from Silver Chain. That model worked really well.

I have nearly come to the end of my contribution, but I want to finish on another point. I took my twin boys, who were 10 years old at the time, to see dad the night before he died. I talked to him and mum, and while I was chatting, each of the twins held one of his hands. That was the last time any of our extended family spoke to dad. We left and mum was there when he died the next morning. I can say that I am probably lucky because I got to say goodbye to dad. I did not know that it would be the last time I would see him, but I can say I am the luckiest of his six kids, 20 grandkids and his 20-odd great-grandkids because I, and my twin boys, were actually there to say that goodbye. This is another important point: I am sure that my siblings and extended family would have liked the opportunity of at least saying goodbye before he was gone. That is one point around the outcome of voluntary assisted dying—if you are in that situation, and you are dying, you can have your family around you and you can choose the moment you say goodbye to your family. There is no potluck about what other treatments occur. Dad was sedated and went into a deep sleep when the dose of morphine was upped, and no-one had any idea how long he

would last. When we think about people in those last hours, last moments, of their lives, I am sure that they would like to be surrounded by the people who are the most dearest to them. That is another reason why I support this bill and this policy.

Palliative care specialists say that if the pain gets too great for anyone—we know not everyone is as lucky as dad—they up the medication to put them into a palliative sedation or terminal sedation or, as Dr Anil Tandon likes to refer to it, a “deep sedation”, which is basically putting them into a deep sleep so they do not suffer any pain. Again that is a debatable point, because the Joint Select Committee on End of Life Choices heard plenty of evidence that people in deep sedation can have physical pain, although I would question how people know that. I think it would be based on the observation of those closest to them who sit there and witness it and would give their ongoing evidence to say, “Yes, we believe our loved one was in pain.”

I looked for a definition of “palliative sedation”. CareSearch, a palliative care knowledge network, defined it as —

Palliative sedation is regarded as the use of sedation until death in the terminal phase, for symptoms that are resistant to other treatment measures.

They know the outcome: it is about putting someone to sleep until they die. In fact, there have been some arguments that we do not need voluntary assisted dying laws because we can use terminal and palliative sedation. So why do we need these laws? There is a number of reasons, and one is deciding the time when you say goodbye to your loved ones. Another is that palliative sedation is unregulated—it happens in consultation between a parent and a consulting doctor and their GP. There is not a lot of regulation around it. As I said, we cannot predict the outcome or when exactly that outcome will occur.

To finish off, I will come back to the way the laws are at present in Western Australia. A person diagnosed with a terminal illness who is coming to the end of their days has a number of ways of controlling that endpoint. One of these is refusal of food and water. A person can probably go for about three weeks without food, but lack of fluids can result in death within three or four days. To me, that seems like a very desperate measure for a terminally ill person. We have evidence that this occurs in Western Australia. We have heard other evidence, and other members speaking about taking control of their own lives and committing suicide way before they need to, while they are still capable of taking those things into their own hands. Again, I think that is a desperate measure, and a tragedy. They go way before they need to because they are worried about the endpoint. Often, they do it in isolation, away from their own friends and family, because they do not want to implicate their friends in that.

I think Hon Jacqui Boydell, in her contribution, said that even if someone chooses the voluntary assisted dying pathway, it does not mean that palliative care provision stops for that person. It is the same for someone who refuses food and drink. I found a fact sheet released by an organisation called End of Life Direction for Aged Care, which is a national specialist palliative care and advance health care planning advisory service. The fact sheet is titled “Medication for pain and symptom relief for people with a life-limiting illness”. It states, in part —

Pain relief for a person who refuses food and water

Sometimes, a person who is close to death may refuse food and water. This is legal if the person has capacity to make this decision. **Everyone has the legal right to refuse food and water, even if this results in their death.**

When a **person decides to stop eating and drinking, palliative medication can be given** to reduce any pain or suffering they experience from this.

Even though people make desperate decisions, they should continue to receive palliative care to make their life and their passage more comfortable.

One of the other statistics that I found quite interesting was that, in Oregon, 40 per cent of people who go through the process and actually receive the medication do not take it. We have to ask why that is so. I am sure that some of them go through the process to make sure that it is there if they ever need it. That 40 per cent may pass by other means and do not need to take the medication, but the fact that they have it gives a great deal of comfort, and they know that it is there if they need it, and that is an important point.

I believe that we can do better for those who are terminally ill and suffering at the end of their life. I think we can do better as a society and as a Parliament for Western Australians. My support for this bill is not for those who have already passed, although their stories and their evidence have certainly informed my view of this legislation. My support for this bill is for those who will face their final days in pain and suffering in the future. Those are the people who are asking for another option—the choice of a peaceful passing at the time of their choosing surrounded by their love ones. That is what drives me to support this legislation, and I urge members to put patients at the forefront when voting on this bill and any potential amendments. I thank all members, all the members and staff of the Joint Select Committee on End of Life Choices, who did all that work two years ago, the ministerial expert panel, and all the people who wrote to me, from all sides of the debate from all over Western Australia, not just the South West Region, to express their views and tell their personal stories, which informed the debate very well, and helped to focus what I thought this bill was about.

HON MATTHEW SWINBOURN (East Metropolitan) [2.35 pm]: I rise to make my contribution to the second reading debate on the Voluntary Assisted Dying Bill 2019. From the outset, I want to indicate my support for the bill. In my speech I will give an idea of how I came to that opinion. The nature of my speech today will be to put on the public record my reasons for supporting the bill. I feel it is a duty for all of us who are able to do that. My contribution is not meant to persuade or dissuade anybody from their position. I have come to my view based on my own reasons.

Echoing the final comments of Hon Colin Holt, I would like to make some acknowledgements to begin with. The first acknowledgement is of the Joint Select Committee on End of Life Choices. That includes all its members and the committee staff, who work very hard on all our committees and often do most of the serious leg work. The committee members are very well served by them. I also acknowledge those people who have taken the time to write to me, both through emails and in the old-fashioned way; I think it is the most correspondence I have received through the postbox for a long time. People have written to me earnestly expressing their views. Of course, I have faced the same sort of arguments for and against, the most common one being, “This is my view, and I’m your constituent, so you should do what I tell you to do.” That is plainly impossible. I cannot keep all the 400 000-plus constituents of the East Metropolitan Region happy, as much as I might try. We have had an exceptionally large amount of correspondence—well over 1 000 now—so I would also like to thank my staff, who have had the laborious task of dealing with all that correspondence. Reading the stories and points of view that have come through that correspondence has had an impact on them as much as on me, so I especially want to note my staff. The members of the ministerial expert panel have dedicated themselves with great care and application to the task given to them by the government. I cannot imagine that the process has been easy for them, and, for some of the medical people on that panel, within their own professions. I acknowledge them as well.

Like all members here, I have sought to engage with the community on this issue as much as I can. I met with constituents in my office, but I have also met constituents in and around my electorate. If I go to an event, constituents feel compelled to express their views and ask me how I intend to vote, and at times ask me to explain why I am voting that way. In all instances, that has been done respectfully even when a person has a different point of view. I have met with people who are against voluntary assisted dying, and, again, those people have conducted themselves in a respectful manner, and I have shared my views with them, and they have taken those on board. Dr Tony Buti, the member for Armadale, and I also hosted a public debate in the Kelmscott Hall, which was attended by over 100 people. The debate was between Dr Michael Gannon, former Australian Medical Association president, and Dr Scott Blackwell, also a former Australian Medical Association president and a member of the ministerial expert panel. I thank both Dr Gannon and Dr Blackwell, and my friend Dr Tony Buti for putting that on, and providing an opportunity for this issue to be ventilated in the community. The debate was not so much about presenting an argument in favour of voluntary assisted dying. It was genuinely a debate between two proponents who had different views.

I also had the opportunity to visit the palliative care unit at Kalamunda Hospital with Hon Nick Goiran. I thank Hon Nick Goiran for organising that visit and bringing me with him. I thank the staff at Kalamunda Hospital for facilitating that visit, particularly Dr Andy Hart. That visit gave us an appreciation of what is happening in the field of palliative care within my electorate. The staff at Kalamunda Hospital are doing good work. It is a nice place. It has further capacity. They have grand plans for that, and I look forward to seeing those increases in palliative care funding work their way through the system. If members have not had the chance to go to Kalamunda Hospital, it is a nice spot. It sits alongside the forest. If I were looking for a place in which to spend my last few days, that is the kind of place that would appeal to me. We are not all sand and surf people. Some of us are hills and trees people. We want to provide variety in that as well.

I have also attended the numerous briefings that have been made available to all members. I thank those people who have taken the time to brief us. The most instructive of those briefings were when people came not to advance a particular point of view, but to provide information. From the point of view of the task that we have, I have found that most helpful and instructive.

It was not possible to read every piece of correspondence that I received and I will not pretend that I have, but I tried to read as much as I could. The stories that were presented to me were certainly very compelling, and people eloquently put their arguments for and against.

I would like to talk about what does and does not inform my position on voluntary assisted dying, and the general issue of euthanasia. Of course, I am instructed by my values. One of those values is the idea of personal autonomy, and the person’s right to have their autonomy respected. Having gone through a number of highly complex medical scenarios, the idea that the patient comes first is particularly important to me. When people start to make decisions for us, the outcomes tend to not be as good as they should be. For me, personal autonomy in any environment is particularly important. That extends to children. Children should also very much be at the centre of any medical model. I have spent many nights at Princess Margaret Hospital for Children and have spoken to nurses who have been in the system for a very long time. They often describe the good old days, in one sense, when parents were permitted to visit their children at the hospital only on a Wednesday and Sunday afternoon. There was no sense

that the parents and the family should be involved in the needs of the child who was sick and in the hospital. I do not think any of us could contemplate the thought that we would be given such restricted access to our own children in a medical environment. The focus at the new Perth Children's Hospital is on family-centred care. The patient is at the heart of that. That is opposed to the paternalistic idea that existed in the past and that was imposed on patients—that doctor and matron know best. Patients did not get a great say in their treatment course. They were not informed of their options and what their treatment path would be. It would be fair to say that the medical profession as a whole—doctors, nurses and allied health professionals—has moved a long way past that. There is now an overwhelming recognition that patients and their wishes must come first. For me, in the voluntary assisted dying debate, that does not change. The person who has the terminal illness or neurodegenerative disease must come first and their wishes must come first. Nothing should be able to overcome that in these circumstances.

As Hon Aaron Stonehouse said in his contribution, it is a matter of liberty. I listened very carefully to his contribution and I appreciated it very much. A couple of members have made contributions that I particularly appreciated. That includes Hon Tjorn Sibma, who is out of the chamber on urgent parliamentary business. The way in which he characterised voluntary assisted dying was very helpful for me. Unfortunately, I missed the substance of Hon Jim Chown's contribution, but parts of it had some influence on me as well.

I am not a religious person. I have never been a religious person. Therefore, religion does not inform my position. I want to be very clear about that. It is important that people understand that that is not one of the biases that I bring to this debate. I have my own biases, of course, but I am not a religious person. Having said that, I accept that some people have those particular points of view. I respect their entitlement to be informed by their religious beliefs. I would hardly be one to respect personal autonomy if I were then to impose on others that they could not hold their own particular beliefs about certain things.

I also hold very dear the belief that people who have capacity are entitled to make their own decisions. That is particularly the case for young people, the frail, the elderly and people with disability. Having been involved in the inquiry into elder abuse, it was put front and centre of us that we should never lose sight of the fact that the elderly have agency—they have the right to make their own decisions, good or bad. That is an entitlement that we cannot take away. That comes back to the sense of paternalism that sometimes permeates our culture, with the idea that, "I know what is best for you, because you do not have all your faculties." If people have their faculties, regardless of their other attributes, they should be able to make decisions for themselves. That includes people with disability. I especially detest paternalism and the "I know what is best for you" mentality. That is not to be confused with the idea that those who are experts in their field and who are trying to help others prevent harm to themselves, through education programs or through the extension of safety measures into our society, are necessarily being paternalistic in their approaches. I would not want people to think that I was casting any kind of aspersion on their attempts to improve the health and wellbeing of people in our society.

I have always generally supported the concept of euthanasia, and that it be voluntary. I am not really sure where that came from. Maybe it was because I was a middle child and hated being told what to do by everybody else. I am not sure whether that was the starting point or the finishing point, but perhaps that is where my sense of independence has come from. The idea that somebody could tell me that I could not take a course of action that I thought was appropriate for me rankles. That is one of the bases for the values that inform me.

I come now to the two core reasons why I support the bill. The first is my brother, Kerry. Kerry Evans was born five years after me. We are both Aries. I do not necessarily believe in astrological star signs, but we used to butt heads a lot, so that is probably where that analogy comes from, because he was five years younger than me. Kerry was a very active, healthy and athletic person. He had a very wicked sense of humour. He got under my skin many, many times. I speak about Kerry in the past tense, because he died three years ago of cancer. He was only 36 when he passed away. His cancer journey started in about 2008, when my youngest son, Darcy, was born. Kerry had had some strange symptoms for a long time. He had become quite hyperactive. He would wake up in the middle of the night and do odd things like gardening. He had indigestion. He had a number of different kinds of symptoms. He kept seeing his GP to find out what was going on, and the GP kept diagnosing things like anxiety or indigestion. His regular GP went on holidays, and he saw another GP in the same clinic. That GP went through his symptoms and immediately sent him to Fremantle Hospital for scans. They then discovered that a tumorous mass was growing on his kidneys. It was not small; it was the size of a cricket ball. There were other tumours in his body as well. These were a special kind of tumour called paraganglioma tumours. They emit what is in effect a kind of adrenaline around the body, which causes the person's blood pressure to go up and the heart to race, hence his activities. The adrenal levels in the body are astronomical. The neuroendocrine effect of these tumours are so powerful that if someone is in surgery and there is a push from these hormones, it can take them out of anaesthetic. He was in hospital for a couple of days. When they were preparing him, they had to lower his blood pressure and get control of the hormones in his body. Once they had done that, they did surgery and removed his kidney and took out some additional tumours that I think were in his lungs. It was 2009 by this stage. As I say, Kerry was a very athletic, healthy person. I was always the overweight one and he was always the one giving me a hard time about it. It was therefore very strange to see this younger brother in the intensive care unit at Fremantle Hospital. I do not think the image of seeing him so helpless and in a different state will ever leave me.

Unfortunately, not a lot is known about these kinds of tumours. They are genetically based and do not come from any outside causes. There is a mutation in the SDHB gene, so that people who have that mutation have the propensity to grow these tumours. Kerry's tumour had metastasised so he underwent a series of radiation and chemotherapy procedures over the next several years. There were times when we thought he was going to be cured. He would go into remission. However, I do not think I will ever forget the day—I was working at the Construction, Forestry, Mining and Energy Union—that he called me to tell me that the tumours had gone into his bones. It is a bad thing once they go into the bones; it is painful and difficult. From that point forward it got into his spine as well. It was not anywhere they could do surgery on. If we have tumours in our spine we do not have many options available.

There is no question that Kerry loved life; he loved living. His partner, Nicola, and he married when he was in a sort of remission stage. She was the love of his life. She brought such joy to him and he had a happy life. He lived happily. However, the disease progressed. He got more and more frail and weak. He was staying with us for a little while when he was using a wheelchair and walker. I remember him being in the shower for a long time and I wondered why he was in there for so long. When I went in there, I found that he had collapsed on the floor. He could not hold himself up because he did not have the energy to yell out. I had to pick him up off the floor—my adult brother, naked in that situation, completely vulnerable—and help him in that situation. He did not need that to happen. But Kerry kept going on and on. His disease progressed. He ended up in a wheelchair. He could not walk. Finally, in his last days, he ended up back in Fiona Stanley Hospital. He kept his sense of humour the whole time, but I remember the last few days. Others here have been through that bedside vigil-type thing. I do not know that I ever believed he was going to die. I probably did not. I always thought he might get a little bit better and would come back. But the disease kept progressing and we were there when he passed away. He was being sedated with morphine. He would grumble, groan and carry on and the nurse would be called in and would give him another dose, and it would go.

I guess I never wanted to talk about death with Kerry, so we never sat down and talked about it. I do not know what his views were about voluntary assisted dying. However, I would like to think that if he had decided about the time that he wanted to go, I would have been in a position to respect that and to go through that process with him as the young man that he was. He went quietly away. I do not know how quietly it was. I do not know what was going through his mind as he was being sedated with opioids. We do not know what goes through a dying person's brain when they are sedated. We presume it is some sort of happy dream, but we do not know how they go. He hallucinated during those periods as well. We look at that situation and say, "How would I be there?" I am not sure I would like to have been in the way he was. I spoke about Kerry with his wife, Nicola, and his circumstances. She said they spoke about voluntary dying, not perhaps in the context of this Voluntary Assisted Dying Bill. It was 2016, so it is not as though it was on the cards in that particular way. I do not think that at any point of Kerry's life he would have given up on living, but I would have liked him to choose the terms in which he went out. He was fortunate in the sense that his family was around him for his death. We were there and the children were there. They got to say goodbye in their way, but it obviously leaves an impact.

The underlying genetic condition that cost Kerry his life is a family condition. We did not know the family had a genetic mutation of this kind and following Kerry's diagnosis, he encouraged the rest of us to get tested by the Genetic Services of WA. However, we did not really take it seriously enough. In 2015, my middle son, Mitchell, developed the same tumour. He was 10 at that time and he is one of the youngest people known to develop a paraganglioma tumour. He started having symptoms around the Christmas before that. Some strange things happened. He had an enlarged nipple. We did not know why it was. We took him to the GP who said, "Oh, it might be early puberty." We went with that. We went overseas to Singapore for our first family trip. Immediately we got back, he became very unwell. He was vomiting and not holding food down and he became weakened. We kept going back to the doctors. Glenda, my wife, kept taking him to the emergency department to get a diagnosis. She knew there was a family condition in the background. She kept saying to the doctors, "Look for this and look for this." They did not look for it and when they did look for it, they did not tell us about it so she finally took Mitchell to the emergency department and was not going to leave until they gave her an answer. They looked at the blood work that had been done and they saw elevated hormones in his blood. It was a hard day, of course, to find that out. Scans were done and a second tumour was found. One tumour was attached to his venae cava, the descending blood vessel from the heart. Another one was in his stomach. The doctors could not tell where it was. Our scanning technology is very good but it is not perfect. In that circumstance, they were throwing up a range of possibilities, so the second tumour was a bit of a mystery. He went into hospital and was given the drugs to bring down his blood pressure and make sure he did not come out of the anaesthetic when he was cut open. The surgeons then did the surgery while we waited for some very, very long hours. The doctors came out in the only way I suppose doctors and surgeons can do. They were quite excited. They had got the first tumour and then they got the second one. It was a gastrointestinal stromal tumour, which are exceptionally rare in children. When I say rare, there had never been a recorded case known in Western Australia. I am not sure that one has ever been found in the rest of Australia. I hope there is never another one. The surgeons had to take part of Mitchell's stomach away. They got what they thought were safe margins of that tumour. It has been discovered that those types of tumours do not respond to radiation or chemotherapy, so he does not receive those kinds of treatments; he can just have surgery.

Mitchell's tumour was removed and we went through a very long period of him recovering. To achieve what they needed to the surgeons had to cut his little body open and go right in, so we had that sort of stress. He has been up and down with different surgeries. A couple of years later, we had the news that the tumour had metastasised and gone into his liver. That is where the tumours are now. There are several tumours there. His treatment options are all experimental. There is no known cure for his cancer. We have had the discussions with oncologists about the choices we make, the impact of the drugs he is on and where he might end up with that sort of stuff. He is now participating in a drug trial, run by a drug company, out of the children's hospital in Queensland. We are very fortunate to have that opportunity. That drug seems to have stopped the growth of new tumours and slowed down the growth of the existing ones, so we are fortunate there, but we also discovered that the tumours have now moved into his lungs as well. What happens in this situation—which I would not want anyone to ever have to go through—is that the disease just keeps progressing. When we think that we are winning the fight, we are not—we are just doing what we can.

Mitchell is the bravest and most stoic child I have ever met. I have not met every child in the world—I am sure there might be another one who is—but people just do not understand how brave that little boy is. He never complains. He has never once said, “Woe is me” or “Why can't it be somebody else?” He just battles on and continues. That changed earlier this year when he was taking a drug that really knocked him around. He could not walk anymore and he had sores on his hands and feet. He had lost his body condition and was in a wheelchair. He had to crawl around the house because he could not walk. He could not eat, and he was talking about having had enough. We had to take him off the drug. It was the drug that was doing that to him—the supposed cure—not the disease. We took him off the drug and he improved on a new drug. Fortunately, he is doing very well. The new drug does not have the side effects that the other drug had, and we are hoping we can get to a point where we can start to consider surgery to remove the existing tumours and buy him more time. Hopefully we will get to the stage where the medical fraternity and the scientific community understands his kind of disease enough to develop a cure. We hope we get to that point; we desperately, desperately hope that we do.

Mitchell will be 15 years of age in January. He will not be eligible for these laws at 15; he will not be eligible at 16 or 17, but he will be eligible at 18. His journey in life is not one in which he suddenly has a terminal illness and flippantly decides that he has had enough. If he gets to adulthood and can make a decision, his journey will have had so much suffering, so much pain, so much perseverance and so many other things that I could not, as his father, in all honesty deny him the right to choose to go on his own terms when he is ready to go. That is if he gets to that point, and I really hope that he never gets there. But how could I, as his parent, deny him that—to be here today, to vote against this bill? If he lies on his bed and says to me, “Dad, I cannot go on; I have had my time and I'm ready to go”, and I say to him, “Son, I'm sorry; I had the chance, but I let it go, and you'll just have to wait it out and go when nature takes its course”, I could not do that. I just could not; I am sorry. Other people might be able to, and I am not suggesting that they are lesser people because of that, but for me, this is the compelling reason. When I see him every morning, there is not a moment when I do not think about how truly sick he really is and how I enjoy every cuddle he gives. Mitchell gives the best cuddles, if you ever get the chance. He is not like his older brother, Harrison, who would not touch me with a bargepole! Mitchell has never lost the sense of wanting to be in physical contact with his parents, so he gives the best cuddles. He does not say much, he does not talk much, but when he does have something to say he lets it out. Apparently yesterday he saved a raven in his classroom, so that was a good story to hear about!

As I say, I cannot deny him. I might be a coward because of that, but as a parent you just do not want to put yourself in the position of denying your child the opportunity to be released from pain. I think I speak for many parents who have children with cancer. There is not a day that you do not fight for their life, that you want them to live and that they want to live, but it takes them all. Kids go every year. I am not encouraging members to make these laws available to children; that is not what I am talking about. But some of them make it into adulthood, and they have had their journey and it is time, in my view, to let them make a decision on the one thing that they have very little control over, to give them some control back again. With those words, I commend the bill to the house.

HON RICK MAZZA (Agricultural) [3.04 pm]: Hearing stories like the one that was just expressed by Hon Matthew Swinbourn is the very reason why a decision on this bill is so difficult. I must confess that I have lost many hours' sleep struggling and wrestling with the issue that is before us. Some of the lead-up to the bill being read in to this place and the debate commencing has been somewhat disappointing. There have been accusations that the Legislative Council was going to run interference on this bill. We are only at the beginning of day four of the second reading debate and there are only a handful of speakers left after me, so I think we have made double-quick time in moving forward on this bill. Having watched much of the debate on the monitor over the last week, I can say that it has been a very respectful debate, and I respect both sides of the argument.

The bill before us, the Voluntary Assisted Dying Bill 2019, proposes a process through which a person may access euthanasia, from requesting access to euthanasia to prescription dispensing, administration and disposal of the lethal substance that will end the person's life. This bill will allow a medical practitioner to either terminate a person's life, with the person's permission, or assist a person to terminate their own life. The bill has been promoted to the

community based on the premise that it will eliminate suffering at end of life, bearing in mind that all deaths are different. Some people are very fortunate in that they will nod off to sleep in their late dotage and never wake up; others are not so fortunate, and that is part of the cycle of life. We do what we can to minimise that suffering.

No reasonable person ever wants to see anyone suffer, and polling around this issue can easily have a very populist result, with a few targeted questions. I appreciate and respect the arguments that have been put forward by those who have proposed this legislation, and I think the government and advocates for the legislation have good intentions. But I seriously think there are some very concerning issues that could arise as time goes by. There are alternative ways of reducing end-of-life suffering, and they are what we are currently using in the form of palliative care. The Joint Select Committee on End of Life Choices released the “My Life, My Choice” report in August 2018. It revealed that we have inadequate and substandard palliative care systems, especially in rural and remote areas of the state. Palliative care is about improving the quality of life of those facing life-limiting illnesses, through the medical treatment of symptoms that may be physical, emotional, spiritual or social.

According to the report, specialist palliative care is provided across 28 government and non-government services through inpatient community and consultancy models in WA. Unfortunately, the models of care can vary, and the level of palliative care is not equal. For example, four of the WA Country Health Service regions have access only to consultative specialist palliative care. Without access to inpatient or community specialist palliative care, patients do not have the same level of choice as patients in other parts of the state. Finding 16 of the report found that access to hands-on specialist palliative care was limited for metropolitan and non-metropolitan patients. Finding 17 found that Western Australia has the lowest number of publicly funded inpatient palliative care beds per head of population. Finding 18 found that there is a gap in care for people who are seriously unwell but not close enough to death for admitted inpatient hospice care. Finding 19 found that there is limited access to palliative care medical specialists in regional WA, and finding 20 found that there is limited medical oversight coordination or governance of medical palliative care services in the WA Country Health Service.

According to the Western Australian Palliative Medicine Specialist Group, palliative care in regional Western Australia is as follows. The Kimberley has six specialist visits per year with each visit lasting one week. The Pilbara has one specialist visit per year. The midwest has 10 one-day visits. Geraldton has each visit for one day; two in Carnarvon. The wheatbelt has 12 visits per year, with three each to Northam, Narrogin, Merredin and Moora. The goldfields gets 12, with four in Esperance. In the south west, there are two resident specialists in Bunbury, but no adequate care in surrounding towns. In the great southern there is one resident physician in Albany, with two visits to Mt Barker, Katanning and Denmark. Looking at that list, palliative care in remote WA is nearly non-existent. I have expressed before my family’s experiences with palliative care services, or lack thereof, in regional Western Australia and the fact that family and friends often take on many of those roles.

An article published in WAtoday on 28 August this year entitled ““West Australians should not ponder euthanasia due to lack of care’: End of life specialists” states there are only 15 full-time palliative care specialist in WA, with most senior end-of-life care specialists worried that the state’s most vulnerable people might consider euthanasia because of an alarming lack of resources available in palliative care, especially in the regions.

Recommendation 13 of the “My Life, My Choice” report called for the Minister for Health to ensure regional palliative care be adequately funded to meet demand. I would be very distressed to find that people may elect to access voluntary assisted dying as an alternative to palliative care simply because the services are not available to them. I know the government has put some investment into palliative care, which I am sure many people will be very grateful for. A state government media release of 9 May titled “Palliative care package to support sickest Western Australians” reported —

The 2019–20 State Budget includes a \$41 million investment for extra support and enhanced community-based palliative care services across the State. This package brings the total investment by the State Government for palliative care services over the next four years to \$206.2 million.

Coincidentally, five days before the Voluntary Assisted Dying Bill 2019 was to be debated in this house, the government also issued another media statement on 10 October titled “Massive boost for palliative care services across Western Australia” stating that it was putting further money into palliative care. This time it is \$17.8 million on top of the extra funding delivered in the 2019–20 budget. That consists of \$9 million towards 10 inpatient palliative care beds in north metropolitan suburbs, \$6.3 million for the expansion of community-based services across metropolitan and regional WA to better meet demand, and \$2.5 million for enhancing rural and regional palliative care services by improving governance. The investment over those four years will be as follows. There will be \$3.6 million to the goldfields. There are currently 4.1 full-time equivalents in the goldfields, and there will be an additional 8.35 staff there, giving a total of 12.45 staff. They will obviously be welcomed in the goldfields. There is \$3.5 million for the great southern. There are currently three FTE there, and that number will be lifted to 11.45 after the investment. There will be \$4.4 million invested in the Kimberley. There are currently 3.5 FTE, and that will be increased to 13.45 FTE after the investment. There will be \$4 million invested in the midwest and Gascoyne. Currently there are 2.7 FTE, and there will be another 10.85 added, lifting that to 13.55 FTE. There will be \$4.9 million invested in the Pilbara. There is currently only 1.65 FTE, which I think is quite alarming for

the Pilbara, but there will be an additional 11.8 FTE, giving a total of 13.45 FTE. There will be \$2.5 million invested in the south west. Currently there are 11 FTE in the south west and that will be lifted to 16.9 FTE. There will be \$2.7 million invested in the wheatbelt. There are currently 5.3 FTE and they will be lifted to 11.45 FTE. We will see a total investment of around \$224 million over a four-year period, which equates to around \$56 million a year. In the view of the University of Notre Dame's chair of palliative medicine research, Professor David Kissane, the state needs an extra \$100 million a year to be spent on palliative care on top of the extra \$41 million announced in the state budget. The amount of \$41 million equates to just \$10.25 million per annum, and we need a total of \$110.25 million per annum. At the moment, we are looking at \$56 million per annum, so we have a shortfall of around \$54.25 million each year. Clearly, we are short of the extra investment that we need in palliative care.

In an article on WAtoday of 3 September 2019, titled "Polling reveals that country voters want palliative care fixed before euthanasia legalised", Dr Anil Tandon, chair of Western Australian Palliative Medicine Specialist Group, and a visiting palliative physician in regional areas of WA, is quoted as saying —

"Regional Western Australians should be incredibly concerned by the current level of funding directed to palliative care ...

"WA has the fewest number of palliative care specialists per capita, the lowest number of publicly-funded palliative care beds, and only one-in-three people who could benefit from specialist palliative care has access to the services they need.

It has been well documented that states with the worst palliative care systems are often the most supportive of euthanasia, and this is clearly evident with Victoria legalising assisted dying this year and WA not far behind with the introduction of the bill before us.

The "My Life, My Choice" report quotes Associate Professor Ian Haines, MBBS, a medical oncologist and palliative medicine specialist. He wrote —

As an oncologist with 35 years' full-time experience, I have seen palliative care reach the point where the terminally ill can die with equal or more dignity than euthanasia will provide. It is now very effective and increasingly available for two of the three possible ways of dying, outside of sudden unexpected death, which are advanced cancer and chronic relapsing and remitting organ-specific disease such as heart or lung failure. Palliative care is also available for people with chronic progressive cognitive diseases such as dementia. This is the fourth way of dying and perhaps the most feared of all. Like Andrew Denton and others who have observed unbearable suffering in loved ones and the terrible failures of modern medicine in the past, I had once believed that euthanasia was the only humane solution. I no longer believe that.

Before we consider legalising euthanasia, we must first have a well-funded, well-functioning palliative care system in this state. This sentiment was echoed clearly in a study conducted by the WA Palliative Medicine Specialist Group, which found that 73 per cent of people living in the agricultural, mining and pastoral regions believed that palliative care should be improved before the introduction of assisted dying legislation.

In a WAtoday article published on 3 September this year, Dr Anil Tandon was reported as saying —

No terminally ill person should ever find themselves in the position of being unable to experience quality palliative care but able to access assisted dying.

This is one of my primary concerns, members: the election to access euthanasia is predicated on a lack of comprehensive palliative care. People see what their loved ones go through as they die in a system that is not resourced to support them. It is an end that they do not want for themselves, and therefore they see assisted dying as a better alternative. A poll conducted for *The West Australian* in November last year revealed that nine out of 10 Australians supported euthanasia. An overwhelming 93 per cent of people aged between 50 and 59 years said that they would want to be allowed to end their own lives with medical assistance if they were terminally ill with a condition causing intolerable suffering; however, only one in five people aged over 70 surveyed said that they would not want to have that option if they were terminally ill and suffering—the highest rate of opposition of any age group. It is interesting to point out that the poll supporting euthanasia was run in November last year, which was eight months before the bill was introduced into Parliament in July this year. It is also interesting to note that people aged 70 years and over, who would be expected to support such legislation, were less likely to want to have the option of assisted dying available to them if they were terminally ill and suffering. They counted for the highest rate of opposition of any age group in the poll. I have significant concern about supporters of assisted dying who have referenced polls and said that between 80 per cent and 88 per cent of our community support the proposed legislation. To my knowledge, prior to the release of this bill, two polls were conducted; one by Go Gentle Australia, which indicated that 81 per cent were in favour, and the second by Dying For Choice, which indicated that 88 per cent of people are in favour of euthanasia. Both organisations are dedicated to euthanasia legislation. I do not know what questions were asked in the survey or how the participants were questioned about the bill, but I can safely say that neither of those organisations are independent. As Hon Martin Pritchard said in his contribution on Tuesday evening last week, polling questions are often designed according to the desired outcome. I do not put a lot of weight on polling results. If we believed the polls, Hillary Clinton would be the US President and we would

have a federal Labor government. The polls got those things wrong. My office carried out its own assessment by collating all the correspondence it received, and the results were quite surprising. The number of people in support of assisted dying, but not necessarily of the bill because I got a lot of emails prior to the introduction of the bill, is 37 per cent. Sixty-three per cent of correspondence that I received is against assisted dying, which does not seem consistent with what a lot of other members received, but that is what my office received. Of the 37 per cent of correspondents who support assisted dying, more than half referenced the polls and the alleged 80 to 88 per cent in support as a reason for me to support the bill. Ironically, a number of supporters of assisted dying have urged me to support and respect the view of my constituency. I have had the same emails as other members demanding that I vote a particular way because they are my constituents. But, of course, constituents have varying views and they all have to be weighed up. Some who support this bill believe that they should be able to access assisted dying for loved ones because of the anguish they themselves go through while watching them go through the dying process in the last six or 12 months of their life. Many members received hundreds of letters and I am sure some members have received this particular one, but because it stands out to me, I will put it on the record in this place. I received the letter in September this year from a registered nurse. It states in part —

... I have, over all my years of nursing, cared for people in their last days, and for those who had reached the limits of possible treatment and needed care to alleviate their suffering. Over these years the vast majority of dying patients have had peaceful and gentle deaths without intervention to hasten death; in a minority of patients death has been painful but in most of these instances this has been due to either intervention by families refusing to accept the reality that death is imminent and demanding active treatment which has become burdensome for the patient, or failure of doctors to perceive that the limits of treatment have been reached.

It has also been my experience that in many instances the family suffer far more than the patient, and they tend to project their suffering on to the patient. I have on occasion counselled family on this and had conversations about their impending loss, and on occasion families have thanked me after the death, for the conversation.

In this day and age people do not have the stoicism which we saw in previous times; people want outcomes, one way or another, at once. I have had on the odd occasion a patient ask me if we can hasten the death, and I tell them honestly “no”, but then I tell them what we can and will do to make it easier and I always promise them that we will not let them suffer. In every instance, in my own experience, the patient has been reassured and has died peacefully not long afterwards. More frequently I have been asked by family at the bedside “Can’t you hurry this up?” They know they are losing their loved one so now all they want is for it to be over; very often the patient is not conscious and is painfree and undistressed.

It used to be accepted wisdom that we should not make important decisions swayed by emotion. From the very initiation of this proposed legislation, Mr McGowan, the media, some doctors, so called celebrities and other advocates of “assisted dying” have used emotion to try to persuade the public and the Parliament that this is the “compassionate” thing to do. It is not, and it is open to abuse in spite of Mr McGowan’s assurances. Already he has boasted that this legislation goes further than the recommendations of his Ministerial Expert Committee, and further than the Victorian legislation. The proposed legislation has been brought forward through its various stages in haste, minimal publicity or opportunity for comment has been provided to those who do not support the legislation and we are told that “88%” of people support it; I have my doubts about that as I cannot find one person in my workplace who does!

The bill has been presented on the premise that people do not want to suffer at the end of life. I am sure that no-one wants to suffer at the end of life and I am sure that their loved ones do not want them to suffer at the end of life. I feel that palliative care can play an important role in minimising that suffering.

A 6 July 2017 article titled “Viewpoints: Should euthanasia be available for people with existential suffering”, which was published on The Conversation website, states —

A 2011 study of Dutch patients who requested euthanasia indicated that “hopelessness”—the psychological and existential realisation one’s health situation will never improve—was the predominant motivation of patients who requested euthanasia.

And a recently published Canadian study of requests for medical assistance in dying stated “loss of autonomy was the primary reason” motivating patients to end their lives. Symptoms also included “the wish to avoid burdening others or losing dignity and the intolerability of not being able to enjoy one’s life”.

There have obviously been quite a lot of news articles about this issue in recent times. On 7 August, in an ABC news website article titled “Voluntary euthanasia legislation appears likely to be passed”, Mr McGowan was reported as saying —

It’s time for the Parliament to do the right thing by people and families who are going through enormous pain, who are terminally ill ...

In a 25 September *The West Australian* article titled “VAD laws clear first hurdle”, Premier Mark McGowan urged the public to pressure their local members to make their voice heard. The article states —

“Tell them you do not want this issue to drag on unresolved,” ...

It also stated —

“When you look back on your career as a parliamentarian, make sure you look back with joy, that you did something good, that you believed in. —

I will comment on that a little later in my contribution —

That you were not bound by party lines. That you did not give in to those that would bully or intimidate. The factional powerbrokers.”

I am not quite sure who he is referring to.

In a 25 September *WAtoday* article titled “Euthanasia bill survives Lower House intact as Premier raises spectre of ‘factional powerbrokers’, the Premier is quoted as saying —

The euthanasia legislation did not require amendment or “further frustration and delay from an additional inquiry”.

The fact of the matter is that the Legislative Council has a role to play in reviewing legislation. I find it appalling that it has been indicated that we should let this bill sail through without scrutiny. Our job is to review legislation. Quite a lot of legislation has come to this place over the last couple of years to which amendments have been made and the legislation improved to better serve the Western Australian community and it has gone back to the Legislative Assembly. I do not know why we should rubberstamp this bill. *WAtoday*’s follow-up story on 26 September is titled “WA euthanasia debate: Premier accused of lying over bullying comments” and it quotes the Premier as saying —

“Make your own mind up on this, do what you think is right and listen to your community.”

I have listened to the community.

A 14 October *The West Australian* article, “Assisted dying critics are ‘cowards’”, quoted Premier Mark McGowan. I find that very disrespectful in this debate. He is quoted as saying —

“To politically delay and frustrate this Bill, is to needlessly prolong the suffering of other Western Australians,” ...

“Worse still, to prevent a vote is undemocratic and cowardly.”

I take great offence to that. The democratic process in here means that people can have differences of opinion. We debate that in this place and we scrutinise legislation and things are put to the vote. That is how it works.

An article in *The West Australian* dated 13 October, headed “Backbenchers cop raw deal”, includes comments from Labor MP Margaret Quirk, who stated that there was clear “implicit” pressure on herself and her colleagues to support the bill’s smooth passage. I must say that Margaret Quirk has a very strong political backbone for being able to stand up to this. She said —

“Certainly I know of a number of occasions where members sought to speak in favour of the Bill and were asked ... not to speak to expedite the process of the Bill through the Lower House,” ...

That really highlights to me that a lot is going on when it comes to this being a conscience vote.

Contrast that comment with the Premier’s comment published on 25 September, in which he warned against being bound by party lines and not giving into those who bully or intimidate. A 15 October ABC news article headed “Crunch time as assisted dying Bill goes to Upper House” quotes Premier McGowan; he said —

“I urge people to vote for it, the public is overwhelmingly in favour and that the Parliament should reflect the view of the public,” ...

The Premier tells us to make up our own minds, and then in another breath calls us cowards. This bill is being pushed by a government in an environment in which increasingly a number of baby boomers are aging and being diagnosed with diseases, illnesses and medical conditions for which there is inadequate infrastructure in place for them as far as palliative care is concerned. According to the federal Treasury, the number of Australians aged 65 years and over is expected to increase rapidly from 2.5 million in 2002 to 6.2 million in 2042. For Australians aged 85 years and over, the growth is even more rapid—from 300 000 in 2002 to 1.1 million in 2042. It has been reported that by 2042, there will be only 2.5 people of working age to support every person over aged 65 or over.

The Australian Medical Association (WA) has been opposed to legislation that allows for the termination of life. On 6PR on 6 August the immediate past president of the WA AMA, Dr Omar Khorshid, stated that this bill is a rushed job; it looks a little unworkable; and it looks a little naive. He said that it is clearly not written for people

who understand how our health system works, and that there is a long way to go before we can make this both safe and effective legislation. On 23 August 2019, on page 9 of *The West Australian*, the Australian Medical Association WA's new president, Andrew Miller, said —

“We don't want to see this Bill passed as it is now because we don't feel the safeguards are anywhere near as good as Victoria.”

I know the government has cited the many safeguards and latches that are in this legislation to make it safe from exploitation, but there are far greater risks in the massive cultural shift that we are about to embark on from what we currently have, which is the preservation of life to one that is a government-sanctioned termination of life. I will talk about that a little later.

The government assures the public that it has consulted widely, yet many medical practitioners of this state are not comfortable with what they will be mandated to perform. Nonetheless, we have this bill in front of us, and, as such, we must address it. Clause 4(1)(f) reads —

a person should be encouraged to openly discuss death and dying, and the person's preferences and values regarding their care, treatment and end of life should be encouraged and promoted;

I have a fundamental problem with the doctors of the state being able to start the conversation about assisted dying with patients as that in itself could make vulnerable people choose this option for a number of reasons, such as fear, not wanting to be a burden on their family and the fact that they might not have a lot of savings to pay for treatment. Hon Martin Pritchard has some amendments on the supplementary notice paper, one of which proposes to prevent medical practitioners from raising it. I call it the “Buti amendment”, because that is pretty much what it was in the other place, and it was defeated. But I foreshadow that should the honourable member move that amendment, I would certainly support it.

Merely having legislation that allows, encourages and promotes assisted dying, opens it up to abuse at many stages of the process—abuse in terms of coercing patients to end their life by medical institutions, doctors, insurance companies, family and carers. The coercion will be unpoliced, unreported and unmanaged.

According to an article in the *Internal Medicine Journal*, a 1998 study found that doctors who are cost conscious and practice “resource-conserving medicine” are significantly more likely to write a lethal prescription for terminally ill patients, which suggests that medical costs influence doctor's opinion. Paul Young, a paediatrician in Wisconsin, in his testimony against physician assisted suicide on 8 April 2008 for Wisconsin Right to Life, stated, according to my notes —

The single greatest pressure on healthcare today is financial.

As we seek to grapple with the staggering costs of healthcare, we need to avoid undermining the very ethical principles that promote good patient care.

If we allow physician assisted suicide, we may find out that we have effectively limited our approach to the palliation of chronic illness.

Unfortunately, it is cheaper to help a patient to die than to provide good end of life care.

Physician assisted suicide could encourage a patient to die as a ‘duty’ to his or her family, in the face of financial pressure.

Likewise doctors could find their end of life care options curtailed by third party payers ...

On 31 May 2017, *The Washington Times*, reported that a Nevada physician said that insurance companies in states in which assisted suicide is legal have refused to cover expenses. An associate professor of internal medicine at the University of Nevada tried to transfer two patients to California and Oregon for procedures not performed at his hospital. Representatives from two different insurance companies denied those transfer requests by phone. In both cases, the insurance medical director said, “We are not going to cover the procedure or the transfer, but would you consider assisted suicide?” The patients were not terminal but would have become terminal with that procedure.

Members, vulnerable people within our community need to be protected. It concerns me that this bill will not prevent or limit the power that some people might be able to use for coercion. I will focus my comments on the elderly within our community, but the same argument can be used for other at-risk groups. To illustrate my concerns, I will use, as an example, the older baby boomer generation we have today. Most of those individuals have the status of older person as defined in the final report of the Select Committee into Elder Abuse, “‘I never thought it would happen to me’: When trust is broken”, released in September last year. For Aboriginal and Torres Strait Islanders over the age of 55 years and non-Aboriginal and Torres Strait Islander people aged 65 years or older, according to the World Health Organization, elder abuse is a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust that causes harm or distress to an older person. It can be in various forms—physical, psychological, emotional, sexual, financial or simply reflect intentional or unintentional neglect. It is estimated that between 2.2 per cent and 14 per cent of older people in high or middle income countries experience elder abuse in the community, excluding elder abuse that may occur in institutional care.

According to the elder abuse report, potentially 75 000 older people in WA are affected by elder abuse. Financial elder abuse accounts for 34.2 per cent of cases; psychological elder abuse accounts for 34.2 per cent. Research suggests that both forms of abuse frequently occur simultaneously. So who are the perpetrators? According to Seniors Rights Victoria, two-thirds of elder abuse incidents that occurred in Victoria were perpetrated by a son or daughter of the older person, with over 92 per cent of perpetrators being related to the victim—40 per cent were sons, 26.8 per cent were daughters, 4.8 per cent were husbands, 3.3 per cent were wives, 3.1 per cent were de facto partners, 4.4 per cent were grandchildren, 3.3 per cent were sons-in-law, and 3.1 per cent were daughters-in-law. The committee identified seven main risk factors, with an older person being more likely to experience elder abuse if they are a woman; are an Aboriginal or Torres Strait Islander person; have a cognitive impairment or disability; are a member of a culturally and linguistically diverse community; identify as lesbian, gay, bisexual, transgender, or intersex; are experiencing social isolation or loneliness; or are being cared for by a person who is experiencing carer stress.

According to the elder abuse report, enduring powers of attorney and enduring powers of guardianship are significant tools that can be used as a means to perpetrate elder abuse on vulnerable older people. This is supported by the Office of the Public Advocate's submission to the committee, which indicated that 211 allegations of elder abuse were investigated during the 2016–17 financial year. Allegations of abuse were a factor for 124 represented people in guardianship applications, and 51 people in that group were 65 years of age or older. Older people are also more likely than younger people to have a disability or severe core activity limitation. In 2015, just over 50 per cent of all older people had a disability, and 36.4 per cent of those adults had a severe or profound activity limitation. According to the Australian Institute of Family Studies, as the proportion of people aged 65 years and over increases over time, the overall population of older people vulnerable to abuse is expected to increase with it. The Australian Institute of Family Studies report titled "Elder Abuse: Key Issues and Emerging Evidence", in *Child Family Community Australia* paper 51, states —

The abuse of older people negatively impacts the victims in a range of ways ... elder abuse has the common effect of reducing an older person's quality of life.

The impact of abuse, like the abuse itself, can often go undetected and is difficult to quantify ... victims of elder abuse experienced higher rates of depression, post-traumatic stress disorder, anxiety and poor health ...

We might ask what that has to do with voluntary assisted dying. We know that elder abuse is happening. We know that it takes place on a financial and psychological level, and we know that it is taking place in family settings. The bill provides a perfect environment for a patient to be subjected to the ultimate elder abuse, which is their death. Although the bill does not allow a family member or someone who may benefit from a patient dying to be a witness to the patient requesting access to assisted dying, I have not identified anything in the bill that prevents a family member or someone who may benefit from the death from being a contact person. I do not know whether a family member or someone who will somehow benefit financially from a person's death is excluded from being a contact person. The role of the contact person under clause 66 is to receive the prescribed substance from the authorised supplier, possess the substance and supply the substance to the patient. The bill does not make provision to ensure that the contact person, who will play a crucial part in the patient's end of life, is of sound mind, does not suffer from carer fatigue and will not financially or otherwise benefit from the patient dying. Clause 15(1) of the bill provides the following eligibility criteria for a person to access assisted dying —

- (a) the person has reached 18 years of age;
- (b) the person —
 - (i) is an Australian citizen or permanent resident; and
 - (ii) at the time of making a first request, has been ordinarily resident in Western Australia for a period of at least 12 months;
- (c) the person is diagnosed with at least 1 disease, illness or medical condition that —
 - (i) is advanced, progressive and will cause death; and
 - (ii) will, on the balance of probabilities, cause death within a period of 6 months or, in the case of a disease, illness or medical condition that is neurodegenerative, within a period of 12 months; and
 - (iii) is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable;
- (d) the person has decision-making capacity in relation to voluntary assisted dying;
- (e) the person is acting voluntarily and without coercion;
- (f) the person's request for access to voluntary assisted dying is enduring.

Clause 15(2) reads —

A person is not eligible for access to voluntary assisted dying only because the person has a disability or is diagnosed with a mental illness (as defined in the *Mental Health Act 2014* section 4).

I will expand on that a little further on in my contribution.

Most people who will support this bill would do so with the above provisions, but would they support this legislation if the criteria for eligibility were loosened, as has been the case around the world? In a *WAtoday* article on 16 September, Professor David Kissane, a prominent psychiatrist, was quoted as saying —

“We’ll see gradually the development of what happens in other countries, where in Canada there is now a debate about the mentally ill accessing euthanasia.

“In the Netherlands and Belgium, the mentally ill do access euthanasia and it’s given to adolescents with autism, it’s given for people with anorexia, it’s given for schizophrenia and depression.”

I think it would be naive to think that this bill will not be open to future pressure to expand the scope of those who would qualify for euthanasia. If we truly support the clause 4(1)(a) principle that every human life has equal value, it will just be a matter of time before assisted dying will be available to any person of any age, with any condition they felt was unbearable. This is my primary concern with the legislation before us—the major cultural shift from the absolute preservation of life that we have now to one in which we will have government-sanctioned termination of a life. I have no doubt that in the future—it will not be this Parliament but it may be the next Parliament or the one after that; some of us might still be here, and some of us will no longer be in this place—interest groups will be lobbying the government to be included in the groups eligible for access to euthanasia. This has taken place in other countries. The Netherlands legalised euthanasia, including physician-assisted suicide, in 2001. Four years later, in 2004, the Groningen Protocol was created, containing directives with criteria under which physicians can perform child euthanasia without fear of legal prosecution. Belgium legalised euthanasia for terminally ill adults in 2002. Twelve years later, in 2014, it amended this legislation to allow euthanasia for minors, regardless of age. In 2019, it was reported that three children had been killed by euthanasia in the past two years. In February 2010, a citizens’ initiative called *Out of Free Will* demanded that all Dutch people over 70 years of age who feel tired of life should have the right to professional help to end their lives. In 2016, the Dutch health minister announced plans to draft a law that would allow assisted suicide in cases of terminal illness if a person feels they have completed their life.

Although this bill does not allow a mentally ill person to access assisted dying, I am sure that, with time, that will open up to them. Given that there is no requirement for mandatory psychiatric examination of a patient, how can either of two medical practitioners be sure that there is no underlying mental illness affecting the decision to access assisted dying? Sometimes, the decision-making capacity is limited in persons who have a mental illness that is persistent or temporary due to a tragic event in their lives. Those individuals should be given access to professional mental health care rather than a highway to assisted dying, which, in their desperate state, they would no doubt take.

A special report by Dr Laura Dunn published in the *Psychiatric Times* in 2017 found that the three most frequently mentioned end-of-life concerns were decreased ability to participate in activities that made life enjoyable, loss of autonomy, and loss of dignity. Dr Dunn claims that these are mental health issues that psychiatrists and psychologists are meant to treat. It has been reported that the desire to suicide often departs once mental illness and pain are effectively treated, even in the terminally ill.

I worry about the future of this legislation, and what that might mean for our community in the years to come. To illustrate that point, in 2018, Aurelia Brouwers, aged 29 years, was allowed to access assisted dying in the Netherlands, which permits end of life when there is unbearable suffering without hope of relief. Her death has triggered a fierce debate in a country that has one of the most permissive euthanasia laws in the world, because not only was she young, but she did not have a terminal disease. She suffered from psychiatric illnesses.

Members, when it comes to mental health, that is something that for me is quite personal. I have heard a number of stories in this place from members who have had loved ones pass away. I feel that those members had a lot of courage to be able to express that in this place. There are a lot of parallels in those stories for me with family members who have passed away over the years, except for one. I agonised over whether I would share that in this place, and, under wise counsel from my staff, I will not, save to say that when someone has a tragic event in their life, and they go to the depths of despair, grief and hopelessness, with what they see as no way out, I am convinced that if the option to end their life were available to them, they would take it. This can go on for years. I have a very raw and personal experience of this. Ending their life would deny them the opportunity in later years—as has been the case, fortunately, for me—to find joy in life, to find love and live a good life. It really, really worries me that, in time, the scope of this bill would be opened up to people who are experiencing severe depression and mental health issues. I had more to say about that in my contribution today, but I will leave that there, members.

I have looked at some of the *Hansard* debates and at some of the commentary around Australia on the issue of life choices and euthanasia, particularly in Victoria. I know that this has already been quoted in this place, but I will quote it again, because it captures things quite well. I refer to an article in *The Sydney Morning Herald* of 19 October 2017 written by former Labor Party Prime Minister Paul Keating—that rascal of a Prime Minister, who was very good at capturing situations with just a few words. Paul Keating is quoted as having said —

The culture of dying, despite certain and intense resistance, will gradually permeate into our medical, health, social and institutional arrangements. It stands for everything a truly civil society should stand against. A change of this kind will affect our entire community not just a small number of dying patients.

He said also —

An alarming aspect of the debate is the claim that safeguards can be provided at every step to protect the vulnerable. This claim exposes the bald utopianism of the project—the advocates support a bill to authorise termination of life in the name of compassion, while at the same time claiming they can guarantee protection of the vulnerable, the depressed and the poor.

No law and no process can achieve that objective. ... If there are doctors prepared to bend the rules now, there will be doctors prepared to bend the rules under the new system. Beyond that, once termination of life is authorised the threshold is crossed. From that point it is much easier to liberalise the conditions governing the law.

...

The experience of overseas jurisdictions suggest the pressures for further liberalisation are irresistible.

Paul Keating concludes the article by stating —

The issue is not how many people will choose to die under this proposed law. It is how many people may die when otherwise they wouldn't.

I relate to that quite strongly, members. During this debate, I have listened to other members raise certain issues, particularly around Indigenous Western Australians. I note that Hon Ken Baston in his very fine contribution last Thursday touched on that very issue. I refer to *Hansard*, in which he states —

The member for Kimberley, Josie Farrer, also made important points about what needs to be done to improve the delivery of health services in the regions, particularly for Aboriginal people and people who live in extremely remote communities. I can say now that if this legislation passes, a lot of work will need to be done to ensure that there is adequate engagement with Aboriginal communities to make sure that it does not erode the delicate levels of trust that currently exist between health service providers and Aboriginal people living in very remote communities.

This area certainly needs further investigation. I think there is a gap in the way this has been proposed. I know that the Minister for Health is looking at establishing a task force to try to deal with this. Some work needs to be done on it. Hon Colin Tincknell also made mention of this in his contribution last Wednesday, when he said —

Australia's two most prominent Aboriginal politicians have opposed this bill and talked about their concerns. They and other government members say that the consultation has not been to the standard they would like. It is not easy to talk about Aboriginal health or culture. Number one, Aboriginal people look at health and death and many other things in society quite differently from us. There are 100 000 Indigenous people in this state and it is not a matter of just consulting with them. We need to help them understand, and until they understand, we have some issues.

I agree with those sentiments. I will back that up by referring to an opinion piece that was published in *The Australian* in October this year. A lot of this relates a speech in the federal Parliament in August 2018 by Senator Pat Dodson. I am sorry, but members will have to bear with me, because I want to read right through this to make a point. The article states —

Writing in *The Weekend Australian*, Senator Dodson says legislation passed in the lower house of the West Australian parliament lacks indigenous input and could backfire if enacted.

"Fears and suspicions of 'whitefella' medicine will only increase, and the capacity to ascertain informed consent will be difficult," Senator Dodson writes.

The state is the second after Victoria to bring forward a government-backed bill for voluntary assisted dying ... while a parliamentary committee in Queensland is well-advanced on assessing the case for legislation there.

Liberal-governed South Australia is also eyeing reform, two decades after VAD became law in the Northern Territory but was voided by John Howard's federal government.

The Northern Territory experience in the 1990s suggests that the mere presence of this legislation may be a barrier to First Nations peoples receiving healthcare," Senator Dodson writes.

He says supporters of the bill—"most with good intentions and compassion for loved ones"—are building their case on an individualist rights agenda.

"Such a perspective emphasises the rights of an individual and ignores the wider influence of such decisions on those around them—families, friends and communities," he writes.

"Individual choice is an important component of this but it should not be the only significant factor because other humans are going to be required to live with the consequences of their part in ending the life of another.

"In an increasingly atomised world, we are finding it harder than ever to understand the interconnectedness of our social structures and the political choices that hold them together."

Asked how a VAD law in his home state of Western Australia would compromise indigenous medical services, Senator Dodson said: “People are very suspicious of the whole (health) system generally. If they find it is associated with potentially the capacity to end your life, as much as to save it, I am fearful people will then, despite their need, start to move away.”

Senator Dodson said his thinking on euthanasia bridged his life experience as a onetime Catholic priest, his spirituality as a Yawuru man and the founding role he played in the reconciliation movement. He agreed it was at odds with progressive sentiment in the ALP.

“I think there are things about my way of thinking that may not necessarily sit squarely with all of my comrades,” the 71-year-old said. “Then again, we live in democracy, so it’s up for debate.”

Putting forward “another avenue to death” was confronting for First Nations peoples when they lived shorter lives than other Australians, had babies that were more likely to die of preventable diseases and lost too many friends, cousins and siblings to suicide. “As representatives and legislators, surely we must be focusing our attention to enacting laws that help prolong life and restore the right to enjoy a healthy life,” he said.

Senator Dodson said the WA legislation contained “significant deficiencies” in terms of content and process. A key provision in the benchmark Victorian law that came into effect in June, banning doctors from raising VAD, had been reversed in an error by Perth’s lawmakers, he insisted.

Asked what was wrong with a doctor broaching assisted dying with a terminally ill patient, he said: “This is a fine line where the reservoir of knowledge is deemed to be in the professional, when in fact this is about someone else’s life. This is about an individual having to weigh up and consider whether this is an option they really want to take.

“Now, to instigate that discussion ... requires a broader context for First Nations people. They are not just nuclear families ... most of us have extended families and not everyone in those relationships see eye to eye. It’s about reaching consensus on the way forward that enables communities to stay together, rather than ones that simply decide they are going to allow individuals to make decisions for everyone else.

“If it’s then removed off to a doctor without any reference to the community about him initiating discussions with the loved one, then I think that also starts to undermine ... the trust you place in a medical system to look after your health rather than find ways to end your life.”

The consultation with indigenous communities was not only inadequate but rushed, Senator Dodson said. “This is a matter that should be done over a period of time ... one meeting, setting up a forum in one community ... that’s not a way to really consult with First Nations people on a complicated issue like this, that is about the sanctity of life itself, not just about an individual’s life,” he said.

His intervention came after recent polling in Western Australia showed that nearly three-quarters of those living in regional and remote areas of the state supported improved access to palliative care over voluntary euthanasia. The research, for the End of Life Choices Working Group backed by palliative care specialists, found that 56 per cent of the 1 900 respondents didn’t believe patients should be helped to die without their loved ones being informed—another point of contention in the WA legislation.

The Anglican bishop of North Queensland, Keith Joseph, told a committee of state MPs in August that remote indigenous communities were strongly opposed to VAD, echoing Senator Dodson on its potential to erode trust in the public health system.

The WA bill cleared the Legislative Assembly last month by 44 votes to 12, but the numbers will tighten in the upper house. Proponents remain confident the legislation will pass, albeit narrowly.

Senator Dodson agreed the debate was being conducted piecemeal, siloed in state legislatures, with no regard to how state regimes would interact.

Members, based on that, I also am very concerned about the impact on communities in very remote and regional Western Australia. I think a lot more work needs to be done around that area. I do not know that having a task force that will visit people is the way to go. I know that this Voluntary Assisted Dying Bill 2019 provides for telehealth to assist with assessing patients but I understand that federal legislation might prevent that, so that if a doctor does that, they could find themselves exposed to litigation. With that, I wish to move a referral.

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

HON RICK MAZZA (Agricultural) [4.04 pm] — without notice: I move —

- (1) That the Voluntary Assisted Dying Bill 2019 be discharged and referred to the Standing Committee on Legislation for consideration and report no later than Tuesday, 11 February 2020.
- (2) The committee has the power to inquire into and report on the policy of the bill.

- (3) The committee is instructed to undertake the following in its inquiry —
- (a) consult with and take evidence from Indigenous persons including those residing in regional and remote communities in the state;
 - (b) investigate the provision of palliative care for Indigenous persons residing in regional and remote communities in the state; and
 - (c) report on whether the bill provides for culturally appropriate end-of-life choices for Indigenous persons.

HON SUE ELLERY (South Metropolitan — Leader of the House) [4.05 pm]: I oppose the referral to the Standing Committee on Legislation. This is a conscience vote, and that means that, ultimately, we and only we will have to make the final decision about how we vote on each of the various elements of the bill, be those policy elements or, indeed, procedural elements such as the decision about whether we refer to committee. In any of those matters related to this debate, be they policy, technical, legal, clinical, or in this case cultural, we have all observed there are different points of view. With the greatest respect to Senator Dodson, not only one voice speaks for all Indigenous people. We have observed that there are different views. There are different, deeply thought-out views but, ultimately, different and opposed points of view. Although a committee may collect material, seek submissions and hear from experts or others, no committee can ultimately resolve the points of view that are different between us. It will come back here and we will have to make a decision, and consider what it said and cast our votes ourselves. Equally, this matter, including whether there has been adequate consideration of cultural matters, has been subject to widespread public discussion. Indeed, we have just heard that Senator Dodson himself wrote a public opinion piece. Any member who has had any question or any query about any element of the Voluntary Assisted Dying Bill 2019, as it is before us, has had and still has a very wide range of opinions they can seek and a very wide range of experts that they can contact themselves. They can seek that information directly. They can seek briefings, meetings and advice in all ways. Ultimately, members have to consider that themselves and, ultimately, make their own judgement on how to vote.

The extent of public engagement in this debate has also meant any number of experts, stakeholders or lobbyists can get information to us as individual members if that is what they want to do and they have, be it legal, clinical or technical or in the case the honourable member has raised, be it cultural. I, too, have received information and views from representatives of Western Australia's Indigenous community. Those people have had the opportunity to put that to us directly through all ways. Then again, it will still come back to the individual vote of each of us weighing up that information.

I do not support a referral to the Standing Committee on Legislation. No stakeholder has not had the opportunity to put views to us through their respective representative organisations. They still have the opportunity to put views to us as this debate proceeds over the next four or five weeks that we will be debating this. There are experts and people with strongly held views on each side of each issue that we may want to raise in respect of the Voluntary Assisted Dying Bill 2019, and they are entitled to have those different points of view. But, ultimately, no committee will be able to resolve those differences. The bill will come back here and we will have to consider that material. Ultimately, each of us will have to cast our vote one way or the other, or I suppose we could choose to not exercise a vote at all, but each one of us has to make that decision.

This is hard for many people. For some members, it may be the hardest decision that they have had to make or will make in their parliamentary career. Whatever a committee explores, finds or recommends, nothing will change the fact that there are experts with different points of view and that the decision will just come back to each of us as individuals. I cannot see how a committee could resolve the differences between us, how it could resolve the differences between the experts, or how, in this case, it could resolve the differences between different members of the Indigenous community of Western Australia, who also have different points of view. I do not see how a committee could resolve those issues. Ultimately, it will come back to the 36 people in this chamber to make their individual decisions, and for those reasons, I do not support the referral.

HON NICK GOIRAN (South Metropolitan) [4.11 pm]: This feels like a case of *deja vu*, because the Leader of the House gave an almost identical speech when the house sought to refer the Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018. I was the mover of the motion at the time, and I specifically recall the Leader of the House saying words to the same effect as those she delivered just now. In effect, she said to members, "You cannot refer this matter to a committee because it's a conscience vote. How can a committee resolve matters that are matters of conscience?" I remind the Leader of the House that on that occasion, the report came back from the committee and the government has chosen to never bring that bill on for debate ever again. Members know full well why; it is because there is a fatal flaw in that legislation. It is possible for bills that are subject to conscience votes to be brought to the Standing Committee on Legislation for it to do its work and see whether there are any flaws in the legislation that are worthy of the consideration of members. The threshold issue is a conscience vote; that is true, but that does not abrogate our responsibility as lawmakers to not pass an unsafe law. That is precisely what the legislation committee would be entrusted to do, in the event that members were agreeable to the discharge and referral of this bill to the committee, as moved by Hon Rick Mazza.

I draw to members' attention that it is not uncommon for this chamber to send bills to the Standing Committee on Legislation. I have before me a short list of the bills that have been referred to the Standing Committee on Legislation in the fortieth Parliament. I served on most of these inquiries in my capacity as deputy chair of the committee, but on two inquiries I was substituted off for another member. The list includes the Sentence Administration Amendment Bill 2017; the Animal Welfare Amendment Bill 2017; proposed part 12 of the Strata Titles Amendment Bill 2018; the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018; the Residential Parks (Long-stay Tenants) Amendment Bill 2018; the Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018; and the Ticket Scalping Bill 2018.

I put it to members that for none of those bills that we agreed as a chamber should be referred to the Standing Committee on Legislation were the stakes as high as they are with this legislation. It would say a lot about this chamber if we were prepared to send the Animal Welfare Amendment Bill 2017 to the Standing Committee on Legislation for investigation, but we were not prepared to send the Voluntary Assisted Dying Bill 2019 to the legislation committee for consideration. I might add that we were quite happy to send the Ticket Scalping Bill to the Standing Committee on Legislation for consideration. Whatever people might think about the importance of ticket scalping in Western Australia, I suggest that the stakes are not quite as high as they are in a situation in which a medical practitioner is going to take the life of a Western Australian, whether that be with the consent of the individual or otherwise.

The context of the bill before us is worthy of consideration. I put it to members that that is an additional reason that this bill should be sent to the committee. I remind members that the genesis of this bill was the Joint Select Committee on End of Life Choices' report "My Life, My Choice". Members will recall that that committee was asked by this chamber and the other place to consider certain things in accordance with its terms of reference. Members will also recall that I asked the chamber to insert an extra term of reference for the committee to consider the risks of voluntary assisted dying. We were implored by one of the ministers of the Crown to vote against that term of reference. Consequently, it is a matter of public record that the Joint Select Committee on End of Life Choices did not look into wrongful deaths in other jurisdictions. It is also a matter of public record that despite the fact that the committee was asked to look into the intersection with federal law, it did not do so. To this day, more than 12 months later, I am still waiting for a member of the government to point out to me the provisions in the "My Life, My Choice" report that look at the intersection with federal law. Despite the fact that the committee was asked to do that, it was not done. I remind members that the committee minutes have been kept secret. I remind members that the Ministerial Expert Panel on Voluntary Assisted Dying told Western Australians, "We don't want to hear from you if you have an opposing view to us. You can only speak to us and provide views if you are going to accept voluntary assisted dying." The Ministerial Expert Panel on Voluntary Assisted Dying told the people of Western Australia, "Tell us how it's going to work." I remind members that the bill that is before the house was drafted by the government prior to the Ministerial Expert Panel on Voluntary Assisted Dying handing down its report. I remind members that Senator Patrick Dodson has said that there has been inadequate consultation. I remind members that the government in the other place refused to accept any amendments to the bill. If members examine their conscience, they know full well that members in the other place were instructed to not accept any amendments under any circumstances.

I point to comments made today by the Minister for Health, Hon Roger Cook, who has proceeded to tell the people of Western Australia, the media and this chamber that if we dare consider the possibility of a specialist being involved in this process, that will apparently be a deal-breaker. To say to this chamber that it will be a deal-breaker if we want to get a specialist involved because two general practitioners might make a mistake, misdiagnose and get the prognosis wrong is not only the height of arrogance from the Minister for Health, but also reckless behaviour. These are the types of things that the committee would look at.

Speaking of the Minister for Health, I refer to debate in the other place on 3 September 2019. At page 6311 of *Hansard*, he said —

Members, particularly the member for Kimberley and the member for Kalgoorlie, raised the point that some Aboriginal communities experience a lack of access to culturally appropriate local palliative care and that it is important for Aboriginal people to be given the opportunity to die on country, and for the configuration of those services to take into account collective decision-making.

That comment alone by the health minister in the other place raises a number of questions that the Standing Committee on Legislation could consider. Certainly, if I had the opportunity to serve on the committee as the deputy chair, I would ask the government what was being done to address the lack of access in Aboriginal communities to culturally appropriate local palliative care, precisely one of the things that Hon Rick Mazza is asking that committee to look into. Has the government established where the gaps in this access exist? Has the government determined the plan to address the issue of lack of access to culturally appropriate local palliative care for Aboriginal communities in Western Australia? Indeed, how many Indigenous palliative care nurse practitioners are there in Western Australia, and in which regions do these palliative care nurse practitioners operate? My guess is that there are zero palliative care nurse practitioners. I understand that there are only about four or five in the entire state, so I still do not know

how it is possible for the Minister for Health to say what he said with all seriousness. Indeed, if the matter goes to the committee, I would ask the government to what extent it had consulted with Aboriginal communities to determine how best the culturally appropriate palliative care services could take into account collective decision-making.

In addition to that, on the same day, 3 September this year, the health minister made these remarks —

I anticipate that the implementation will establish a care navigator service to ensure that the needs of Aboriginal people are identified and provided for in the operation of the bill. The Department of Health is already considering the development of a care navigator model similar to that used in Victoria, with a focus on enabling access to voluntary assisted dying for people living in rural and remote areas.

That comment by the health minister, Hon Roger Cook, draws the following questions that will need to be considered by the Standing Committee on Legislation: Has the government prioritised plans to establish a care navigator service to assist Aboriginal people in accessing voluntary assisted dying ahead of addressing the current lack of access for Aboriginal people to culturally appropriate palliative care? Has the government considered the conflict that a care navigator service will have with the concerns raised in the final report of the ministerial expert panel, including issues in relation to language and translation services for Indigenous Western Australians, as well as issues of power disparity between health practitioners and Aboriginal patients and the issue of undue influence?

With all due respect to the Leader of the House, it is not only Senator Patrick Dodson who has raised concerns about this matter. I now turn to the remarks made in recent times, indeed reported on 10 October this year, some 12 days ago, speaking to the views of Australia's first Indigenous surgeon, Kelvin Kong. I refer to the article in *The Australian* titled "Euthanasia plan 'terrifies' surgeon", and I quote certain extracts of that article. It says —

Australia's first indigenous surgeon, Kelvin Kong, says he is terrified by the McGowan government's plan to let doctors suggest voluntary assisted dying, describing patients in remote areas as often so thankful to see a specialist that they are "very compliant".

Associate professor Kelvin Kong, of the Worimi people of Port Stephens, north of Newcastle in NSW, said the priority should be change that improved the treatment and survival chances of indigenous Australians with life-threatening illness.

...

While Australia's overall cancer survival rates were among the best in the world, there was a big disparity between the incidence and survival rates of Australians who were non-indigenous and Australians who were Aboriginal and Torres Strait Islander.

"We are jumping to an end-stage conversation when we haven't got all the pathways in cancer management leading up to palliative care," he said.

...

Professor Kong, an ear, nose and throat specialist —

I pause there to say that no doubt the health minister will say that the views of this individual are irrelevant because he is a specialist and that it is a deal-breaker for us to even talk about specialists —

who treats cancer patients in cities, rural towns and remote Aboriginal communities, said he was open to the concept of voluntary assisted dying laws but he believed that in terms of priorities in indigenous health, the debate was happening in the wrong order.

"If we are serious about the betterment of our mob, we really need to increase things like early interventions," he said.

As a member of the Cancer Australia Advisory Board, Professor Kong contributed to a guide for the treatment of indigenous cancer patients that encourages doctors to focus on prevention and early detection, gives them suggestions about how to get indigenous people to feel safe going to a doctor and offers tips for how to talk to an indigenous cancer patient about treatment.

Asked whether he had concerns about the proposed WA law letting a doctor instigate a conversation with an Aboriginal person about voluntary assisted dying, he said: "Yes, it terrifies me because you don't know who that doctor is.

"There are some I know would handle it well and others not. No, this is not the right thing," he said.

"Our medical training is really good at teaching us about disease, but it's not really good at teaching us an understanding of cultural complexities, particularly with our most disenfranchised people."

...

Farmers and indigenous people were among regional patients who were vulnerable.

"They might have waited two years to see someone. We need to take that with honour and real respect," he said.

As Hon Rick Mazza has indicated, Senator Pat Dodson has also expressed some concerns about this matter. I will not repeat what he said, because I think Hon Rick Mazza has already outlined the views of Senator Dodson, but I add that it is not only he who has said this. I turn now to an article in WAtoday of 11 October, some 11 days ago, which says —

Australia's two most prominent Aboriginal politicians—one Labor and one Liberal—have spoken out against WA's draft euthanasia laws, raising questions about the extent of consultation with the state's First Nations peoples.

I suspect that members are well aware of this article. Of course, not only is Senator Pat Dodson the prominent Labor Aboriginal politician referred to in the article, but the Liberal one is none other than Minister for Indigenous Australians Hon Ken Wyatt. I ask members to consider this for a moment. If the most senior Labor Aboriginal politician in Australia and the most senior Liberal Aboriginal politician both say, "Hang on, something needs to be looked at here. Our people have not been properly consulted", should that not at the very least make us pause for a moment and consider what they have to say? Or are we so arrogant that we will just press ahead anyway and say to Mr Dodson and Mr Wyatt, "Thank you very much for your input. As key stakeholders, you have had your opportunity; your people have had their opportunity. We will not be sending this to the committee, because we think that the animal welfare bill is more important, we think that the Ticket Scalping Bill is more important, and with all due respect to you two senior, prominent Aboriginal politicians, we are pressing ahead anyway"? Is that the message that we want to send at this point of the debate? I turn to the content in the so-called Ministerial Expert Panel on Voluntary Assisted Dying and its so-called final report. I am not sure whether it is the final report of the so-called ministerial expert panel, because I received communication late last night and I do not know whether it was a supplementary part to the final report or on what authority that particular correspondence was sent. Perhaps it is not its final report. Who knows how many reports it intends to send. Let us look at what the ministerial expert panel has to say about the interests of Indigenous Western Australians in its final report.

Debate interrupted, pursuant to standing orders.

[Continued on page 7994.]

QUESTIONS WITHOUT NOTICE

NATIONAL DISABILITY INSURANCE SCHEME — WARRICK PROUDLOVE

1190. Hon PETER COLLIER to the Minister for Disability Services:

I refer the minister to the tragic case of Warrick Proudlove and the horrific injuries he suffered as a result of an accident in 2011.

- (1) Is Warrick eligible for the National Disability Insurance Scheme; and, if not, why not?
- (2) Is Warrick eligible for any other government assistance; and, if yes, has he been receiving this assistance; and, if no, why not?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for the question.

- (1)–(2) As the Leader of the Opposition said in his question, Warrick Proudlove's case is indeed tragic. He had a terrible accident in 2011. During the time of the last government, Warrick and his family campaigned very strongly to get the laws in Western Australia changed. Of course, those changes were made in 2016 by the former Liberal–National government and had cross-partisan support because we recognised that we needed to change the system in Western Australia for no-fault accident insurance.

In Warrick's case, I am advised that he has received confirmation from the National Disability Insurance Scheme that his access request was successful a few weeks ago. I understand that he now has a booking to commence the planning process with the National Disability Insurance Scheme. The date for that meeting is early November. In the meantime, Warrick has been accessing what was the Department of Communities disability services support. Warrick receives an annual package of about \$215 000, which is a sizeable package known as individualised accommodation support funding. That support provides Warrick and his family with overnight in-home support and a personal assistant to attend to his personal care needs and help him access the community. Certainly, I have asked my department to reach out to the family during the period of transition from the state scheme to the National Disability Insurance Scheme to see whether any additional support needs can be met during that time.

Hon Peter Collier: He won't be worse off, will he?

Hon STEPHEN DAWSON: No. Certainly, as part of the transition across to the national scheme, people who have plans under the state will have those plans honoured for 12 months. We will go through a planning process, but certainly I see Warrick continuing to have the same services once he transitions across to the national scheme.

METRONET — NON-DISCLOSURE AGREEMENTS

1191. Hon PETER COLLIER to the minister representing the Minister for Transport:

- (1) Have any Public Transport Authority or Department of Transport employees signed non-disclosure agreements or anything similar since April 2017?
- (2) If yes to (1), can the minister confirm that these non-disclosure statements related to Metronet projects?
- (3) If yes to (1), will the minister table a copy of the non-disclosure agreements; and, if not, why not?

Hon STEPHEN DAWSON replied:

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

- (1)–(2) It has been usual since well before April 2017 for employees of these agencies, including those employees working on Metronet projects, to sign a range of documents relating to their confidentiality obligations, whether arising from their status as public sector employees or potentially relating to statutory or contractual obligations of confidentiality arising from the particular nature of their work.
- (3) The documents dealing with confidentiality signed by current employees of these agencies since April 2017, noting, for example, that offers of employment have typically dealt with the public sector confidentiality obligations, would be so varied and voluminous that they could not reasonably be tabled.

STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES —
FIFTY-SIXTH REPORT — LEGAL ADVICE**1192. Hon MICHAEL MISCHIN to the Leader of the House representing the Attorney General:**

I refer to the answers to my questions on this subject, particularly the answer delivered to my question without notice 1147 of 16 October 2019 regarding the letter from the Clerk of the Legislative Council and the State Solicitor dated 28 August 2019.

- (1) Does the Attorney General admit that, as a minister and first law officer of the state, he disclosed to a reporter a copy of correspondence received by the State Solicitor from a defendant to litigation being prosecuted by the State Solicitor?
- (2) When, how and from whom did he acquire the copy of the letter that he disclosed to the reporter?
- (3) Is the Attorney General saying that his disclosing correspondence between a party to litigation and the State Solicitor in such circumstances is consistent with the state's being a model litigant?
- (4) Is the Attorney General saying that his disclosing correspondence between a party to litigation and the State Solicitor in such circumstances is consistent with his role as a minister of the state?
- (5) Has the Attorney General done anything such as this on any other occasion since becoming a minister; and, if so, when and in what circumstances?

Hon SUE ELLERY replied:

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

- (1)–(5) As Attorney General, I am privy to correspondence involving the State Solicitor's Office because that office is within my portfolio of agencies. I consider correspondence on the matter to which the member refers to be of significant public interest, as did the Standing Committee on Procedure and Privileges, which tabled it as part of its fifty-sixth report.

GIFTED AND TALENTED SECONDARY SELECTIVE ENTRANCE PROGRAMS

1193. Hon DONNA FARAGHER to the Minister for Education and Training:

I refer to the gifted and talented secondary selective entrance programs offered at a number of Western Australian public secondary schools.

- (1) Has the minister requested the Department of Education to undertake a mapping process of all GATE programs in Western Australia; and, if yes, will the minister provide more detail on her request?
- (2) If yes to (1), has this work been completed; and, if so, when?
- (3) If yes to (2), will the minister table a copy of any reports relevant to this work; and, if not, why not?
- (4) If no to (2), when is this work expected to be completed?

Hon SUE ELLERY replied:

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

- (1) Yes. The Department of Education was asked to map out the gifted and talented secondary selective entrance programs offered at schools across the state and the residential locations of the students who attend them.
- (2) Yes. The work was completed in July 2019.

- (3) No. There was no report. A briefing was prepared as information for the minister to support decision-making about any future gifted and talented programs. If and when those decisions are made, I will make an announcement at that time. A gifted and talented secondary selective entrance program for Harrisdale Senior High School was announced on 29 August 2019, to commence in 2021.
- (4) Not applicable.

CHILD SEX OFFENDER — PETER WALLACE HILL

1194. Hon NICK GOIRAN to the Leader of the House representing the Minister for Child Protection:

I refer to recent reports that child sex offender Peter Wallace Hill, who was jailed for four years over a series of child sex offences around the Busselton region, has been released by the Prisoners Review Board after just two years in jail, and reports of the horror and revulsion of the family of the young sex abuse victim after learning that the offender is set to live close to where the boy still resides.

- (1) Has the minister spoken to the Attorney General about this case?
- (2) If yes to (1), when?
- (3) Has the minister spoken to the family concerned?
- (4) If yes to (3), when?
- (5) What steps is the minister taking to ensure that the safety of the young victim is put first and that no further harm is caused to the victim by contact with the offender?

Hon SUE ELLERY replied:

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

- (1)–(5) As the Minister for Child Protection, I am aware of the recent reports about this matter and that there are no immediate concerns in relation to the child protection portfolio. I understand that the Attorney General has asked the Acting Commissioner for Victims of Crime to liaise closely with the family and to continue to support them. The Department of Communities respects the private family life of the young person and does not comment on individual cases.

The Department of Communities continues to take the necessary steps to appropriately protect and support children. Whenever concerns for child safety are raised, the Department of Communities works with the WA Police Force to ensure that they are investigated and, if required, acted upon immediately. The Department of Justice and WA police are responsible for managing the risk of offenders in the community.

HOSPITALS — REGIONAL — MENTAL HEALTH PRESENTATIONS

1195. Hon JACQUI BOYDELL to the parliamentary secretary representing the Minister for Mental Health:

I refer to mental health presentations at hospitals in regional Western Australia.

- (1) Has the minister read the report published in the *Medical Journal of Australia* of 26 August regarding mental health transfer data from the Royal Flying Doctor Service?
- (2) When will the government respond to this report?
- (3) How many mental health patient transfers in the Mining and Pastoral Region in 2019 have so far involved the services of the RFDS, and can the minister please provide a breakdown of locations, departing and arriving.
- (4) For the hospitals of Kalgoorlie, Broome, Port Hedland, Karratha and Newman, can the minister please identify —
- (a) how many accident and emergency presentations at these hospitals related to mental health;
 - (b) of those presentations at each hospital, how many patients were initially triaged as level 1, 2 or 3; and
 - (c) the length of stay for those patients for that initial period?

Hon ALANNA CLOHESY replied:

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

- (1)–(2) No; and not applicable. A copy of the report was not provided to the minister by the Royal Flying Doctor Service.
- (3) The WA Country Health Service is unable to provide the information in the time available. I will seek to make that available as soon as possible.
- (4) (a)–(c) The data I have is from 1 January 2019 to 30 September 2019. It is in tabular form and I seek leave to have that incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

(a)

Hospital	Hedland Health Campus	Karratha Health Campus	Broome Hospital	Kalgoorlie Hospital	Newman Hospital
Mental Health Emergency Presentations	722	463	990	868	166

(b)

Mental Health Emergency Presentations:	Hedland Health Campus	Karratha Health Campus	Broome Hospital	Kalgoorlie Hospital	Newman Hospital
Triage 1	4	3	4	9	1
Triage 2	80	91	69	137	31
Triage 3	340	212	388	447	71
Total Triage 1, 2 and 3 Presentations	424	306	461	593	103

(c)

Median Length of Episode in ED (minutes):	Hedland Health Campus	Karratha Health Campus	Broome Hospital	Kalgoorlie Hospital	Newman Hospital
Triage 1	281	357	286	233	222
Triage 2	187	217	201	191	158
Triage 3	124	146	159	164	119
Median for 1, 2, and 3	137	163	168	173	128

Note : Length of Episode in the Emergency Department (ED) is calculated as the number of minutes from a patient's ED presentation date/time to their ED discharge date/time.

VOLUNTARY ASSISTED DYING — PROSECUTIONS

1196. Hon MARTIN ALDRIDGE to the parliamentary secretary representing the Minister for Health:

I refer to my three requests, the first one dating back to 3 September 2019, some 50 days ago, seeking access to correspondence between the commonwealth and the state government in relation to the use of telehealth under the Voluntary Assisted Dying Bill 2019.

- (1) Why has the minister not satisfied his obligations under section 82 of the Financial Management Act 2006 within 14 days of a request for information by the Parliament?
- (2) Is the minister now in a position to table the information that I seek?
- (3) If no to (2), when will the minister be in a position to table this information, which is directly relevant to the consideration of the Voluntary Assisted Dying Bill 2019?

Hon ALANNA CLOHESY replied:

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

- (1)–(3) The Minister for Health regrettably advises that he is not in a position to table the information sought.

ROAD TRAFFIC (VEHICLES) REGULATIONS — APPEALS

1197. Hon AARON STONEHOUSE to the minister representing the Minister for Transport:

I refer the minister to the Road Traffic (Vehicles) Act 2012 and the associated Road Traffic (Vehicles) Regulations 2014, and note that most regulations, which are subject to the discretion of the executive, can be appealed to the State Administrative Tribunal.

- (1) Why is it that decisions made under regulation 235 of the Road Traffic (Vehicles) Regulations 2014, which deal with alterations to vehicles, are not open to such an appeal?
- (2) If it was an oversight, rather than an intentional omission during the drafting process, does the government have any plans to rectify the situation and allow for SAT appeals in the future?

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 Transport.

- (1)–(2) Decisions made under regulation 235 are based on an objective examination of a vehicle's modifications against the technical vehicle standards of safety that are set under the Australian Design Rules. The regulations do not provide for a formal review by the State Administrative Tribunal due to the high level of technical knowledge required to make these determinations. However, when an appeal is lodged by an applicant seeking a modification, the Department of Transport and its CEO will review any new evidence supporting the vehicle's compliance and safety under the ADR.

ANIMAL WELFARE — RACEHORSES

1198. Hon ALISON XAMON to the minister representing the Minister for Racing and Gaming:

I refer to the disturbing report regarding racehorses sent to slaughter on ABC's 7.30 program on 17 October.

- (1) Can the minister advise whether any Western Australian racehorses have been or are being sent to slaughterhouses when they are no longer able to race or are uncompetitive?
- (2) If no to (1), can the minister advise whether there is a ban on the practice of discarding unwanted racehorses at knackeries and abattoirs in WA?
- (3) Are rehoming policies in place in WA and are they sufficient to handle the number of horses that retire each year?
- (4) Has the minister given any consideration to establishing a horse traceability register in Western Australia?
- (5) If no to (4), why not?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for Racing and Gaming has provided the following information.

- (1)–(5) First up, the minister endorses the member's comments about the footage: it was abhorrent, deplorable behaviour. The minister wants to ensure that such unacceptable behaviour does not occur in Western Australia now or ever. Initial advice indicates that this is not occurring in our state; however, the minister has immediately sought to understand the landscape of abattoirs and knackeries in WA. In doing so, the government has identified some challenges that it will address as soon as possible. One such challenge is the limitation of the Racing and Wagering Western Australia regulation on racehorses. Although RWWA monitors and regulates racehorses from their birth to their exit from the racing industry, oversight beyond racing is not afforded by the current legislation or regulation. The practice often can be that racehorses are bought and sold numerous times before a horse is euthanased or dies of natural causes. WA racehorses that retire from racing are registered through a single national system, managed by Racing Australia. According to the single national system, 100 thoroughbred horses were registered as being euthanased or sent to an abattoir in 2018. RWWA is interrogating those figures to provide the minister with more accurate data.

Madam President, this is a very long answer and, unfortunately, I got it only just before question time. Would it be possible to seek leave to incorporate the rest of the answer into *Hansard*?

Leave granted.

The following material was incorporated —

Another challenge is that some race horses (and other horses) are exported to South Australia for processing and we do not have visibility over the number involved in this process.

Further, we understand there are a number of unregistered private businesses that process horses for pet meat. Again, racing authorities have no authority or visibility over this process.

There is currently no ban in place to prevent this practice.

The Minister for Racing and Gaming is committed to ensuring the highest possible standard for the treatment and welfare of race horses from their birth to their death. He is committed to the humane treatment of these animals, regardless of their age, or circumstances. This should be done because it is right, and to ensure the sustainability of this industry in WA. We can only ensure longevity of the industry if it meets the highest possible standard of welfare.

Western Australian thoroughbred and Standardbred horses are traced, and any retirement or death of a horse is registered with Racing Australia or Harness Racing Australia.

RWWA also runs an 'Off the Track' program to promote the rehoming of racehorses. The program is a highly reputable rehoming program.

This Government, along with RWWA and the Eligible Bodies of racing, can provide excellent welfare standards for all race horses and I can advise that the Minister has commenced work on a plan of action to address this matter.

ABORIGINAL HERITAGE — MINING LEASE 47/1566

1199. Hon ROBIN CHAPPLE to the minister representing the Minister for Mines and Petroleum:

I refer to mining lease 47/1566 held by Norwest Sand and Gravel Pty Ltd, and to registered Aboriginal site 621 on this lease and the adjacent site 11866.

- (1) With reference to the mining lease, were the relevant native title parties consulted; and, if yes, whom and when?
- (2) If no to (1), why not?
- (3) Regarding the program of works for M47/1566, what and when did the proponent advise the Department of Mines, Industry Regulation and Safety in relation to Aboriginal heritage surveys?
- (4) Regarding the program of works for M47/1566, what and when did the proponent advise the Department of Mines, Industry Regulation and Safety in relation to section 18 approval?

- (5) In what manner, if at all, did the program of works by Norwest Sand and Gravel Pty Ltd address whether activity at the site would cause environmental impacts, including impacts to Aboriginal heritage sites?
- (6) Will the minister please table the program of works?
- (7) If no to (6), why not?

The PRESIDENT: That is a very long question, member. Minister, I hope your answer is a lot shorter than the question.

Hon ALANNAH MacTIERNAN replied:

Thankfully, this minister is a more succinct minister. I thank the member for the question. The following information has been provided by the Minister for Mines and Petroleum.

- (1) The Ngarluma Aboriginal Corporation was notified on 20 July 2018 that the application had been applied for. On 20 August 2018, Ngarluma Aboriginal Corporation and Yindjibarndi Aboriginal Corporation were notified by letter of the commencement of the section 31 negotiation process.
- (2) Not applicable.
- (3)–(6) No programs of work have been applied for on this pending tenement.
- (7) Not applicable.

NEERABUP GROUNDWATER TREATMENT PLANT

1200. Hon COLIN TINCKNELL to the minister representing the Minister for Water:

I refer to the government's announcement that it will spend more than \$50 million to upgrade the Neerabup groundwater treatment plant—to be completed next year—which will double the recharge capacity of the scheme from 14 billion litres to 28 billion litres.

- (1) What is the anticipated time frame for completion?
- (2) How many jobs are anticipated to be —
 - (a) full-time; and
 - (b) part-time?
- (3) How many jobs will be ongoing once the upgrade has been completed?
- (4) I refer to the reported government spend of \$7 million to build infrastructure to expand the great southern temporary water carting program to Denmark and supplement the local water supply. This will involve carting water from supply points in the lower great southern towns of Mt Barker, Narrikup and Albany to Denmark. Therefore, can the minister please advise whether the government has any long-term plans to solve the water crisis in Denmark and the south west?

Hon ALANNAH MacTIERNAN replied:

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

- (1) Expected completion is by the end of 2020.
- (2) In total, 120 full-time jobs will be created.
- (3) There will be three.
- (4) The south west of Western Australia is one of the areas on the planet that has been most affected by climate change through declining rainfall. The government has been responsive to this new reality in a number of strategic ways through careful planning, including connecting towns to bigger schemes with multiple source options, water carting and working with the community to save water. Thanks to this careful planning, people living across the region continue to have a secure water supply. The McGowan government will spend \$39 million on a plan to secure Denmark's water supply. The plan includes short and medium-term solutions, as follows: stage 5 water restrictions for Denmark from 1 October 2019; working with the Denmark community to help it use less scheme water through the Denmark Waterwise Towns Program, which commenced on 1 October 2019; carting water to Denmark from Albany to supplement the local drinking water scheme until a new pipeline is built; and building a new water pipeline to connect Denmark to the lower great southern towns water supply scheme in Albany.

JOBS — SKILLED MIGRATION LIST

1201. Hon CHARLES SMITH to the Leader of the House representing the Premier:

I refer to the Premier standing up for workers and removing Perth from the regional migration scheme and trimming the state's skilled migration list in 2017. Despite Western Australia's labour underutilisation rate being at 15.4 per cent and wage growth at just 1.6 per cent—the lowest in the country—why is the government now turning its back on Perth workers by importing low-paid migrant workers?

Hon SUE ELLERY replied:

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

The Premier rejects the premise of the question. No changes have been made to the WA skilled migration occupation list. The state government is in discussion with the federal government concerning attracting international students to WA. I remind the member that the 457 visa and the parameters that surrounded it were the concern of the government. As the member would be aware, the 457 visa category no longer exists.

CABINET — MARITIME UNION OF AUSTRALIA

1202. Hon TJORN SIBMA to the Leader of the House representing the Premier:

I refer to the ban the Premier has placed on Mr Cain of the Maritime Union of Australia and the MUA generally from entering his office.

- (1) Has the Premier or his office instructed cabinet members and their staff not to meet with Mr Cain or the MUA in their ministerial offices?
- (2) Has the Premier or his office similarly issued instructions to the aforementioned people not to have any official dealings with Mr Cain and the MUA whatsoever?

Hon SUE ELLERY replied:

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

- (1) No.
- (2) Not applicable.

FORRESTFIELD–AIRPORT LINK — SOIL CONTAMINATION

1203. Hon Dr STEVE THOMAS to the Leader of the House representing the Minister for Public Sector Management:

I refer to the Department of the Premier and Cabinet letter reference D1711181 from the director general of the Department of the Premier and Cabinet to the deputy secretary of the federal Department of the Prime Minister and Cabinet, dated 15 December 2017, obtained through freedom of information.

- (1) How did the director general or the state come to the view that there is currently a commonwealth restriction preventing Perth Airport Pty Ltd from storing and using PFAS-contaminated material on the Perth Airport site, as stated on page 3?
- (2) What evidence or documentation was used to form this view, and will the minister please table it?
- (3) Will the minister please table the development agreement between the Public Transport Authority and Perth Airport Pty Ltd, as cited on page 3?
- (4) If no to (3), why not?
- (5) Given that this position was known in December 2017, why has the Minister for Transport now acknowledged that the PTA is the owner of 100 000 cubic metres of PFAS-contaminated spoil from the Forrestfield–Airport Link project, currently stored on the Perth Airport estate, and what will the government do about it?

Hon SUE ELLERY replied:

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

- (1) The state government was advised of a commonwealth government requirement that airport lessees ensure that any fill brought onto airport sites was PFAS free separately by both Perth Airport and the commonwealth. The state government understands that this restriction was removed following the release of the PFAS national environmental management plan.
- (2) Not applicable.
- (3) The Premier is not the responsible minister for the Public Transport Authority.
- (4) Not applicable.
- (5) The stockpile area in question is a temporary storage area and the PTA has always been the legal owner of the 100 000 cubic metres of spoil from the Forrestfield–Airport Link Airport Central Station box excavation, which was then stored nearby in the stockpile area. Perth Airport remains interested in utilising the soil to facilitate developments consistent with the airport master plan. While negotiations for this re-use are ongoing, it is practical to leave the stockpile in situ until the matter is resolved.

ELECTRICITY DISCONNECTIONS

1204. Hon COLIN de GRUSSA to the minister representing the Minister for Energy:

I refer to recent media reports in which the WA Council of Social Services voiced concern about the increasing number of power disconnections in Western Australia, with a record 22 000 disconnections last financial year due to high power prices.

- (1) How many disconnections occurred for the financial years 2015–16, 2016–17, and 2017–18?
- (2) Of the 22 000 disconnections in 2018–19, how many were in regional Western Australia?
- (3) Does the state government have any plans to alleviate high power prices and reduce the record number of disconnections caused under the minister's watch?

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 Energy.

- (1) For Horizon Power, the number of disconnection in 2015–16 was 2 328; in 2016–17, 3 519; and in 2017–18, 3 193. The answer for Synergy is in tabular form, so I seek leave to have it incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

FINANCIAL YEAR	RESIDENTIAL DISCONNECTIONS FOR NON-PAYMENT IN THE SOUTH WEST INTERCONNECTED SYSTEM
2015/16	8,069
2016/17	14,109
2017/18	17,800

- (2) There were 3 600 disconnections from Horizon Power's area. For a complete regional Western Australian figure, Synergy's disconnections will need to be added to this number. Synergy operates in the south west interconnected system, which stretches from Kalbarri in the north to Kalgoorlie in the east and Albany in the south. Although Synergy can undertake a postcode analysis to give a clearer figure for regional areas, this question will take some time to answer and would be better placed on notice.
- (3) Yes.

ENVIRONMENTAL PROTECTION AUTHORITY — GREENHOUSE GAS EMISSIONS —
GUIDELINES

1205. Hon ROBIN SCOTT to the Minister for Environment:

It was reported today that the major resource industry leaders have again called for the Environmental Protection Authority of WA to hold off on releasing its guidelines on greenhouse gas emissions until after the government has released its new climate policy.

- (1) Does the minister agree that it would be premature for the EPA to release its guidelines before the government releases its climate policy?
- (2) Has the minister spoken with the EPA about the timing of the release of the guidelines; and, if so, what was discussed?
- (3) Will the minister commit to reject any policy that recommends immediate net zero emissions targets for new projects?
- (4) Has the EPA become a governmental arm of the Greens party, hell-bent on destroying the state's economy?

The PRESIDENT: Minister for Environment, you can answer the first three parts, but I think the member was actually seeking an opinion in the fourth part, which he knows he should not be doing. Cheeky try!

Hon STEPHEN DAWSON replied:

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

- (1)–(4) The Environmental Protection Authority is an independent statutory authority, and this government fully respects that independence. The content and timing for release of the EPA's updated guidance on greenhouse gas emissions is a matter for the EPA board. I receive monthly verbal briefings from the EPA chair on a variety of environmental matters, which has included updates on consultation being undertaken for the greenhouse gas guidance. I note that the proposed time line for release of the EPA's updated guidance is outlined on its fact sheet on greenhouse gas guidance, which is available on the EPA website.

I will table a copy of that fact sheet. The state's greenhouse gas emissions policy for major projects is clear that when a project is assessed by the EPA, I will consider the advice and recommendations of the EPA and the particular characteristics of the project. The government may then consider whether it is appropriate to apply a condition that sets out the requirements for a plan detailing the proponent's contribution towards achieving the government's aspiration of net zero emissions by 2050.

[See paper 3297.]

WATER — LEAK CHARGES

1206. Hon DIANE EVERS to the minister representing the Minister for Water:

In relation to the Water Corporation, Aqwest and Busselton Water, and in regard to charges for leaks or expected leaks if this can be determined, I ask —

- (1) Will the minister please advise the number of residential customers that have been charged amounts over \$3 000 in any one billing period by each agency; and —
 - (a) how many of these have been contested;
 - (b) how many of these have been withdrawn; and
 - (c) how many of these were for leaks and drainage issues resulting from the agency conducting maintenance or upgrades?
- (2) What is the estimated volume of water lost to leaks on residential accounts on the resident's side of the meter by each agency?

Hon ALANNAH MacTIERNAN replied:

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

The water corporations provide financial assistance to customers who have received a high water use bill as a result of an internal leak on the customer's side of the meter that is not visible, usually underground. The leak allowance program has been developed to consider the specific circumstances of each customer and their actions to minimise water losses now and in the future. Allowances are generally calculated based on 50 per cent for the estimated wasted water volume above the average consumption in kilolitres for the property. The figures for 2018–19 are as follows.

- (1) For Aqwest, five residential customers were billed over \$3 000 after leak allowance applied, due to a possible leak, and —
 - (a) two were contested;
 - (b) one was withdrawn; and
 - (c) no customers were charged for leaks determined to be a result of Aqwest.

For Busselton Water, nine residential customers were billed over \$3 000 after leak allowance applied, due to a possible leak, and —

- (a) one was contested;
- (b) none were withdrawn; and
- (c) no customers were charged for leaks determined to be a result of Busselton Water.

For Water Corporation, 99 residential customers were billed over \$3 000 after leak allowance applied, due to a possible leak, and —

- (a) none were contested;
- (b) none were withdrawn; and
- (c) no customers were charged for leaks determined to be a result of Water Corporation.

- (2) The estimated volumes of water lost to leaks on residential accounts on the resident's side of the meter are: Aqwest, 14 426 kilolitres; Busselton Water, 40 681 kilolitres; and Water Corporation, 1 460 603 kilolitres.

WATER — CARNARVON ARTESIAN BASIN

1207. Hon KEN BASTON to the minister representing the Minister for Water:

- (1) How many artesian bores are known to currently exist within the Carnarvon Artesian Basin?
- (2) Of these, how many are —
 - (a) free flowing;
 - (b) decommissioned; and
 - (c) replaced or rehabilitated?

Hon ALANNAH MacTIERNAN replied:

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

- (1) The number of bores is 138.
- (2)
 - (a) It is 21.
 - (b) It is 65.
 - (c) It is 52.

*AUSTRALIND — REVIEW***1208. Hon COLIN HOLT to the minister representing the Minister for Transport:**

I refer to the *Australind* service.

- (1) On what date did the Public Transport Authority appoint a consultant to investigate a faster and more direct *Australind* service?
- (2) Who is the consultant?
- (3) With regard to money spent on the consultancy, can the minister —
 - (a) advise how much has been spent on the consultant's services to date; and
 - (b) clarify the total budget for this consultant?
- (4) When will the final report on the *Australind* service be delivered; and will this report be made publicly available, and, if not, why not?

Hon STEPHEN DAWSON replied:

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

- (1) A consultant was appointed on 15 February 2019.
- (2) It is Arup Perth, with input from Arup Melbourne.
- (3) The full budget has been expended, with \$149 914, including GST, spent on the consultant's report.
- (4) The Public Transport Authority recently received and is currently reviewing the final report. Government announcements will be made on this issue in due course.

*GAS EMISSIONS — METHANE***1209. Hon TIM CLIFFORD to the Leader of the House representing the Premier:**

I refer to the response to question without notice 1186—C1267—and the fact that liquefied natural gas is predominantly methane.

- (1) Does the Premier accept that methane is a greenhouse gas?
- (2) Does the Premier accept that, according to the International Panel on Climate Change, methane warms the planet 86 times more than carbon dioxide does?
- (3) Will the Premier concede that he did not take into consideration all factors relating to gas emissions, including methane, in his response to the claim that gas produces less than half the emissions of coal?

Hon SUE ELLERY replied:

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

- (1) Yes.
- (2) The comparison of impact is dependent on the time frames for assessment, as methane has a shorter residence in the atmosphere. For example, the United States' EPA estimates the global warming potential of methane to be 28 to 36 times that of carbon dioxide over 100 years.
- (3) No.

*AGRICULTURE — KIMBERLEY PROJECTS***1210. Hon JIM CHOWN to the Minister for Agriculture and Food:**

- (1) What developments in the Kimberley are both the minister and her government working on currently?
- (2) How will these developments increase cattle production?
- (3) How will these developments increase employment, especially the creation of jobs for traditional owners?

Hon ALANNAH MacTIERNAN replied:

Madam President, I thank the member for the question. The answer will be extremely long if the member wants me to do it justice.

Last month, I was in the Kimberley to announce some of the developments in the region—approval to build the new \$110 million floating wharf facility at Broome port, to be constructed and funded by the Kimberley Marine Supply Base; an additional \$3.9 million funding for tourism infrastructure on the Dampier Peninsula to prepare communities for the anticipated visitor increase on Cape Leveque Road, a \$65 million McGowan government project due for completion at the end of 2020; and \$11.95 million for stage 2 of the completion of the Chinatown revitalisation project. The Chinatown project will comprise 10 subprojects, with construction expected to create 27 direct jobs and 53 indirect jobs during construction, including 10 Aboriginal employment opportunities. We also have the northern beef development project, which is now administered not from Waroona but from Broome. That is rebuilding agricultural research in the north. We have our revitalisation of the Frank Wise Research Institute, with a new professor—a leading agronomist with 40 years’ experience—based up there, and three new research officers, and half a million dollars in upgrades. We also have the last round of business improvement grants, which saw \$575 000 go to 20 pastoral businesses across the Kimberley. We have also been working intensively with the Aboriginal pastoral stations up there. A whole raft of those pastoral stations, including Louisa Downs, Mowla Bluff and Myroodah, have participated in our “Indigenous Grazing for Profit” course. We have numerous other programs.

If the member wants to be more specific, we will need more time to talk about all the things that we are doing in the Kimberley.

**STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES — FIFTY-FIFTH REPORT —
EMAIL ACCESS — STATE SOLICITOR’S OFFICE**

Question on Notice 2458 — Answer Advice

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.05 pm]: Pursuant to standing order 108(2), I wish to inform the house that the answer to question on notice 2458 asked by Hon Michael Mischin on 5 September 2019 to me, the Leader of the House representing the Attorney General, will be provided on 31 October 2019.

QUESTIONS ON NOTICE 2470, 2475 AND 2484

Papers Tabled

Papers relating to answers to questions on notice were tabled by **Hon Sue Ellery (Minister for Education and Training)**, **Hon Stephen Dawson (Minister for Environment)** and **Hon Alanna Clohesy (Parliamentary Secretary)**.

VOLUNTARY ASSISTED DYING BILL 2019

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

Resumed from an earlier stage of the sitting.

The PRESIDENT: Members, we are dealing with the motion that has been moved by Hon Rick Mazza, and the question is that the motion be agreed to. It is the continuation of the remarks by Hon Nick Goiran.

HON NICK GOIRAN (South Metropolitan) [5.07 pm]: I rise to continue speaking in support of the motion moved by Hon Rick Mazza that the Voluntary Assisted Dying Bill 2019 be discharged and referred to the Standing Committee on Legislation. The motion before the house proposes a number of things, including that the committee report by no later than Tuesday, 11 February 2020. As I foreshadowed earlier, it would not be strange or irregular for the chamber to refer this bill to the legislation committee, given that this would be, on my count, the ninth occasion during this fortieth Parliament on which a bill has been referred by this chamber to that committee. As I indicated earlier, if it was good enough for this chamber to send the Animal Welfare Amendment Bill and the Ticket Scalping Bill to the Standing Committee on Legislation, it should be good enough to send the Voluntary Assisted Dying Bill to the committee for investigation.

My only concern about the motion that is before the house is that the honourable member proposes a reporting date of Tuesday, 11 February 2020. I note that the bill that is currently before the committee has a reporting date later than 11 February 2020; in fact, I think the reporting date is May 2020. The problem is that we are currently operating in a highly charged political environment that will not tolerate one moment’s pause in the consideration of the Voluntary Assisted Dying Bill 2019. Therefore, I do not feel at liberty to propose a later reporting date, because, in the current political climate, that will be considered to be utterly intolerable. Can I be so bold as to say that it has almost come to the point of hysteria in certain quarters that the Legislative Council might want to pause and consider carefully the 184 clauses in this bill that will lead to the taking of Western Australian lives. Members may very well say, as members have said, that it will be a voluntary process, but just that voluntary process itself, the decision-making capacity of the individuals and whether genuine consent is provided, need to be examined by the Standing Committee on Legislation. The moment any of that goes wrong, it will result in a wrongful Western Australian death.

Before the interruption to take questions without notice, I was taking members through the views expressed by various individuals in the community. I started by looking at the comments of the Minister for Health, Hon Roger Cook, and at comments made and reported in recent times by Australia’s first Indigenous surgeon, Kelvin Kong, and touched

on the views presented by Senator Dodson and federal Minister Wyatt. I now want to turn to the views expressed by the so-called ministerial expert panel in its final report. I draw to members' attention these remarks made by the Ministerial Expert Panel on Voluntary Assisted Dying on page 24 of its final report, where it states —

Some consultation respondents contended that developing adequate safeguards to ensure that decision-making is voluntary and valid would be challenging.

At the very start of the process by the ministerial expert panel, the chair, Hon Malcolm McCusker, was quoted in the media in Western Australia as saying that this process is a minefield. Again, if the chair of the panel is saying that it is a minefield, should we not pause for a moment and consider what could possibly go wrong in a minefield? If the chair of the ministerial expert panel says this will be a minefield and its report says, "Some consultation respondents contended that developing adequate safeguards to ensure that decision-making is voluntary and valid would be challenging", is that not something the Standing Committee on Legislation should inquire into and report back to the house on? The paragraph goes on to say —

Others noted that there was a need to have a good understanding of cultures that have a collectivist approach to decision-making and for practitioners to better understand how Aboriginal people may choose end-of-life care.

The ministerial expert panel specifically quotes from the submission of the Aboriginal Health Council of Western Australia.

I pause for a moment because it strikes me that sometimes, with some of the advocacy that has taken place, including late last night by the so-called ministerial expert panel, some individuals and advocates think members in this place cannot read! This is straight out of the final report on page 25 —

'Any guidelines or legislation for voluntary assisted dying must make it clear that autonomous, voluntary decision making for Aboriginal people is not precluded by a collectivist approach, and should be accepted'.

(Submission by the Aboriginal Health Council of Western Australia)

That is what the ministerial expert panel said the Aboriginal Health Council said in its submission. What did the ministerial expert panel have to say about that? This is its discussion at page 25. I ask members to consider whether this response and discussion by the ministerial expert panel would pass any academically rigorous test. I quote —

Most decisions, large or small, are made by people in the context of their usual life which includes family, friends and their community. People have the right to include or exclude whoever they choose in their deliberations on their decision and to seek support in their decision-making process. It is important to consider the needs of people from diverse backgrounds who may be from cultures that have a collectivist approach to decision-making.

End of comment. The ministerial expert panel identifies that the collectivist approach to decision-making is an issue for Aboriginal people. It quotes from the Aboriginal Health Council, which says that this should not be precluded and, indeed, should be accepted. However, the best comment the panel can make is —

It is important to consider the needs of people from diverse backgrounds who may be from cultures that have a collectivist approach to decision-making.

One of the things the Standing Committee on Legislation will clearly need to look into is how a medical practitioner should assess whether the individual's consent to voluntary assisted dying was voluntary and free of coercion or undue influence if the decision can be made by a collectivist approach? That is the type of thing the ministerial expert panel should have been wrestling with and should have provided some recommendations on. That is the whole point of having the ministerial expert panel, and it has not done it. That is exactly why we need the Standing Committee on Legislation to look at these issues. We have to fill the gap left by the ministerial expert panel. It clearly has not done it. Again, I challenge members who have a differing view to point to me the page in the ministerial expert panel's report that does that. It does not exist. This is not some small, insignificant matter. People will have passionate views one way or another on it, and that is fine. However, surely the 36 of us all agree that if the law is passed, it must be safe. What confidence can we have that this Voluntary Assisted Dying Bill is safe when we are told by the government and its chief proponents that there has been massive consultation on this process, including by the ministerial expert panel, when the facts tell us that the bill was drafted before the ministerial expert panel handed down its report? If members take the time to read the report, they will find that it has massive holes in it.

What about the collectivist approach to decision-making for Aboriginal people? Do we care? If we do not care, let us be brutally honest and say that we do not care, we want to ram this legislation through. We do not care what Senator Dodson or federal Minister Wyatt have to say and we do not care what the Aboriginal Health Council of Western Australia has had to say. We do not care that the ministerial expert panel has failed in its duty to address the issues that have been raised. We simply do not care. We think the Voluntary Assisted Dying Bill is a bill of lesser importance than the Animal Welfare Amendment Bill, the Ticket Scalping Bill and the other bills that have been referred to the legislation committee by this chamber in this fortieth Parliament. If that is our view, let us be

honest and transparent and say so. However, let us not pretend, as put by the Leader of the House, that we cannot do it because it is a conscience vote. We know that is untrue because that is precisely the argument that was put on the surrogacy legislation and that report speaks for itself.

I turn now to further things the ministerial expert panel had to say on Indigenous interests. On page 27 of the report, the following comment is made by the so-called expert panel —

In some communities, particularly more remote communities, an association with voluntary assisted dying may impact the community's trust in the local health practitioner or health service. There may be times where the use of an independent navigator would provide additional safety and space for a person to make a decision that reflects their personal choice (particularly if their viewpoint differs from that of their family or community).

If we pause and read that for a moment, we realise that the ministerial expert panel is throwing up a red flag to us, saying there will be safety issues in the decision-making process in remote communities. If that is the case, and if we have key Indigenous leaders in our state saying they are concerned, do we not have a duty to pause and refer the bill to the Standing Committee on Legislation so that it can do the consultation that has not been done? As much as the government will say there has been massive consultation, would it not be good, members, if we could have a list of the Indigenous Western Australians who have been consulted on this bill? It will not be a very big list. I can tell members, I served on the Joint Select Committee on End of Life Choices and the list is not very big. How big is the list of Indigenous consultation by the Ministerial Expert Panel on Voluntary Assisted Dying? I bet it is not very big. Should not the last gatekeeper in this process, the Legislative Council of Western Australia, do the job that has not been done by others?

I turn to page 28 of the final report of the Ministerial Expert Panel on Voluntary Assisted Dying and its comments with regard to matters affecting Indigenous interests. It states —

It was evident to the Panel that education, information and informed decision-making are all very important to the Western Australian community ... all people must be able to access information in a language or manner suitable to them and that this information should be easily accessible.

That comment by the Ministerial Expert Panel on Voluntary Assisted Dying sits well with clause 4 of the Voluntary Assisted Dying Bill 2019, headed "Principles". Hon Rick Mazza earlier referred to clause 4, and it touches on exactly this point. It states in part, under clause 4(1) —

- (g) a person should be supported in conversations with the person's health practitioners, family and carers and community about treatment and care preferences;
- (h) a person is entitled to genuine choices about the person's care, treatment and end of life, irrespective of where the person lives in Western Australia and having regard to the person's culture and language;

In that respect, the bill correctly identifies the issue that was spoken about by the Ministerial Expert Panel on Voluntary Assisted Dying, but the report continues, at page 28 —

Further to this there was context of particular relevance to Aboriginal people:

Again, the report quotes from the submission by the Aboriginal Health Council of WA —

'There are English language terms which have no meaning for Aboriginal people and discussions around end of life care must take this into account. For example, even the term 'end of life' is not one that Aboriginal people would use or necessarily recognise as applying to them or their circumstances.'

What are we doing about that? That has been identified by the Ministerial Expert Panel on Voluntary Assisted Dying as a problem, yet there has been no explanation about how that will be addressed. It is no wonder, then, that Senator Dodson and others are crying out for more consultation on this matter. This is no light matter. I remind members again that when it comes to language and the confusion that can be caused on technical matters, we have only to look at the report that was tabled in this fortieth Parliament by the Joint Standing Committee on the Corruption and Crime Commission that looked into the wrongful death of Josh Warneke and the circumstances in which Mr Gene Gibson incorrectly pleaded guilty because of confusion around language and with regard to capacity. We already have an example of this that has happened in our own fortieth Parliament, and now we are having it drawn to our attention by the Aboriginal Health Council of Western Australia, reported to us by the Ministerial Expert Panel on Voluntary Assisted Dying, and there has been no response from the government on how that is to be addressed.

I turn to page 30 of the Ministerial Expert Panel on Voluntary Assisted Dying's report. It states —

The Joint Select Committee specifically recommended that a prohibition on health practitioners starting a discussion about voluntary assisted dying was not adopted in Western Australia.

...

The findings of the consultation demonstrate very strong opinion that legislation in Western Australia should not limit, impede or seek to censor the conversations that health practitioners appropriately conduct with patients.

It continues, further down the page —

Discussions that took place in the Kimberley raised issues in relation to self-harm and suicide and noted that even discussing palliative care with patients can be challenging in this context. There may be complexities surrounding concepts such as blame or ‘pay back’ in Aboriginal communities and potential implications if the family has a negative perception of the practitioner or health service because of involvement in voluntary assisted dying.

The report quotes from one of the consultation stakeholder meetings with Kimberley palliative care —

‘High turnover of staff and GPs is a huge issue. For people to establish a relationship with their GP to even have a discussion about voluntary assisted dying is hard’.

Are these things that the Standing Committee on Legislation should pause and consider? Or, again, should we say, “These things are not of sufficient significance; we prefer to send matters like the ticket scalping bill and others to the legislation committee for consideration because we’re very concerned that Western Australian might be ripped off for their ticket, but we’re not as concerned that a Western Australian might be coerced or abused or under duress or undue influence with regard to the decision that they make, and we’re less concerned about the possibility of a doctor making a mistake, let alone two GPs, to say nothing of the role of a specialist”, which apparently is a no-go zone, according to the Minister for Health.

I turn now to page 31 of the Ministerial Expert Panel on Voluntary Assisted Dying’s report and its consideration of matters that are of interest to Indigenous Western Australians. It states —

The complexity of medical terminology and the balance of power between health practitioner and patient was also identified as potentially challenging and would require thorough consideration during any implementation planning (including being part of practitioner education and training).

What did the Aboriginal Health Council of Western Australia have to say to the Ministerial Expert Panel on Voluntary Assisted Dying about that? It said, as quoted in the Ministerial Expert Panel on Voluntary Assisted Dying’s report —

‘Clinicians often use complex medical terminology when discussing treatment options with Aboriginal people ... This results in the real risk that Aboriginal people may consent to something they don’t fully understand. There is also the issue of the disparity of power between a doctor and Aboriginal people; Aboriginal people will often agree with a doctor’s advice even if they are not happy with it as they can feel overpowered in the doctor–patient relationship’.

Those are not my words and not my view of the world; that is a submission by the Aboriginal Health Council of Western Australia to the Ministerial Expert Panel on Voluntary Assisted Dying. What did the ministerial expert panel do about that? I expected more from the ministerial expert panel than to be just a collator of information, and to then dump the information into a final report. I expected it to wrestle through the issues at an academically rigorous level and provide us with some solid findings and recommendations. Plainly, in the limited time I have had here, we can see that that has not occurred, especially with regard to Indigenous Western Australians. It is no wonder that Hon Rick Mazza is therefore concerned and asks us to pause for a moment and contemplate a referral to the Standing Committee on Legislation.

As I said earlier—I know the honourable member was out of the chamber on urgent parliamentary business—if there is any point of concern I have with the motion, it is the expectation that the committee report by no later than Tuesday, 11 February 2020. But as I indicated earlier, we are in a highly politically charged environment, and despite the fact that it is a conscience vote, I feel constrained to even propose that there be a later date than February 2020, in circumstances in which the most recent referral of a bill to the committee—Hon Aaron Stonehouse’s private member’s bill—has been given a greater period for proper consideration by the committee.

I will finish on this point. If any member in the chamber this afternoon might not want to vote for this motion by Hon Rick Mazza simply because I am on the committee, I say to them that I will be prepared to stand down from this inquiry if that were to be a stumbling block for members. I made it very clear in my contribution to the second reading debate that I have been researching this matter for 10 years and it is my view that it is a legal impossibility to create a safe system. If members then say that it is therefore not appropriate for a member holding that view to be involved in this inquiry and to carry out consultation with Indigenous Western Australians, I will be prepared to consider that very seriously. I do not want that to be the stumbling block, because the stakes are simply too high.

Members have said during the course of this debate that there is no more difficult decision to make than the one on this bill and this will be the hardest decision that they will have to make. If that is the case, should the committee not be looking into the issues? It seems counterintuitive to me that in one breath we can say this is a very difficult matter to deal with, on which people hold very strong views, and in the next breath say that we do not want a committee to look into it—under no circumstances should the committee to look into this. Why would that be? What are we scared of? Is it the fact that on each and every other occasion in this fortieth Parliament when a bill has been referred to a committee, the committee has suggested some amendments and found some issues, whether it is, with all due respect, on a more innocuous piece of legislation such as the Ticket Scalping Bill? Maybe there are members

who are very passionate about animal welfare and they feel it is at a higher level than ticket scalping, and that is fine. I do not wish to cast any judgement about the weight that members personally give to any piece of legislation, but surely out of all those bills the one with the greatest gravity, the one with the greatest amount of consequences, is this one. Why would we not want the committee to look at it? If members examine their consciences, the reason cannot be that the government does not want any amendments. We have to rise above the attitude in the other place, otherwise there is no point in having a Legislative Council. We should not bother having this chamber if we are simply going to be the chamber that rubberstamps what comes from the other place. It does not matter whether the government wants amendments; our duty as lawmakers is to ensure that the bill before the house is safe. Is it safe or not? Have Aboriginal people been consulted or not? They are the issues that need to be considered by the Standing Committee on Legislation, and it is for those reasons that I support the motion moved by Hon Rick Mazza. I thank him for his courage in moving the motion, because inevitably he will be criticised for having the temerity to even suggest that this bill go to a committee. I stand with him by indicating to those who would criticise him that the stakes cannot be higher than the Voluntary Assisted Dying Bill, and it is entirely appropriate for this bill to go to a committee.

HON ROBIN CHAPPLE (Mining and Pastoral) [5.32 pm]: I will be brief. I will not support this motion. I take on board what has been said by Hon Rick Mazza about Indigenous people. I am not going to preclude anybody, but I know that Hon Kyle McGinn and Hon Colin Tincknell have a large connection with Indigenous people, as I do. One of the problems if we want to go down this path is that we are going to have to talk to 128 different tribes that all have different views about this process. There are 90 languages spoken in Western Australia, and from the discussions I have had through the Kimberley and the desert, there is a vast array of views on this matter, in exactly the same way that we have a vast array of views in this chamber. I think it is important to put on the record that Ms Kate George was on the Ministerial Expert Panel on Voluntary Assisted Dying. She is a Martu woman—she is actually a Putijarra woman from the desert. She was the first Indigenous woman to study law and get a degree at the University of Western Australia, and she specialises in human rights, international law and Indigenous matters. Whether it be the saltwater people, the desert language groups, the Murchison bioregion groups or the goldfields Wongutha groups, there are going to be completely different views expounded by all these groups and people. I think that having Kate on the expert panel provided it with that voice, in essence. She is highly respected throughout the Pilbara, Port Hedland, through the Kimberley and down to the goldfields. This is the woman who was put on the expert panel for that very purpose. I will not support the motion. We have to be very, very careful when we go down this path of saying “Aboriginal people”. It is one of the fallacies that we fall into. There is no such thing as “Aboriginal people”. There are lots of Aboriginal tribes and they are all different; they all have different cultural approaches to a whole range of things. I think doing things in that way is almost belittling to Aboriginal people.

HON AARON STONEHOUSE (South Metropolitan) [5.35 pm]: I will be brief. In the lead-up to this debate I spoke with stakeholders, and many of them asked me my views on discharging this bill to the Standing Committee on Legislation. At the time I spoke frankly and I said to them that I thought such an effort was likely be little more than a delaying tactic and I would not see the value in such an effort as the committee would probably not be able to tell us much more than we already knew. I said that the issue of voluntary assisted dying had already been subjected to the Joint Select Committee on End of Life Choices and then to the Ministerial Expert Panel on Voluntary Assisted Dying. However, I note that the motion moved by my learned friend Hon Rick Mazza is far narrower in scope and his intention with this motion seems to be to garner evidence and consult with and receive feedback from specific groups of people. Part (3)(a) and (b) make specific reference to Indigenous persons and part (3)(c) requests that the committee report on whether the bill provides culturally appropriate end-of-life choices for Indigenous persons. It is far narrower in scope than what was being proposed earlier to me by stakeholders, which would have been to discharge the entire bill and have the entire policy of the bill examined. I note that part (2) of the motion mentions that the policy of the bill should be looked at, and I have some thoughts about perhaps amending this motion, which I will discuss later in my contribution.

In my contribution to the second reading debate I spoke about a need for legislators to be vigilant, critical and sceptical of what was brought before us. Even speaking from the position of someone who supports the bill, at least thus far, and is willing to vote for the second reading so we can continue into the Committee of the Whole House, there is still a responsibility for members of the Legislative Council to leave no stone unturned and to examine every aspect of this bill. It is a large and complex bill with 184 clauses. During my second reading contribution, I raised concerns about cultural differences in attitudes towards capacity and consent. Indeed, this was even raised by the Ministerial Expert Panel on Voluntary Assisted Dying. Most of us, having grown up and lived in a liberal democracy with a healthy scepticism for authority and an individualistic identity, likely have no problem questioning advice from a medical practitioner or directions given to us by our family or friends. That may not be the case in different cultures. Other cultures may have very different views about where the individual sits in society, and they elevate community above individual. They may have family-based or community-based decision-making processes rather than individual-based decision-making processes. There may be concerns about language barriers. What do we do with someone with English as a second language who does not quite grasp the technical language used by the medical practitioner when discussing voluntary assisted dying?

It has been put to me that questions about this might best be addressed in the Committee of the Whole House. I think the Committee of the Whole process would be suitable for addressing most of the concerns I have with this bill; however, when I look around the chamber and at the lack of melanin and the make-up of the Legislative Council, I am not so sure that questions about cultural attitudes towards assessment of capacity and consent will be as easily answered in the Committee of the Whole House. It may be more appropriate in those instances to solicit evidence and witnesses from people from unique cultural backgrounds, who can give the Standing Committee on Legislation their take on what voluntary assisted dying means to them and the effectiveness of the safeguards built into the legislation. As the previous speaker Hon Robin Chapple said, there are hundreds of various tribes, groups —

Hon Robin Chapple: And views!

Hon AARON STONEHOUSE: — and views clumsily clustered together as Indigenous people. They are not one homogenous group with one view shared across the various groups that can be boiled down into a single view on the Voluntary Assisted Dying Bill and its 184 clauses. There may be merit, therefore, in having a select committee look at the issue of culturally appropriate end-of-life choices for not just Indigenous people but all people. I am mindful that discharging the bill in such a way will result in a delay. It has been put by other speakers that the proposed reporting date of 11 February may be a little too early. I fear that it may be too late. If there is the will, it may be possible to have an earlier reporting date. I wonder whether members would consider amending the reporting date to the end of January, because that will allow members to consider the committee's report before returning to Parliament in 2020. I am advised that a committee can table a report when Parliament is not in session by tabling it to you, Madam President. If that is the case, that would allow members to consider the committee's deliberations and report in detail before we resume the debate in February. I will not move that now because I have not had an opportunity to canvass support across the chamber for such an amendment and, to be honest, I am not sure whether it would make much difference. Despite the delay this would cause—I have said this about potential delays caused by the Committee of the Whole House and other Legislative Council processes during other debates—I would much rather err on the side of more than less scrutiny, especially when we are dealing with such a serious matter.

As I said last week, I will support the second reading of this bill. I support the right of individuals to make choices about their own bodies and I support voluntary assisted dying in principle, but it is imperative that we get this right because the price of making a mistake is too severe to pay. If we can get the bill right and address concerns about Indigenous persons, palliative care in regional communities and culturally appropriate end-of-life choices, a delay of four months is a small price to pay and perhaps it is warranted in this case. Therefore—I am doing this from the floor without a prepared motion so let me see whether I can get this right—I will move to address my concern about the scope of this discharge motion by seeking to remove part (2), which makes specific reference to the policy of the bill, so that the scope of the committee inquiry can instead focus on part (3), paragraphs (a), (b) and (c). I am mindful that under the standing orders, the committee may have the power to inquire into the policy regardless of what is in the discharge motion, but I think it might help to provide clearer guidelines to the committee when it begins its inquiry to remove specific reference to the policy. If it begins such an inquiry, the committee would look at the motion to discharge to inform the scope of the inquiry.

Amendment to Motion

Hon AARON STONEHOUSE: I move —

To delete part (2).

Point of Order

Hon SIMON O'BRIEN: I am sure that if you would contemplate this, Madam President, it might be beneficial for all members. I suggest—this is not entering into the debate but is simply a point of order—that if the second reading question has not been resolved, the policy of the bill has not been established by the house. Therefore, I think it is very difficult for you to entertain the amendment to the motion that has been put forward. Indeed, it has been the practice on solid grounds for as long as I can remember—at least my long-term memory is reasonably intact—that a bill referred to a committee for examination and report before the second reading is referred for consideration, including examination of the policy. I understand that the member is very well motivated in what he is proposing, but if the question of the policy of the bill has been decided and after the second reading a referral motion is entertained, that is when the position is that the policy has been decided and is not therefore available for further examination unless so ordered. I throw that in for your consideration, Madam President.

The PRESIDENT: In thinking about the point of order moved by Hon Simon O'Brien and taking into account the proposed amendment to the motion, I refer members to schedule 1(4), clause 4.4, which states —

Unless otherwise ordered, any amendment recommended by the Committee must be consistent with the policy of the bill.

As I understand it, retaining part (2) of the motion will enable the committee to look at the policy of the bill. I listened to Hon Simon O'Brien, who discussed at what stage the policy of the bill could be looked at, depending on whether the referral happens now or after the second reading debate has been completed. I think that if Hon Aaron Stonehouse seeks to remove part (2), that would restrict the committee in terms of what it can look at.

Hon AARON STONEHOUSE: It is certainly my intent to narrow the scope of the committee's inquiry. If it is not out of order, that is why I have moved my amendment to the motion. I want to narrow the scope of the inquiry to help the committee in its inquiry to understand that the Council's intent is part (3)(a), (b) and (c), not a wideranging review of the entire policy as allowed for by part (2). There was a point of order, so I am not sure whether I am speaking on my amendment to the motion, but it is certainly my intention to amend the motion. To make it clear to members, my intention is to narrow the scope of the committee's inquiry, and removing part (2) will help the committee because specific issues referred to in part (3)(a), (b) and (c) warrant further investigation, and I would like the standing committee to undertake that. I leave it there for members to give their thoughts.

The PRESIDENT: I am going to work my way through this, members. I am not going to uphold the point of order, but I am going to enable the amendment moved by Hon Aaron Stonehouse to proceed to see what the view of the house is on the question. I am going to deal with the amendment to the motion moved by Hon Rick Mazza. Hon Aaron Stonehouse has moved that part (2) be deleted; that is —

- (2) The committee has the power to inquire into and report on the policy of the bill.

Debate Resumed

HON NICK GOIRAN (South Metropolitan) [5.50 pm]: I rise to indicate to the honourable member my reluctance for the amendment. I understand why the member has moved it and I do not begrudge him moving it at all. I simply make this point: I have a longstanding record, including eight years when we were in government, of saying that if as a chamber we are going to invest the time of members of Parliament to look into a bill, why would we stop them from telling us whether they find a problem? If the Standing Committee on Legislation looks at a bill and identifies a problem—for example, some of the things that Hon Martin Aldridge has been trying to get answers from the government about on the intersection with federal law—why would we block it from saying something about that? I have never understood the need to restrict a committee. My approach has always been, whether in government or opposition, to give the Standing Committee on Legislation as much latitude as possible.

I understand why the honourable member has moved the amendment. I accept that it is moved with the greatest of respect and intent, and no doubt others will have a different view, but if I were to serve on the committee, I would want the freedom to look at all the issues associated with the bill, not just one particular thing. I find it difficult to support the amendment in those circumstances.

HON RICK MAZZA (Agricultural) [5.52 pm]: I rise to say that I will not support the amendment to the referral motion. I understand that Hon Aaron Stonehouse is trying to narrow the scope, but at the end of the day the Standing Committee on Legislation will report back to the house on 11 February, so regardless of whether the policy of the bill is included, the committee will still be subject to that time frame. I am very concerned that if the committee does not inquire into and report on the policy of the bill, some of the other issues may not be able to be properly investigated and there will be no correlation between the policy of the bill and how it relates to Aboriginal people. I will not be supporting the amendment.

Amendment put and negatived.

Motion Resumed

HON JACQUI BOYDELL (Mining and Pastoral — Deputy Leader of the Nationals WA) [5.53 pm]: I rise to indicate that I will not be supporting the motion to refer the Voluntary Assisted Dying Bill to the Standing Committee on Legislation. The intent of the motion is to look into the policy of the bill. I refer in particular to part (3)(a), which states —

consult with and take evidence from Indigenous persons including those residing in regional and remote communities in the state;

I attended consultations undertaken by the ministerial expert panel in the Kimberley, Pilbara and Gascoyne, and note that Aboriginal people attended. They did not attend all those consultation sessions, but certainly they were at some of them.

I also believe that the approach to the Voluntary Assisted Dying Bill and the way it has come to this house has been like no other piece of legislation. The Joint Select Committee on End of Life Choices considered the policy intent of voluntary assisted dying and presented its findings to Parliament and the government. The government's response to the committee's report was for the ministerial expert panel to consult widely with Western Australians in a way that I have not seen done, certainly in my time as a member of this house, with any other piece of legislation. The ministerial expert panel then reported to government, and members have had access along the way to the findings of both the joint select committee and the ministerial expert panel. Opportunities have been given not only to Aboriginal people, but also members of the public in Western Australia. I am not sure that referring the bill to the Standing Committee on Legislation, under part (3)(a), will encourage any more Aboriginal people than have already done so to engage with government. I agree with Hon Robin Chapple in that, like any other cultural group, there will be variations of what Aboriginal people think is acceptable and what is not. That is eminently the way of human nature, and people have differing opinions. I am not sure how referring this bill to the legislation committee will help the house deliberate on this bill.

I do not believe that referring the Voluntary Assisted Dying Bill to a committee can stop the investigation of palliative care for Aboriginal people who reside in this state. That should be done on an ongoing basis anyway. Is that a reason to refer this whole bill to the legislation committee? I do not think so. We still have the implementation period to go, should the bill pass this house. Those things that have been outlined, particularly by Hon Nick Goiran, as issues raised by the ministerial expert panel, the joint select committee and us as members when we got feedback from people in our electorates, are absolutely valuable and viable issues that should be considered by the Committee of the Whole House and by the government during the implementation period. We are yet to see that. It is not as though I think they should not be addressed; I do think that the issues that have been raised should be addressed, and the government has set out a plan on how it will do that.

I do not know how the committee will be able to undertake to report on whether the bill provides culturally appropriate end-of-life choices when there are differing versions of cultural appropriateness when managing end-of-life options for Aboriginal people in particular, as the motion refers to, but also for people from other cultural backgrounds. That, again, should be considered in the implementation period, and also, should the bill pass the house, in the management of cultural awareness when health professionals are delivering access to voluntary assisted dying. Those issues will need to be addressed by its navigators, whether they are care providers, GPs or specialists. All health professionals should be culturally aware in the delivery of end-of-life choices.

There has been a lot of reference to Senator Patrick Dodson and his comments published in *The Weekend Australian* of 5–6 October. I highly respect Senator Patrick Dodson, but he is only one person who represents a view—I say that with the greatest of respect to him—and he has had the opportunity to put that view. I would like him to have put that view to the select committee or the ministerial expert panel because he had the opportunity to do so.

I just want to quote some of his comments in that article that refer to cultural awareness and the viability of cultural appropriateness, in his view. He said —

First Nations have always been about survival and balance. Death is about returning your body to the place in the land your spirit to the sky. Your ... essence) —

Or your soul —

may return as part of a newborn member of your people. So, life and death are interwoven with country, community and creation. It is simply not just about the individual leaving this world. It is about being intrinsically interwoven with the dynamic of nature and the powers that sustain it.

There has already been some commentary by members about First Nation people's collectivist approach to life, which all members of the house respect highly. I have no doubt that Aboriginal people will consider cultural appropriateness when making a decision to access voluntary assisted dying should the bill pass the house. Those are considerations for individual people—I come back to the fact that this is a voluntary process—and I do not believe that this house could ever provide culturally appropriate delivery of end-of-life care services or palliative care services that address fully all issues of Aboriginal people, and also other cultural issues. Therefore, I cannot support the motion.

I thank the member for the discussion. It is entirely appropriate, relevant and sensitive, so I have tried to give it due respect. But I believe that a consultation period has been offered and Aboriginal people were at the consultations of the ministerial expert panel that I was at. I believe that the implementation phase was a way to address some of those issues. I thank members, but I will not be supporting the motion.

Sitting suspended from 6.01 to 7.30 pm

HON TJORN SIBMA (North Metropolitan) [7.30 pm]: Before the suspension, I did not have the opportunity to make a very brief contribution to the motion moved by Hon Rick Mazza. I do not feel restricted by the time constraints that I may have laboured under previously, but nevertheless I will keep my remarks brief.

At the outset, I do not support this discharge and referral motion. I say that while acknowledging the great respect that I have for Hon Rick Mazza. Certainly he is a person of integrity, and I believe that the motivation for this motion is absolutely well placed. However, for three very short and sharp reasons that I will outline, I disagree with it and I question the wisdom of it. First of all, in my previous speech, a lot of my position was arrived at by an assessment of the public will. That is an imperfect measure but, nevertheless, I think it is very clearly the public will across all of Western Australia that this bill be passed and that it be subject to appropriate scrutiny here, but that that scrutiny not unduly delay the passage of the bill. Irrespective of the time period that may be set for this committee to report—I reflect on the attempt to amend this motion by Hon Aaron Stonehouse, who made a sensible contribution to this amendment—I believe that any delay to this legislation is, frankly, unwarranted. I believe that the issues that are canvassed in the motion can be appropriately dealt with during Committee of the Whole.

To do it some credit, the government has engaged in an extensive consultation process. I am not necessarily convinced of the merits of opening this up further. I think the prospects through which that inquiry might deliver a product or review are highly questionable. I just reflect on part 3(b) of the motion, which deals with the notion of palliative care for Indigenous persons residing in regional and remote communities in the state. I make the

observation that, as I have said in this place before, a key consideration for me in arriving at my position to support this bill was an agreement with the Minister for Health that in the next health budget, a clear line of sight will be provided about palliative care funding, as an individual service line. I do not consider that further investigation of the provision of palliative care in the regions will contribute much more to the exercise than the government has already provided. Frankly, I did that for a reason—to bind future governments to honesty and to appropriate service provision of much-needed clinical care at the end of life to all Western Australians from the next budget onwards. I did that for a very important reason. It was a key consideration of arriving at that position. With the greatest of respect, I do not see part 3(b) of the motion contributing much more than that.

Other speakers, including Hon Robin Chapple, reflected on the very homogenous view that we have taken of Aboriginal and Indigenous people in this state. I am by no means a sophisticated appreciator of the Indigenous legacy in this land. That is to my shame. But I know as much not to put all Aboriginal people into one group. I think that is a great injustice. I think that is unsophisticated and naive and it undermines another reason I have chosen to support this bill, which is the upholding of the notion of individual agency and autonomy. I do not agree with grouping people into ethnic blocks. It is fundamentally why I have a problem with the general way in which we transact multicultural policy across Australia and in this state as well. I say that as the grandson of two different migrant streams and the father of a son who is half Lebanese.

That is where I will leave it. I agree with the intent of the motion—I think it is well placed—but I do not support the effect. I will not be supporting the amendment moved by Hon Rick Mazza.

HON KYLE MCGINN (Mining and Pastoral) [7.36 pm]: I rise to briefly put on the record my comments on the motion moved by Hon Rick Mazza. I will reflect pretty quickly on the speakers who have already spoken to this motion. Hon Jacqui Boydell, who is obviously in the same electorate as me, very clearly touched on the fact that there had been plenty of consultation and the Ministerial Expert Panel on Voluntary Assisted Dying travelled throughout the Mining and Pastoral electorate. There has been so much discussion about the inquiry from every parliamentary office across our electorate. I have put out surveys and have received plenty of feedback.

During my speech on the second reading, I spoke about an Indigenous navigator. I am waiting to hear a response from the government when it replies to the second reading. I acknowledge that we need to tread very carefully in this space and make sure that there is an understanding. When a minority group has a history of disadvantage within the health system, the last thing I want to do is be part of a bill that creates a bigger issue. I also think we have a really good capability within the regions, with plenty of Aboriginal organisations that work closely on the ground within communities. Bega Garribirringu Health Service in Kalgoorlie is a prime example. The work it does in the Indigenous space is second to none. It has a really good understanding. I am hoping to hear from the government. If I do not get a response in the reply to the second reading, I will be pressing further during the committee stage to ensure that when the implementation is carried out, all the Indigenous groups are brought in, not the select groups, with some missing out. As Hon Robin Chapple said, there are heaps of different groups and some talk to each other and some do not. That needs to be considered at the implementation stage. I believe that it will be. I think the government is taking a very responsible approach to it. The main thing is that when someone is in need of a navigator, it should be culturally appropriate and not, say, a Noongar from Perth dealing with Martu out in Kalgoorlie. They are some of the key things that I am hoping the government will commit to. I do not think that taking the legislation to a committee to look at again will be much clearer than what will occur at the implementation stage when the resources are on the ground.

Listening to a lot of the speeches throughout this debate, I have come to realise that regardless of how great palliative care is and whether people receive the best palliative care ever, it will not help some people with pain et cetera. Looking into palliative care specifically, I think we will find the same things that we already know about palliative care. As other members in this chamber have already said, there will continue to be a focus on palliative care moving forward if this bill passes. I think it will be under the microscope a lot more than it has been and I think that is a great thing for palliative care, particularly in the regions. I cannot support the motion. I will leave it there.

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [7.39 pm]: I rise as a humble member for the North Metropolitan Region to make a few comments on this motion. Members of the Liberal Party, as with the bill itself, have a conscience vote on this motion, so I am not aware of how my colleagues will vote on it. I feel duty bound to say that because of what I, quite frankly, regard as the intemperate and at times insulting comments of the Premier about this bill. His comments about intimidation and bullying that is apparently going on on this side of the chamber are completely unfounded. From my perspective, I personally feel insulted. That will mean nothing to the Premier, but it means a lot to me. I am making these comments as an individual.

The construct of this bill has been given thorough assessment over a number of years. It has been made quite evident through the reports that have been provided that there is an extraordinary number of disparate views on the issue we are dealing with from members of the legal profession, the medical profession, the Aboriginal community, and the community in general. There are a large number of disparate views, and never the twain shall meet. I am not sure that referral to the Standing Committee on Legislation will resolve those issues. In fact, I know that it will not; it simply will not. Having said that, I applaud Hon Rick Mazza for having the courage and conviction to move

this motion because, again, comments made in the other place have been insulting to almost every one of us in this chamber—saying that we should somehow just rubberstamp this legislation. No amendments whatsoever were countenanced in the other place, which is extraordinary for a bill of this magnitude. It will change the fabric of a tenet of our society, but somehow we should not assess this piece of legislation thoroughly and meticulously. I take on board the motives of the mover of the motion. The bill is imperfect in a number of ways and is made more defective by the notion that no amendments were countenanced in the other place. That disappoints me. Most pieces of legislation that come to this place are amended in some shape or form. We do that because we improve the calibre of the legislation. It goes back to the other place and in two minutes—bang!—the amendments are accepted. As I said, this piece of legislation, which will shift a fundamental tenet of our society, deserves due scrutiny, and I think we must give it due scrutiny.

Having said that, one area brought up by the motion is to do with Aboriginal people. Members who listened to my contribution to the second reading debate will know that I brought this up. As a former Minister for Aboriginal Affairs, I am very conscious of the extraordinary disparity that exists between the quality of health care that is provided for Aboriginal people—particularly in the north of this state—and non-Aboriginal people. That in itself is problematic. If general health facilities are lacking for Aboriginal people, members can imagine the deficiencies that must exist in palliative care. As a former Minister for Aboriginal Affairs, that pains me. We went through an entire process with the regional services reform. I personally went up to the Kimberley and right throughout the state on a number of occasions to access the views of Aboriginal people, which are as disparate as any cultural diversity that exists in our community. Ideally, as a result of changes that will be made as a direct result of commitments that have been made as a result of this bill, things may just improve. Coupled with the regional services reform, I like to think that in five, 10 or 20 years it will not matter and we will not talk about the quality of life of Aboriginal people and non-Aboriginal people because we will be in the trenches together and the quality of life for all Western Australians will be the same.

Having said that, I think that the bill has been given a significant amount of consideration in its construct. I have made my position clear that I will not be supporting the second reading, but I think that the most effective manner in which we can scrutinise the bill from this point forward is through the Committee of the Whole House stage as opposed to referring it to a committee. For those reasons, I will be doing my fair share of scrutiny of the bill during the committee stage, but I do not think we need to refer the bill to the Standing Committee on Legislation. I do not think we should delay the second reading or the scrutiny of the bill any further. For that reason, I will not be supporting the referral.

HON COLIN TINCKNELL (South West) [7.45 pm]: During my second reading contribution I gave my reasons for my position on this issue. I will be supporting this motion and the referral to the Standing Committee on Legislation. I talked about the concerns I have about this bill and the gaps in it. This is one of those gaps. I would like to see further consultation with Aboriginal groups. I have listened to members' contributions; they have been very valuable and pointed out very pertinent and important matters. That is the value of debate in this house, which will continue with this bill. I would like to see further evidence of consultation with Aboriginal people on this bill. I do not believe there has been enough. I have said before that I would like to see greater palliative care in Aboriginal communities. I know that it is virtually non-existent.

We talk about cultural appropriateness. Hon Aaron Stonehouse brought up an amendment to the motion and I could see what he was about. It was a worthwhile discussion. We often say that we listened to this group or that group. When it is convenient for us, we group them all together, but when it is not convenient for us, we separate them and say that it is too hard because there are too many groups and too many diverging views. That is true in the case of Aboriginal people. I understand that, but that is the business that we have been charged with in this house—to look at this bill and, if it is to go through and be approved, to make it as safe and —

Hon Colin Holt: Effective?

Hon COLIN TINCKNELL: Effective is one word, but I am thinking about vulnerable groups, and Aboriginal people are certainly one of those groups who will be in a vulnerable position if this bill goes through. If we do not consult with them well enough, their understanding of this bill and the ramifications of voluntary assisted dying will be less than it should be. I will be supporting the referral to the Standing Committee on Legislation.

HON MARTIN ALDRIDGE (Agricultural) [7.48 pm]: I rise as a member who supports the second reading of this bill to indicate that I will be supporting the motion moved by Hon Rick Mazza to refer this bill to the Standing Committee on Legislation. I do so with a long-held view that as we approach the consideration of this bill, which has been anticipated for many months, if not years, I would find it very difficult to find a reason to be compelled to vote against closer scrutiny and examination of a bill of this nature in the context of the many other bills that we have referred to the legislation committee. I do not have the confidence that other members have professed so far during the debate that this bill is as close to perfect as perfect can be. I think there would be no harm in referring this bill to the legislation committee, which has proven itself to be a body of members that has, time and again, if not on every occasion during this Parliament, suggested amendments that improve the substance of the bills that the house has referred to it. I am certainly not convinced that this bill has been through a process of consultation like no

other and therefore has no faults. My concern is that addressing those faults on the floor of the Committee of the Whole House will have, in itself, flaws and faults. Members need only look back at some of the bills that we have considered in the last two years and the way in which amendments were rushed together on bits of paper. I think that has resulted in some less-than-ideal outcomes when we reflect on those decisions in the cold, hard light of day. I suspect—to some extent, we have seen already—that significant amendments to this bill will be brought forward by a number of members. I strongly believe that the best way to sort some of those areas on which we may have different views is to have a committee of this place examine those issues more fully and make recommendations to the house, where it can, for improvement.

Regarding part (2) of the motion, my initial view was that my motivation was to have the bill subjected to a technical examination to make sure that it will do what the government intends it to do, and where it is deficient, to make recommendations for improvement. I was initially inclined to support the amendment moved by Hon Aaron Stonehouse to this motion, but I think that there were some good arguments to keep the original wording in place. When we were dealing with the Human Reproductive Technology and Surrogacy Legislation Amendment Bill, I argued that we did not want to restrict the legislation committee if it found a matter of substance that it wished to report upon. We need to keep in mind that part (1) of this motion confines the reporting date to 11 February 2020. Obviously, the committee's overriding constraint will be that reporting time frame, to allow the Legislative Council to then consider the bill post-report. In some respects, that may well assist, if not expedite, the Committee of the Whole's consideration of this bill by us being able to rely upon the work of the legislation committee in navigating some of the very complex issues.

I, for one, have been a member who has tried to attend all the forums that have been held in Parliament House by the subject-matter experts who have presented on this bill, including today, when we heard from two neurologists about their experience with motor neurone disease. It was quite a compelling presentation by those two individuals. I thought that they had probably articulated a way forward in dealing with the issue of having specialist expertise without unnecessarily restricting the operation of, or access to, voluntary assisted dying in Western Australia. Perhaps some of that middle ground can be better navigated in the environment of a legislation committee examination versus on the run in the Committee of the Whole stage, when we seem to have a time constraint put on members to have this matter settled by Christmas.

On the policy of the bill, I take Hon Simon O'Brien's point that we have not yet had a second reading vote; therefore, the policy of the bill is not yet formally settled. But I think all members can count. This bill has had very significant input by nearly all members of this house, and I suspect that by the time we get to a second reading vote, there will have been input by all members. Most members have been very explicit about the way in which they are going to vote. Those people who have been following that progress will know that a clear majority of members intend to support the second reading vote of this bill—some 22 to 23 members, on my count.

I find it difficult that for others who have obviously had the value of the Joint Select Committee on End of Life Choices inquiry, which I understand took some 12 months, the Ministerial Expert Panel on Voluntary Assisted Dying process and cabinet consideration, this journey has taken some two and half years, but we, as a house of review, are now expected to consider and settle this matter in six sitting weeks. Some comparisons should be drawn between the expectations of others about the way in which this house should expedite this bill in a very quick fashion, and the view that the primary motivation of any move, such as this motion, to provide some further examination or scrutiny is one of unnecessary delay. I refute that. That is certainly not my motivation in supporting the motion moved by Hon Rick Mazza.

I am not confident that when we get to the Committee of the Whole stage, we are going to be able to examine the issues that will confront us all as we proceed through the course of this bill in the same way that the legislation committee would be able to examine them. The legislation committee has much broader scope to deal with these issues—it can consult with others, summons documents, hear from witnesses and correspond with the commonwealth government and other key stakeholders on a range of matters. Obviously, we cannot do that in the confines of the Committee of the Whole process, which is now likely to be fewer than five weeks in length.

We also do not have the opportunity of having the minister responsible for this bill in this house. Although I have enormous respect for Minister Dawson, he has not had the carriage of this issue from the beginning and he will be limited in the way in which he can respond to some of the answers in Committee of the Whole. It is no criticism, but we have seen those limitations on ministers in this place who represent ministers in the other place—sometimes undertakings are made and sometimes undertakings are not kept. We have that inability to perhaps go as deep as the other place with respect to having ministers at the table who have had direct responsibility for this bill.

I do not want to delay this matter any further, but I want to finish with two points. One is that members will be aware that I have been pursuing the issue of the intersection of the federal Criminal Code and the Voluntary Assisted Dying Bill 2019 since early September. For those members who think that I am being pedantic on this issue, I am not: it has very serious consequences for the way in which the government implements the regime in Western Australia. Indeed, potentially there could be limitations placed on its implementation in Western Australia. As far as I can tell,

this matter was raised with the state only as late as 21 August 2019. I am not quite sure when the bill was introduced into the Legislative Assembly but I suspect it might have been around or before that time, so I am pretty certain that these matters were not fully contemplated when this bill was drafted by parliamentary counsel, with the support of the ministerial expert panel and the approval of cabinet. That is one aspect that I think remains outstanding. On four occasions, I have requested that the government provide its legal advice or a summary of its advice or, indeed, even the correspondence between the state and the commonwealth. I recognise that the Leader of the House is assisting me and we have had conversations behind the Chair as late as today on this matter, and that has been helpful. But the answer I received in question time today was that the Minister for Health regrets that he is unable to provide to the Parliament the information that I seek. I am not sure whether that situation is going to improve when we get to the Committee of the Whole stage. Certainly in my mind, that is a very significant issue that will affect my constituents and, indeed, constituents of all members who represent regional or remote Western Australia in terms of being able to reasonably access this legislation.

There is another matter that I want to reflect on. Although I have not seen this and I may be mistaken, standing order 128 is the section of our standing orders on referral to a committee. As I read it, that standing order anticipates that a referral to a committee may occur at any stage once the second reading is moved and prior to the third reading being moved.

Obviously, if Hon Rick Mazza's motion does not succeed this evening and if members are not satisfied with the way in which the government engages during the Committee of the Whole House, when members appear to have some confidence in the government's ability to undertake the scrutiny on the floor of the house that this bill requires, it appears to me that under standing order 128, the house would have further opportunity, if matters remain unresolved, to consider a further referral of the bill at a later stage in the consideration of this potential law. With those few remarks, I outline why I support this motion to refer this bill to a committee. My comments have referred largely to parts (1) and (2) of the motion. I listened carefully to the debate on part (3). I must say that my experience and engagement with the Aboriginal community in my electorate does not necessarily reflect the views that members have put. But I respect those views and I am certainly not in a position to provide a view on whether that consultation process has been thorough enough or whether further accommodations need to be made to sections of the community, such as those outlined in part (3) of the motion. Thank you.

The PRESIDENT: Visitors in the gallery, I ask that you resume your seats, thank you.

Division

Question put and a division taken with the following result —

Ayes (6)

Hon Martin Aldridge
Hon Nick Goiran

Hon Charles Smith
Hon Aaron Stonehouse

Hon Colin Tincknell
Hon Rick Mazza (*Teller*)

Noes (29)

Hon Ken Baston
Hon Jacqui Boydell
Hon Robin Chapple
Hon Jim Chown
Hon Tim Clifford
Hon Alanna Clohesy
Hon Peter Collier
Hon Stephen Dawson

Hon Colin de Grussa
Hon Sue Ellery
Hon Diane Evers
Hon Donna Faragher
Hon Adele Farina
Hon Laurie Graham
Hon Colin Holt
Hon Alannah MacTiernan

Hon Kyle McGinn
Hon Michael Mischin
Hon Simon O'Brien
Hon Martin Pritchard
Hon Samantha Rowe
Hon Robin Scott
Hon Tjorn Sibma
Hon Matthew Swinbourn

Hon Dr Sally Talbot
Hon Dr Steve Thomas
Hon Darren West
Hon Alison Xamon
Hon Pierre Yang (*Teller*)

Question thus negatived.

Second Reading Resumed

HON ADELE FARINA (South West) [8.05 pm]: The Voluntary Assisted Dying Bill 2019 has generated a great deal of community debate, as it should. Wherever I travel throughout the south west, people want to stop me to tell me their views and urge me to support their particular position on the bill. The bill raises a number of really complex issues and understandably has polarised the community. If the bill passes, it will present a significant shift in our society. It will provide a lawful option for some at the end of their life to terminate their life earlier than would otherwise be the case. Every member in this chamber bears a heavy responsibility in our consideration of the bill. I have lost much sleep over this bill and how I should vote. I have no doubt after listening to other members' contributions that every member in this place is motivated by good intention in reaching a position on the bill, regardless of whether they support or oppose the bill. The fact that members have reached different positions is not a reflection on whether they are doing the right thing, but rather a reflection of the complex issues addressed by the bill and the different personal experiences members bring to this place. It also reflects an understanding that this bill delivers a significant shift to the current situation; once this door is opened, it is very unlikely to be closed again.

I have really struggled to form a position on the bill. For a person who is usually pretty decisive, this is new and not a very pleasant experience. I have oscillated between support for and opposition to the bill, and I continue to struggle in making a decision. People have suggested that the question is very simple: do I want choice in determining how I die? My answer to that question is: yes, I would like to die peacefully in my sleep. I think most people want to die peacefully in their sleep; however, few of us will. Perhaps due to the wide reporting that I am undecided, I have been inundated with people wanting to meet with me on this issue. To the best of my knowledge, I have met with everyone who has contacted my office asking to meet with me over the past year or so, perhaps with the exception of any requests that have come in over the last few days while Parliament has been sitting. Like other members, I have received thousands of letters, emails and phone calls to my office. The majority of representations I received in my office have been in opposition to the bill. In recent weeks, the gap has closed somewhat, with 55 per cent opposing and 45 per cent supporting the bill. I want to thank everyone who took the time to share their views with me on this important bill, both those in support of and those opposed to the bill. Many people shared very personal stories of the harrowing death of a loved one. For many, that experience was still very raw and it was very emotional for them to tell their story. I most sincerely thank all those who shared their personal stories with me. I appreciate how difficult it was for many of you and your stories moved me, often to tears.

I would also like to thank the many doctors, both those supporting and those opposing the bill, who took the time out of their busy schedules to inform me of their views, answer my many questions, and give me the benefit of their medical and lived experiences. In the main, I found people to be genuinely motivated in the position they held and moderate in putting their views to me. Of the people I spoke with who asked me to support the bill and had experienced the suffering of a loved one at the end of their life, most had not discussed voluntary assisted dying with their loved one and did not know whether their loved one would have accessed voluntary assisted dying if it had been available. Despite the view expressed by many that there has been extensive consultation on the bill, I have been surprised by how many people supporting voluntary assisted dying do not know the details of the voluntary assisted dying scheme proposed by the bill. Some thought the bill provided choice to every person nearing the end of their life to choose how and when they would die, regardless of whether they had a terminal illness, with some saying to me, “I want the right to choose when and how I die”, or, “When I can’t do things for myself anymore, I want to choose to die with dignity.” In some cases I found myself having to explain that voluntary assisted dying, as proposed by the bill, would not have alleviated the suffering of their loved one at the end of their life as their loved one did not have a terminal illness and therefore would not have been eligible to access voluntary assisted dying. When I ask people in support of the bill about their views on various aspects of the bill of concern to me, many said that they were not across the detail of the bill and that it was Parliament’s job to consider the details and make the necessary amendments to improve the bill.

I have been surprised at how quickly those in support of the bill have been to characterise those opposed to the bill as religious zealots, and dismiss their views. This is neither helpful nor respectful. Although some of the people I spoke with who opposed the bill did so from a strong religious base, not all who oppose the bill do so on the basis of their religious views. Many expressed genuine concerns, and these included the risk to the vulnerable in our community; that no safeguards can be rigorous enough to ensure that not one wrongful death would result; that they sought an inevitable subtle pressure on those at the end of their life to use voluntary assisted dying and not be a burden on their family; that faced with an inability to access appropriate end-of-life health care, people would view voluntary assisted dying as their only option; concern about the lack of rigour in the assessment of decision-making capacity and the assessment of the loss of decision-making capacity; and, that legalising for the termination of life crossed a threshold that should not be crossed. Although not everyone may agree with these concerns, it does not and should not diminish these concerns genuinely held by people opposing voluntary assisted dying. I concur with Hon Donna Faragher’s view that people should not presume that members who vote against the bill lack compassion, do not care about or understand what it is like to see a loved one with a terminal illness suffer a prolonged and difficult death at the end of their life.

My dear dad had many health issues, including prostate cancer, lung cancer and early stages of asbestosis, among a long list of other health problems. He experienced a prolonged end of life and suffered a lot of pain. The medications for his pain really knocked dad about, causing hallucinations, depression and, at times, aggression, and they were not always effective in managing his pain. As the lung cancer progressed and his breathing became more laboured, dad required oxygen. Dad was unconscious for three and a half weeks, slowly dying of dehydration, starvation and organ failure. I was by his bedside throughout, and my family and I experienced great anguish seeing dad suffer and struggle to breathe. I understand why proponents of voluntary assisted dying use the phrase “dying with dignity” to promote their cause; however, I have difficulty with what this statement implies. It implies that my dad and those who died a difficult and painful death did not die with dignity. I challenge this. I think my father died with dignity and great bravery. With his final breath he went gently. Dad died at home, as he wanted, with the love and support of his family. Although watching dad suffer a prolonged death caused me and my family great anguish, I was more than willing to care for him and spend this time with him and I would do it all again.

Andrew Denton of Go Gentle Australia, in advocating for voluntary assisted dying, put to me that not everyone’s pain can be palliated, and that even though it is a small number of people whose pain cannot be palliated, surely

I would not want them to suffer agonising pain at the end of their life and surely I would support voluntary assisted dying if that was the only way to alleviate the suffering. It is very difficult not to be moved by this argument. It is important to note, however, that the bill does not mention pain or pain that cannot be palliated. If this were a criteria in the bill, I may be more comfortable supporting the bill. The relevant eligibility criteria in the bill refers to the person having a terminal illness that is causing suffering to the person, that cannot be relieved in a manner that the person considers tolerable. The bill provides no definition for the words “suffering” and “tolerable”, and the truth is that under the bill, a person with a terminal illness that is likely to cause death within six months and whose pain is being well managed but says they are suffering and that their suffering is intolerable could access voluntary assisted dying. The cause of the suffering could be a loss of will to live; no longer being able to participate in the things in life that gave that person enjoyment; not wanting to be a burden on their family; fear of future pain and loss of control or dignity; or an untreated mental illness or depression. This widens the group of people who may be eligible to access voluntary assisted dying to many more than the small but important number whose pain cannot be palliated. The fact is that aged people at the end of their life who do not have a terminal illness may experience that same range of suffering. They could experience suffering due to the loss of a will to live; no longer being able to do the things that gave that person enjoyment; not wanting to be a burden on family; fear of future pain or loss of control or dignity; or an untreated mental illness or depression. This begs the question of why greater weight, and therefore access to voluntary assisted dying, should be given to the suffering of a person with a terminal illness that is not related to the pain that cannot be palliated as opposed to similar suffering of an aged person without a terminal illness. This question has been put to me, and it is difficult to answer. Both are at the end of life, although in the latter case the time of death is unknown and may be longer than six months. It is this desensitising of voluntary assisted dying in order to make it more palatable that causes my unease with the bill.

The use of the term “loss of dignity” is understood to be a loss of toileting control or requiring assistance with toileting. Are we really saying that a person with a terminal illness and expected to die within six months who is experiencing intolerable suffering due to a loss of dignity should be able to terminate their life? Hon Alison Xamon expressed her concern about the language used by proponents of voluntary assisted dying and how use of the term “loss of dignity” in this way may be offensive or cause fear to people with disability who need assistance with toileting. I concur with those views and it is awful that this debate has caused people with disability these concerns. My position until about midday today was that I would feel more comfortable with the bill if it referred to pain that cannot be palliated rather than suffering. Then I attended a briefing on motor neurone disease and voluntary assisted dying organised by Hon Colin de Grussa, with two specialists in this field. The specialist explained the sorts of suffering experienced by people with motor neurone disease, and it was brought home to me that restricting the definition of suffering to pain would be too restrictive. However, surely we do not intend that a person who is suffering due to a loss of toilet control or depression should be able to access voluntary assisted dying. We need to be clear about what we intend the bill to do and who we intend should have access to voluntary assisted dying and be certain that the wording of the bill does not extend that group of people who can access voluntary assisted dying beyond this point.

Also, we need to ensure that the bill safeguards the vulnerable in our community, including people with disability, the elderly and people with mental illness.

Much has been said about palliative care in this debate, and rightly so. The joint select committee acknowledged the lack of adequate funding and resourcing of palliative care in our state, and it is shocking that in a state like WA many people at the end of life who would benefit from palliative care simply cannot access it. The recent announcements of additional investment in palliative care are welcomed. However, the truth is that palliative care in our state needs a massive investment of funding to bring it to the level that it needs to be at and to increase the number of palliative medical specialists from 15 to 50, which is the appropriate level for the state’s population. As a regional member, it deeply concerns me that palliative care services in regional WA are seriously lacking. Generally, people can access a palliative care bed in Bunbury or Busselton only if they are in their last days, being the last week or so of life. This is far too late. Due to insufficient beds, many cannot access palliative care even in their last days. However, I acknowledge that those who can access the beds get excellent care.

Despite most people expressing the wish to die in their own home, 24/7 palliative care is not available in regional WA. In the greater Bunbury area when home palliative care was provided by St John Ambulance, it did provide 24/7 home palliative care. However, under the previous government, the WA Country Health Service took the palliative care contract away from St John of God and decided it would deliver the services itself, and as a result 24/7 home palliative care ceased. It now operates only during business hours. This is less than satisfactory for families who are caring for a loved one with a terminal illness and suffering pain. If there is an incident after hours, they need to take their dying loved one to emergency, and only those who have cared for a dying person understand how difficult this can be and the distress it causes the patient. More palliative care beds are needed in regional WA and we need a plan to roll out home palliative care throughout regional WA. Although I do not necessarily agree with the argument that the focus should be on palliative care and that only when this has been delivered at the appropriate level should we look at voluntary assisted dying, it is disappointing and not at all reassuring that it has taken a debate on voluntary assisted dying for additional investment in palliative care. Other members have referred to the palliative care

recommendations of the joint select committee and questioned the implementation status of those recommendations. I endorse these comments and ask the minister in his reply to inform the house of the implementation of those recommendations. I also endorse efforts to ensure separate transparent reporting on palliative care in future budgets.

Before I can support the bill, I need to be satisfied that people living in regional WA will have access to voluntary assisted dying equal to that of people living in Perth. I want to hear from the minister how he will ensure that this is the case. People living in regional WA at the end of life and with a terminal illness should not have to travel to Perth to access the voluntary assisted dying system. Other members have raised concerns about the provisions of the commonwealth Criminal Code Act that make it an offence to use a carriage service for suicide-related material. The bill provides at clause 156 for audiovisual communication to be used by doctors in discussing details of voluntary assisted dying with patients. The same provision states that the provision does not authorise the use of a method of communication “if, or to the extent that, the use is contrary to or inconsistent with a law of the Commonwealth”, thus leaving doctors and their patients at risk of breaching commonwealth law. Hon Martin Aldridge has been working hard to get clarity on this issue, with little success. Hopefully, clarity on that issue will be forthcoming in the minister’s response to the second reading debate. The minister needs to clarify the legal situation and explain how it intends to ensure that people living in regional WA will be able to access voluntary assisted dying without having to travel to Perth to do so.

Some members have talked about the terrible reality that around 10 per cent of suicides in WA are people with a terminal illness choosing to end their life early while they are physically capable of doing so, and that those who cannot complete the attempt are sometimes left with disabilities. I am sure that all members find this deeply concerning. However, I caution members against suggesting that these suicides could be reduced or eliminated only if voluntary assisted dying is available. There could be a number of reasons why people with a terminal illness suicide at the end of life. Perhaps they were depressed, overwhelmed about how they could cope when things got worse, knowing that appropriate palliative care was not available where they lived and if they had been able to get timely and appropriate treatment and palliative care, they would not have suicided and would not choose to access VAD. VAD should not be advanced as the only answer to reducing or eliminating these suicides. In a state like WA, we should be able to do better. We should be able to provide people at the end of life with the health care and supports that they need, regardless of where they live, so that they are able to enjoy quality of life in their remaining time. We should not leave them to feel that they have no choice but to accede to an early death.

The bill provides that a person must make at least two verbal requests and one written request to access voluntary assisted dying as well as obtain two independent medical assessments, and that this should not occur in a period of less than nine days. It is argued that these requirements establish that the person’s request to access voluntary assisted dying is enduring. I really struggle to see how this can be viewed as enduring. People are provided with a 30-day cooling-off period for certain financial agreements and it concerns me that we are setting the minimum period for going through the voluntary assisted dying process to such a short period as nine days. Like Hon Nick Goiran, I am of the view that assessing decision-making capacity is not as straightforward as proponents of the bill would have us believe or think. There is a real risk that the person could be led in answering questions, thereby suggesting the decision-making capacity when one does not exist. Equally, it is not that straightforward to assess whether a person truly understands what is being put to them. Vulnerable people could be led to access voluntary assisted dying not fully understanding what they are doing and this concerns me.

A couple of years before dad was diagnosed with lung cancer, which resulted in his death, he was suffering after yet another period of prolonged urinary tract infection due to his aggressive prostate cancer treatment. Dad was admitted into hospital and the doctors wanted to perform a procedure that, in their view, would reduce the risk of further urinary tract infections. Dad made it very clear to me that he did not want the procedure. While dad was in hospital, his treating doctor told me that he intended to talk to dad to persuade dad to have the procedure. I explained that dad did not want the procedure. I also explained that English was not dad’s first language. Dad was blind in one eye and did not have his reading glasses with him in hospital, so he could not read any information sheet that may have been provided to him. Dad was also hard of hearing and, like every typical Italian male, refused to wear his hearing aids; he usually agreed with everything people said to him because he did not want to admit that he could not understand what they were saying or could not hear them, and also he liked to please people.

I was concerned that dad would not necessarily understand what the doctor said to him and he would simply agree with the doctor in an effort to please the doctor. It was a Thursday night and I was leaving the hospital to travel down south for meetings in my electorate the next day. I asked the doctor to assure me that he would wait until Monday, when I was back in Perth, to discuss the matter with dad, as I wanted to be present when he talked to dad, so I could assess whether dad truly understood what was being said to him. As far as I was concerned, there was an agreement that he would hold off.

I returned at the weekend to find a very angry and distressed dad. Not only had the doctor had the conversation with dad without me, but also he had performed the procedure on dad. As you can imagine, I was shocked and very upset about what had happened, believing that I had put everything in place to ensure that it would not happen while I was not around. Dad assured me that he did not agree to the procedure. When I raised the matter with the

doctor, he informed me that he and a colleague, another doctor, had had a lovely chat with dad and explained the procedure to him. Dad had agreed and signed a consent form. As there was an opening in the theatre, they performed the procedure the same day. He showed me the signed consent form, duly witnessed by his colleague. I let him know in no uncertain terms that I was very unhappy and would be taking the matter further, so he arranged for the other doctor to come and talk to me and assure me that dad had indeed signed the consent form. Dad agreed that they did have a lovely chat. However, from dad's viewpoint, he had not agreed to the procedure but had agreed that he wanted to go home. He said that after this discussion he was given a form to sign and he thought this was necessary so that he could go home. Dad could not read the form without his glasses, so he just signed it. He assured me that he had not agreed to the procedure and did not know that he had signed a procedure consent form. I have no reason to disbelieve dad and I know from our discussions that he would not have knowingly signed a procedure consent form because he did not want the procedure.

Although I am prepared to accept that the doctor did what he felt was in dad's best medical interests, regardless, it was not for the doctor to decide this. It was dad's decision. Some people would call this a clear case of elder abuse or just simple assault, but it should not have happened, and it should not have happened in a hospital in Western Australia.

When advocates of voluntary assisted dying tell me that doctors will not persuade or influence patients to the view that voluntary assisted dying is their best option, I am sceptical, because I know this may actually happen. I want to ensure that no vulnerable person finds themselves in a similar position to my dad. The doctor-patient relationship is not an equal one. Doctors can and do exercise significant power in this relationship, and this power can be abused, whether intended or not.

Hon Nick Goiran talked about the fact that doctors make mistakes when making a diagnosis and prognosis. Some argue that this is very rare, and it is the case now, so why should it be a concern with voluntary assisted dying? The answer is that a person wrongly diagnosed with a terminal illness and with the wrong prognosis of death within six months could access voluntary assisted dying and take their life long before they would otherwise have died. One hopes that the requirement for two independent medical assessments means that the likelihood of this occurring is minimised, if not averted. However, without knowing the details of the training that medical practitioners are required to undertake before they participate in the voluntary assisted dying process, it is difficult for us to accurately assess how big a problem this might be. The training information is not currently available. We are told that this will be worked out in the next 18 months as part of the implementation phase. However, this means that Parliament is being asked to approve the bill on trust and has no opportunity to determine whether the training will in fact be adequate.

In Victoria, this trust resulted in a six-hour online training course being developed, which focuses on the processes, how to fill out the forms and the time frames for doing so, rather than training for assessing decision-making capacity and other critical skills that a doctor would need for the assessments they would need to make under the legislation. When I raise this concern, I am often asked, "Do you know anyone who has been diagnosed with a terminal illness and received a prognosis of death within six months, and both the diagnosis and the prognosis have been wrong?" The person asking this is usually highly sceptical and thinking that this is a highly unlikely situation. When I say, "Yes, I know of one", they usually respond with a scoff, saying, "But that's only one person." Even if it is only one person, and I doubt that is the case, it should not be dismissed.

Just under three years ago, a good friend of mine, Garry, began experiencing health problems, which deteriorated at an alarming rate. Garry is an academic, an author, and he loves to write poetry. He is a thinker and a wonderful person. He began experiencing numbness in his limbs, multiple ministrokes, extremely painful headaches, memory loss, twitches and spasms in his muscles that got worse with time and muscle wasting. It was not long before he could not walk without support and eventually he was confined to bed. Garry had difficulty completing a sentence due to memory loss. He could no longer concentrate to write or read, which frustrated him greatly. He suffered terrible pain and the medication did not seem to alleviate his pain. Garry was diagnosed with a neurodegenerative disease and was told he had seven months to live. At the time of his diagnosis, Garry told me that if voluntary assisted dying were available, he would have accessed it. Almost three years later, Garry is still with us and is feeling much better. Although he is still confined to bed, his memory has improved significantly. He can read and write things, and that gives him great joy. The ministrokes, muscle spasms and extreme headaches are much reduced and his pain is largely managed. About two and a half years after his original diagnosis and prognosis and after a range of tests, Garry was told that the original diagnosis had been wrong, and the cause of his health problems was most likely a virus rather than a neurodegenerative disease.

A few months ago, I visited Garry and his wife, Jeni, to talk to them about the Voluntary Assisted Dying Bill. Garry told me that his views on voluntary assisted dying had changed. He said that had voluntary assisted dying been available when he was first diagnosed, he would have accessed it. Had he done so, he would not have been around to enjoy those three years of life with family and friends. He would have cut short his life journey and he would have hated to miss out on this time with family and friends. Although Garry is still confined to bed, his pain is largely being managed and he can sit up, look out the window, see the sun and the birds and spend time with his

beloved dogs, family and friends—all things he would not have been able to do if he had opted for voluntary assisted dying. It is difficult for me to ignore Garry's story. If voluntary assisted dying had been available, Garry would have ended his life early. I find this deeply disturbing. Balancing Garry's story with the stories of pain and suffering experienced by people with a terminal illness at the end of life is extremely difficult and I have struggled with this.

We are told that the Voluntary Assisted Dying Bill is tight and that only those people who meet all the eligibility requirements will be able to access it. However, we are also told, based on the experience in other jurisdictions, that about 30 per cent of people to whom the lethal substance has been dispensed do not take it. Hon Colin Holt said during his contribution that this should reassure us that voluntary assisted dying works—that simply knowing they can access a lethal substance if they need it has provided people with the comfort they need, and, in the end, it was not necessary for them to take the lethal substance. To me, that rate of 30 per cent is startling. I cannot help but question whether the lethal substance ought to have been dispensed to those 30 per cent of people, and whether they should have been assessed as eligible to access VAD. Were they really experiencing intolerable suffering? Surely, if their suffering was insufferable at the time that they accessed voluntary assisted dying, they would have taken the lethal substance, or at least this rate would have been much lower than 30 per cent. Based on the experience in other jurisdictions, we also know that at least one person took the lethal substance more than two years after it had been dispensed, which illustrates that wrong prognoses do happen.

On the question of whether medical practitioners should raise voluntary assisted dying with patients diagnosed with a terminal illness, I agree that there should be no prohibition on medical practitioners raising the topic of voluntary assisted dying with their patients. However, I do not support the position that medical practitioners, including those who object to voluntary assisted dying, should be required to raise voluntary assisted dying with their patients and to refer their patients to another practitioner. I met with a number of doctors who are really disturbed by this provision in the bill. One doctor in Bunbury told me he could not believe that in a democracy like Australia, members of Parliament would pass a law requiring doctors to do something that they deeply did not agree with. He told me that he would consider ceasing practice if the bill were to pass with this provision in it. If we argue that we need to respect the right of people with terminal illness to make a choice about how they die, I think we should equally respect the rights and views of doctors who object to voluntary assisted dying. The amendment moved by Tony Buti in the other place and foreshadowed to be moved by Hon Martin Pritchard in this place seeks to address this concern and, in my view, is worthy of our thoughtful and favourable consideration.

Another issue in the bill that concerns me is that the bill provides that a medical practitioner must not include any reference to voluntary assisted dying in the certificate of cause of death. I do not think that we should be passing laws that require a person to falsify a state record. If 80 per cent of members of the community support voluntary assisted dying and it is their personal choice, I do not accept that this is necessary. If the purpose of this provision is to ensure that life insurance contracts are not voided, it is my view that other options should be explored to address this matter. We should not ask public officers and medical practitioners to falsify state records.

I also have concerns about aspects of the bill that in my view are underdeveloped. The safe storage of the lethal substance once it has been dispensed to a patient is one of those areas of concern to me. The lack of information provided to members about the safe storage requirements of the lethal substance is more than a little concerning. It is not clear to me how we can be satisfied that the safeguards in the legislation are adequate if we are not provided with information about the safe storage requirements. This should be included in the bill or, if not in the bill, in the regulations. However, I understand that the Premier has said that although the bill contains a regulation-making power, the bill does not require any regulations to be made and that it is sufficient for directions to be made in relation to safe storage of the lethal substance. This means that Parliament will not be able to scrutinise the safe storage requirements and satisfy itself that these are adequate. This does not sit well with me.

In addition, I would like some clarity about the safe storage requirements that will be imposed for people living in a nursing home or an aged-care facility. Will there be a requirement on managers of nursing homes and aged-care facilities to safely store the lethal substance to ensure that other patients who may wander into the person's room cannot take the lethal substance, or will the person still be able to keep the lethal substance in their her room so that they have easy access to the lethal substance and can administer it at the time of their choosing, as is intended by the bill? Surely these circumstances and the safety of others in that nursing facility warrant safe storage provisions being either incorporated into the bill or set out in regulations.

Further to my concerns about the safe storage of the lethal substance, I am inclined to the view that a medical practitioner should be present when a person administers the lethal substance to ensure that the person does not suffer unnecessarily if they manage to ingest only part of the lethal substance. This would avoid concerns about safe storage, as the lethal substance would be held by the medical practitioner, who would bring it with them when it was time to administer the substance.

Not only am I disturbed about the lack of safe storage details in the bill, but also when a person elects to self-administer the lethal substance, there is no requirement for a witness to be present and to verify that the person self-administered the lethal substance and did so voluntarily and to put beyond question the possibility that the lethal substance was

administered by another person. I am concerned that as a result of the absence of safeguards in the bill at this point, it may be possible for a family member to administer that lethal substance to the person without the person's knowledge or consent, and I would be interested to hear the minister's view on this and the views of other members. If, however, the person elected for a medical practitioner to administer the lethal substance, the bill provides that a witness must be present when the practitioner administers the lethal substance and, before he does so, he needs to make a further assessment and be satisfied that the person has decision-making capacity and is acting voluntarily and that the person's request for voluntary assisted dying is enduring. This further assessment at the time of administering the lethal substance is not required under the bill if the person elects to self-administer. I wholeheartedly agree with the safeguards in the bill for when the substance is administered by a medical practitioner, and I view those as necessary and appropriate. I am concerned, however, about the lack of safeguards if the person elects to self-administer. It seems to me that the safeguards in the bill for the end of the process are not sufficient.

I am also concerned about the oversight that is provided under the bill and the adequacy of the oversight that will be provided to the board, which, due to a lack of time, I will discuss in greater detail when we go into the committee stage.

Although I generally support the right of a person with a terminal illness whose death is imminent to choose when and how they die and in the past I have supported voluntary assisted dying bills, I have really struggled on this occasion to support this bill. I am not sure why—whether it is my experience with dad and others, whether it is my friend Garry's experience and his change of heart on voluntary assisted dying, whether it is that I am now a more experienced legislator and better understand that safeguards are not guarantees or whether it is my genuine concern with certain aspects of the bill. I am not sure, but I have really struggled this time to make a decision to support this bill. I think the bill is being rushed. I think the bill is underdeveloped in a number of critical areas. With a bill of this importance, I do not think it is good enough for the executive to tell us to trust it with critically important detail that it tells us will be developed over the next 18 months. This should have been worked out before the bill was presented and preferably incorporated into the bill to allow proper scrutiny by Parliament.

After much consideration and oscillation, I have decided to support the bill in principle at the second reading stage so that it can be thoroughly scrutinised during the committee stage and amendments to improve the bill considered, as I believe this is what the community expects us to do at this point. I trust that concerns that have been raised will be addressed, and there is capacity to improve the bill by appropriate amendments, although I hold reservations as to whether amendments agreed in this place will be accepted by the other place in light of the comments that have been made in the other place. I think it is a concern that we should all share. Whether I support the bill at the third reading stage will depend on what amendments are accepted by government, the minister's response to my concerns and those of other members, and ultimately being persuaded that this is a step we should be taking and that the safeguards are adequate.

HON DIANE EVERS (South West) [8.47 pm]: As I understand our current situation, when in unbearable pain and with a very limited expected life span, it is legal for people to starve themselves. In fact, it is legal for a person to take their own life through whatever means available. It seems to be generally accepted that a doctor, at the doctor's own decision, can prescribe pain-relief medication in an amount high enough to end a person's life. What entitled hypocrisy! How can we possibly say that that is the way to do it? Our social conventions put doctors in a situation in which they not only can make this decision, but also sometimes are expected to take responsibility for it. I just do not see how we can say that that is the way to carry on.

I will not kid myself and think that I will influence anyone in this place with my comments, and there is little reason to expect that I will make any points more clearly than they have already been said, but still I speak to get my voice on the record, to speak for those who have dedicated much of their lives to get this legislation debated and hopefully passed, and to speak the voice of the 80 per cent or more of my electorate who want this legislation passed. I know we have talked a bit about whether that poll is accurate, but I find a poll like that much more accurate than saying, "I had six people write to me who said yes and seven who said no, so that must be okay." No-one in here can say that that is an adequate poll. It is interesting that that poll showed that 80 per cent were in favour. In the Legislative Assembly, the vote was 45–11, or 80 per cent for the legislation and 20 per cent against. It is also interesting to look at the decision we just made about referring the bill to a committee. The vote was 29–6, so very close to that 80 per cent for and 20 per cent against. That is interesting. It would show that we are representative of the community if that was the issue that we were voting on for the whole bill. If the Legislative Council is representative of our community, I expect that we would come back with roughly 80 per cent for and 20 per cent against—28–7. That is how it would work out if we were representative of the state.

Rather than a conscience vote, as Hon Colin de Grussa suggested, it would be very interesting if all members had a free vote to represent their constituents, with no pressure from their party. If we had a free vote, we could represent the people who want the autonomy and the right to self-determination in choosing the time, location and other circumstances of their death. That is what I thought we came in here for—to represent those people.

I have empathy for the members in these chambers as we are making a decision not for ourselves, but for the entire state. We have religious, political, community, cultural and family affiliations, and all these are guiding our

decisions. All of us in this chamber are likely to be able to access the best of care and the best of palliative care, and I guess that our families and most of our friends could access that best of care as well. But I cannot imagine that anyone in here believes that the state will be able to provide the hospital care of Sir Charles Gairdner Hospital or Hollywood Private Hospital to people in Port Hedland or Halls Creek. I would certainly be surprised if someone thought that the hospice care that is available in Albany, which has been mentioned many times here and which I wholeheartedly support, could be provided everywhere. I went through a situation at Albany Health Campus with my father-in-law, who nearly passed away, but the people there ensured that he was well enough to fly back to Orange, where he is from, to die peacefully amongst his family. If we all had the strength that he had to survive long enough to say goodbye and then go to sleep peacefully, how ideal would that be? That would be nice. I do not expect that the hospice care that is available in Albany could be replicated in Exmouth, Paynes Find, Norseman and possibly even in the city. It would be lovely if it could. To wait until that point, we would be waiting the rest of our lives and then some, and I still do not think it would happen, although I really hope that it does.

This bill is not about euthanasia. The Greek “eu” means “good” or “well”, as in “euphoric”. The Greek “thanatos” means “personification of death”, so it is a good death. We are looking for a good death, but this bill is not about euthanasia. The current usage of euthanasia as a term indicates that it is causing a good death by taking the life, thus implying that a person other than the one dying is taking the life, and that is not what we are looking at; we are looking at people having the autonomy to make their own decision about their own life. Nor is this bill about suicide, as the cause of death has already been acknowledged. The cause of death is from the condition that the person has. The cause of death is not the final step that we are talking about here. How often do we hear that “pneumonia” has been written on the death certificate when the death was not caused by pneumonia; that was just the last thing that caused the person to lose that final breath? So many other things could have led to the point when they were in hospital and contracted a respiratory virus that caused the pneumonia, after 10 years of suffering in other ways. I do not have a problem with putting the cause of death on the death certificate. I think the cause is that thing that comes along early in the process. I have seen cases like this when the grieving happens long before the person takes their last breath. For many people, the grieving usually begins when the diagnosis is made, when we first realise that our loved one is going to pass in a certain time and we know that that death is imminent. Even though we all live with death being the final point, when we get the disease or the diagnosis that means it will be a little quicker than expected, that is really the tough time.

When death is imminent, the choice of the person is only to end their pain or suffering, to speed up the pace of their ongoing slow death, to maintain their dignity and to go gently in peace. That is what they are trying to do. They know it is coming. Why should they have to fight and suffer longer just because of the way our laws are written or not written?

Peace is significant in many religions. I was raised as a Catholic and I still find it natural to respond to “peace be with you” with “and also with you”; it just flows. Forever and a day, tombstones have always said “rest in peace”. I remember years ago, whenever we were speaking to someone who had recently lost a loved one, it was very usual to ask, “Was it a peaceful death?” because that is what we are hoping for, not just for ourselves, but for everyone. For me, and for many people I know, their wish is to live in peace, to die in peace and to rest in peace. I see the legislation that we are looking at affording that opportunity to many people.

I have been sheltered from death pretty much throughout my life. Maybe this was out of good luck or possibly I just do not dwell on the people I lose. I lost my father when I was only 14. It was quick. He was there and then he was not. I have those lasting memories. I did my grieving quite quickly, and it is ongoing. But he is always with me. Having lost him quickly, I learned very early on to carry him with me, to carry him inside me, and to be able to look up at the stars and feel him looking over me. But it was not a long, drawn-out, painful process. I have probably been to fewer than 10 funerals in my entire life. As I said, I have been sheltered from death. The few funerals that I have been to were for people who died in their older years—yes, maybe 10 or 20 years before they could have if they had hung on in some way. It was not that grief that I have seen people face from losing a child or a young parent.

When I am speaking here about death, it is not from a lot of personal experience. In fact, the mother of a good friend of mine lived in the Netherlands. Her mother was dying and chose to determine the time of her own death, with her family around her in a safe environment. It was beautiful. I have heard her story. I understand the love, compassion and grief. She still feels the pain of having lost her mother. Being able to be with her, knowing ahead of time that this was going to happen, being there with her family, and being able to hold her mother’s hand as she passed, how lovely is that? I have been thinking about this and wishing that I could go back to that time when my father had his heart attack and fell. Maybe he hit his head. I was too young to ask questions and did not necessarily know the exact details. I just wish somebody had been there to hold his hand as he breathed his last breath because it would have been comforting to me and I hope it would have been comforting to him.

Other than this experience with my friend, as I said, I have no direct experience with someone who may have taken the opportunity to access voluntary assisted dying, but for some reason I have empathy in spades for people who find themselves in an unbearably painful, ongoing and terminal situation. I have probably given suicide too much

thought over the years, but it was not in my cultural landscape. I was 13 before I even heard of someone taking their own life. I remember thinking about death as a young child and always hoping that mine would be quick and painless. I was fascinated when I heard that drowning can be a relatively peaceful way to die—a good death, a quick death, a peaceful death. The reason we are discussing voluntary assisted dying now and not many decades ago may have something to do with the advances made in medicine. We have talked about it here. It has come up. Many people have been trying to bring forward legislation on this issue and it kept getting knocked back, but every year our advances in medicine give us more ways of keeping people alive. This world is not what it was years ago. We now have medical treatments to keep people alive regardless of their quality of life or, rather, their lack of quality of life. Sometimes they have no quality of life whatsoever but we can keep them alive.

This issue must not be equated with how we treat animals, because we do not use every medical procedure possible to maintain the life of an animal once it is known that its death is imminent and the animal is suffering. It is outrageous to think of it that way. We want to keep our loved ones around and our medical systems can keep them alive, but in our society, where competition is celebrated and medical advances are viewed from a scientific perspective rather than a human perspective, sometimes we forget that the point of life is not just to keep taking breaths, keep a heart beating, and keep a brain receiving signals. Life is so much more than that, and I know that everyone here knows that. This legislation has been drafted with much consideration of legislation in other jurisdictions. My reading of the bill has assured me that it will allow individuals to have control of their own deaths to a degree that may be able to offer them some comfort. That is what I would like at that point. I would love to have the comfort of knowing that if it got too hard for me, I could release those last breaths and the last beats of my heart.

I live in Albany and my community is well supported with palliative care. The people and facilities at the Albany Community Hospice are without parallel. That is not the case for everyone. Steps are being taken to improve and extend palliative care to others in the state, but at this time it is not feasible in anyone's imagination that the government will be able to deliver that service throughout the state. To suggest that we aim for such unachievable ideals before legislating for voluntary assisted dying ignores reality and the expectations of 80 per cent of our community.

If I were dying, I understand that it might be easier to say, "I don't want to be a burden on my family." That line has been used here and we have heard it in many places. I can understand that somebody might say, "I don't want to be a burden on my family. Just let me go." The other option at that point is to say, "I can't tolerate the pain. I give up. Let me go." Like many of you, I grew up with the idea that you should grin and bear it. You never give up. You do not say that it hurts or that something is too hard. You just do it and keep going. You grin and bear it and go on. I can understand that people may say, "Look, I can take this. It is fine, but look what I am doing to my family. Let me go because I don't want to be a burden on them." When people are at that stage of their lives, rationality may not be the first thing that comes to mind. There are a lot of emotions going on when people get close to death, or I assume that is the case. One of the eligibility requirements to access voluntary assisted dying is that the person will need to show that their condition "is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable". This bill does not allow for a person to simply say, "I don't want to be a burden." On its own, that will never be the reason for somebody to be allowed this option.

People have talked about wrongful death occurring. As I said, doctors currently prescribe morphine at a level that will not only relieve a person's pain, but also end their life. Would we not consider that a wrongful death? The practice goes on and it is well known that it does.

I refer to suicides that happen when people feel there is no other option. Imagine if a person had the option of being able to say, "This is getting really hard, but I'd like to stick around until my next birthday or my grandchild's birthday" but they have the option and they have the medication in their house so that if it gets to that point, they can let go. They will have the comfort of knowing that it is there if they need it, but otherwise they can soldier on and keep going and wake up each morning and try to get through to the end of the day. Let them have that option.

It has also been discussed that people need a prognosis of under six months to live and a diagnosis of terminal illness. Even if they said that they would like to make use of the option of voluntary assisted dying because they are going to die in six months and it is going to be horribly painful, that does not mean that they will take the medication as soon as it arrives. It will be there to provide comfort for them, so they know that if it gets bad, it will be available. When we hear stories of people who have a prognosis of less than six months to live and have a terminal disease, just because they make use of this process, it does not mean that they will take the substance. It is an option. It will give them comfort and some relief so that they can carry on living each day at a time, trying to live their life and do the things they would like to do, and being a part of it—being alive, not just breathing with a heart beating and a brain to receive signals, but actually living and knowing that they have the comfort of that option. I think that option is a good thing.

Members have talked about the possibility that we will start with this legislation, but that it can change and other things can be added along the way. But that has not happened much around the world. People are not picking up more things and changing the legislation. Besides, what are we doing here now? If that legislation has to change, it will have to go through this house, whether it is us or other people. They will be representatives of their communities

and reflect the needs and desires of the people who put them there. We have this legislation before us, and this is the legislation that we are voting on. We are not voting on what may become of it 10, 30 or 50 years from now. We are voting on what is before us, and that is what we should be looking at.

I refer to the free vote. Hon Dr Steve Thomas had the honesty to state that political pressure has been put on people to use their so-called conscience vote and to vote as per the party line, and that seems like such a shame to me. I understand party politics to some degree. I understand that there are pressures and affiliations outside of our individual representations of our communities and regions. That is why I appreciate his honesty in acknowledging that. He also suggested that we are binary creatures. I want to get on the record that I disagree; we are not naturally binary creatures. That paradigm has been created by humans to control other humans and keep us as adversaries. We do not need to be adversaries. I know we can do better than this.

My comment on the bill being debated here is that it feels like the first time that we have been a room full of adults. It has been impressive. I expected that we would always be a room full of adults, but over the past two and a half years there have been numerous times when that was not exhibited very clearly—but in this debate, it has. I want to thank all of you and I appreciate all of you for being able to have a debate in which we were able to respect each other's opinions. It felt really good. I would love to be able to move forward from this point and continue with that maturity.

I refer to amendments. I have not been convinced yet that any amendments are necessary to the legislation as it stands, but I will be listening. I appreciate the contribution of Hon Colin de Grussa. He covered many of those issues very well and at this point I agree with the comments that he made. I would also like to state that as a regional member, I am looking to make sure that we have appropriate regional options available for people who do not want to come to the city and be away from their families, their homes and their communities and want to stay in the regional area. I look forward to the government showing me just how well this can work when a resident in a distant location takes this up and how we can manage to make sure that that person has the best of care in their last few days.

It is time for this bill to be passed. It is time to give people choice in determining when, where and how they will die and who will be with them when they die, when their life is being taken by a terminal condition and they have only time to pass before they take their last breath and their heart stops beating.

HON DR SALLY TALBOT (South West) [9.09 pm]: As many honourable members will know, I have long been in support of legislation to legalise voluntary assisted dying. Tonight, I will outline the reasons why I strongly support the Voluntary Assisted Dying Bill. Before I start, I want to acknowledge one of the speeches that we heard earlier today. Many, many members have spoken so eloquently, particularly about their support for this bill, right throughout the debate. But I want to single out Hon Matthew Swinbourn. I do not think I have ever heard a speech like that in my time in this Parliament. It was really quite an extraordinary speech and I can only admire the member's courage and determination, and I know that it did take courage and determination to come in here and make that speech. What we heard earlier today was an outstanding contribution to the worldwide debate on this subject, and I am very proud to have been here in the moment it was delivered.

It has been one of the great privileges of my time in this Parliament to have played my part, a small part, in bringing us to the stage at which we have in front of us a bill that has been passed by an overwhelming majority in the other place after having been tested for more than two years by the most intense and extensive legal and clinical scrutiny available in our community. This scrutiny, as other members have talked about, included the year-long inquiry by the Joint Select Committee on End of Life Choices, of which I was a member, and another extremely thorough investigation by the Ministerial Expert Panel on Voluntary Assisted Dying, which was headed by Malcolm McCusker, one of the most prominent legal figures in our country.

The last time I spoke on this subject, and I have certainly spoken several times in the 14 years that I have been here, was when the joint select committee tabled its report. In my speech during the tabling of that report, I paid tribute to the people who I regard as the real heroes of this battle to decriminalise voluntary assisted dying. I know that I am not alone in thinking that the real heroes of this story are the people who had the courage and the conviction to provide a really important component of the evidence on which the joint select committee's report is based.

To recap very briefly, during the tabling of that report I mentioned Dr Robert Edis in particular, and I think Hon Adele Farina referred to the fact that Dr Edis was one of our guests at lunchtime, who talked about the experiences of patients with motor neurone disease. I thought it was a very powerful and indeed unforgettable session. When Dr Edis appeared before the joint select committee, he gave what, for me, and I am sure other members who were present, was an unforgettable account of the experiences of his patient Melanie, who, when life with motor neurone disease became unbearable, had to battle the system before she could even start to have a conversation about how to die. I also mentioned Nigel Haines, who comes from our electorate of the South West Region. Nigel shared the story with us about what he called the gut-wrenching, living nightmare, lasting many years, watching his wife, Suzie Haines, die of Alzheimer's. I spoke also about the evidence presented to us by William Philip, whose wife, after an unsuccessful attempt to take her own life, eventually died in what Mr Philip described as

terror. One of the interesting things about the evidence that we heard was that in many of the cases, and I include Mr Philip's wife amongst the case studies that we heard about, the people who were making the decisions were nurses or had worked in the medical profession and so knew exactly how they were likely to die when they received their final diagnosis.

In talking about heroes, I must mention Belinda Teh, who spent an enormous amount of time in the gallery and is still with us here tonight. Belinda walked home—"home" being Perth—from Melbourne to draw attention to the plight of people like her mother, who, despite having access to the best palliative care, died what Belinda describes as a horrific death. Here is what Belinda said about her walk, and I quote —

Walking from Melbourne to Perth symbolises for me the way our journey to life's end should be—long and arduous, sometimes painful, yes, but supported all the way by empathetic, loving people who reflect on what it might be like to walk in the shoes of others.

In 2010, I spoke in support of the private member's bill introduced by Hon Robin Chapple. I ended with these words —

Fundamentally, what we are talking about today is whether we will respect the decisions of those who decide that a gentle and peaceful death at a time that they choose is the way they want to end their lives. I cannot vote to deny anyone the right to die in this way—not you, and not me. That is why I am supporting the bill.

In the nine years since then, my resolve to regulate for voluntary assisted dying has, if anything, been strengthened by the mass of evidence and testimony collected as part of the process of bringing this bill before the Parliament. Because I have already outlined in previous debates my views on this matter, I will focus here on several specific issues that the current debate in the community and amongst us as members of Parliament have brought to the fore.

I want to start by saying that first and foremost I have been very much struck by how frequently all of us who have been talking about the question of how we die have talked about it in terms of our values. In other words, we talk about the kind of society we want to live in. We are talking about life. We are talking about how we live. For me, there is no contradiction here. We recently heard from a doctor who came to talk to MPs about voluntary assisted dying. I think it was humorous and it sums it up completely. He said, "The one statistic that has remained static since the time we began collecting statistics is that 100 per cent of people die." It would do us well to remember that. Death is not a strange thing; death is part of life. The cause of death is life. It sounds like a cliché but the truth is that, according to me, we will live better if we can contemplate our death.

Our thoughts about how we die are intimately bound up with what we think about life and how it is best lived; therefore, it is important to listen very closely to this talk about values, particularly when the debate gets heated and emotional. It is important because if we really try to understand what everybody is saying, and I mean everybody, both when they support and oppose measures like this, we will make better arguments ourselves. For example, I was quite shocked—genuinely shocked—to hear opponents of this measure say that one cannot logically and consistently oppose capital punishment and yet support VAD. As someone who does precisely that, what do I say? The argument seems to go like this: we reject capital punishment because legal practitioners make mistakes and execute people who are subsequently found to be innocent. Might it not then be the case that medical practitioners also make mistakes and wrongly approve people's access to voluntary assisted dying?

Those members who have made any sort of study of disciplines like philosophy will know that there is a particularly pernicious form of argument, well known to people who argue for a living, such as lawyers and philosophers, where we are led inexorably to a conclusion because all the premises appear to be true even when the conclusion is not one we accept. In the case of capital punishment and voluntary assisted dying, looking at the values or principles that guide thinking is helpful. Although I certainly agree that the execution of an innocent person is a tragedy, this possibility is not the reason why I oppose capital punishment, and it cannot form the basis of a rejection of measures to regulate voluntary assisted dying. Go back to the question about what sort of society we want to live in. For me, that question is answered in terms of dignity and respect. It involves thinking about the way we treat each other, about acting always to promote love and regard over hatred and fear. I do not want to live in a society that executes offenders, because I believe that there is a better way to deal with those offenders by embracing a rule of law that sees imprisonment and loss of liberty as an ultimate punishment. Similarly, I do not want to live in a society in which people who are dying are forced to suffer unbearable pain or are sedated until they die, because I believe there is a better way.

What is that better way? What do we want to be able to say to those people who want to decide for themselves how to spend their dying days rather than allow others to make those decisions? This legislation is about that better way. It will enable us to say yes rather than no to somebody when they ask to be able to actively end their life when their suffering, their pain and/or anguish is unbearable to them and there is no chance of a cure for the cause of that suffering. The concept of asking is central to the safeguards included in the bill. These safeguards are a direct result of the legal and clinical scrutiny to which the select committee and the ministerial expert panel have subjected the measures contained in the bill. We will hear a lot about coercion, or to use a term coined by our colleague Hon Nick Goiran "steering", from opponents of this bill. The bill's absolute insistence that nobody will be coerced into requesting voluntary assisted dying is manifest in the creation of specific criminal offences making

any action intended to coerce a crime. That is right; just as are the measures to ensure that those who ask for voluntary assisted dying have the mental capacity to know what they are asking for are right. This bill is not for people who are not dying. It is not for people who are suffering because someone they love is suffering. Its terms of application are very, very narrow. It will not include people like Dr David Goodall in its scope. It will also not include someone who is dying if they have any form of dementia, even though, for more than two years, the select committee heard—I am sure the ministerial expert panel heard the same thing—very eloquent and passionate arguments that dementia sufferers should be included in the bill. I know that is something that arose frequently in the many forums that Belinda Teh held as she walked across Western Australia. To those people who would like dementia sufferers to be included in the bill, I simply say this: we could not find a way of making the ability to request access to voluntary assisted dying in an advance health directive consistent with the key principles around decision-making capacity in this legislation. That is why we have excluded dementia sufferers and that is why they will not be included in the future.

This brings me to another specific matter that is likely to be discussed in great detail by opponents of the bill if we move into the committee stage. In any debate about reform of this kind, the conservative argument will always be about the slippery slope. I know other members have raised this issue in their contributions to the debate. The slippery slope argument is the “give them an inch and they will take a mile” fallacy about the inevitability of certain outcomes being precipitated by an initial action. I call it a fallacy because unless it is supported by evidence, that is all it is. When we look for evidence of the slippery slope in relation to voluntary assisted dying laws around the world, it simply is not there. It is extremely rare for legislation to be changed once it is in operation. I will give members an example. In Oregon, where laws relating to voluntary assisted dying have been in operation for more than 22 years, there has been one single amendment. That amendment, which had to go right through the parliamentary process, made a change to the statutory waiting period for people with less than 15 days to live. In the Netherlands, laws on assisted dying have not changed at all since they were introduced in 2002. The joint select committee report presented to this Parliament found —

The published evidence does not support claims that legalisation of assisted dying results in an inevitable move toward the erosion of safeguards and an increase of non-voluntary euthanasia. Indeed, the evidence supports the opposite conclusion ...

I will go further and say that it is not even common for legislators to try to change the legislation. No legislature anywhere in the world has ever taken lightly the step of introducing voluntary assisted dying. Legislators, like us here tonight, are under an obligation to get it right—to make sure that the laws passed by Parliaments are sound and workable as well as supported and understood by the community. Although some jurisdictions, such as Victoria, have introduced their voluntary assisted dying laws relatively recently, others have had laws for decades. If there were evidence of legislation becoming more liberal—of categories being expanded, criteria being widened or safeguards being watered down—we would see it, at least in the jurisdictions that have had voluntary assisted dying laws for a considerable number of years. Members, we do not see it, because it is not there. It is not true that laws like this change over time to expand their scope or weaken their sanctions and safeguards. As lawmakers, we should not be swayed by false arguments and we should not vote on the basis of fears that are not justified.

I will say something about how we might understand the evidence that both supporters and opponents of this bill have put before this house. The fact is, and I use the term “fact” without irony, that not all evidence is sound. I was discussing this matter in a different context recently when the person with whom I was speaking put it very succinctly. He said, “Not all evidence is created equal. Some is created to sell things.” That is not exactly the charge I would bring against those attempting to undermine the bill, but it does highlight the wariness we should all have when it comes to the evidence for some of the claims being made to substantiate the case against voluntary assisted dying.

I will make some general points and then I will move on to some specifics. I go back to my earlier comments about values and particularly the values that guide our thinking about death and dying. It is really important that we start with a clear understanding about what is a factual claim and what is a moral claim because, Madam President, there is a difference. A factual claim depends on evidence. A moral claim depends on values. It is the failure to make this distinction that leads to confusion and we should be wary about some of the more outlandish claims made in relation to this topic. I suggest to honourable members that what may carry weight as a moral claim—for example, that all life is sacred—can be substantiated only in terms of values. What would be the values underlying the statement that all life is sacred? They would be something like: life is a gift and it is always wrong to throw it away. That is a moral claim. What carries weight as a factual claim—for example, that it is not possible to design a safe voluntary assisted dying law—must be substantiated by evidence. What counts as evidence? Honourable members would be aware of some of the material written by Ben White, Andrew McGee and Lindy Willmott. They have done extensive academic examinations of how arguments work and point out that if we are serious about gathering evidence, we should give little weight to anecdotes, opinion pieces, editorials and letters to the editor, and only slightly more weight to single individual and small group case reports and series. It is only when we get to epidemiologic studies, meta-analyses and systematic reviews that evidence becomes robust. It is only at this level that we find evidence that is tested by courts, expert panels, non-partisan parliamentary committees and peer reviewers.

The proposition has been put in this place by opponents of the bill that it is intellectually dishonest to deny the impossibility of creating a safe voluntary assisted dying law. I take very strong exception to this claim. It is a classic case of a failure to be honest about the evidence on which a proposition is based. The conclusion is based on so-called wrongful deaths, which are supposed to have occurred under existing voluntary assisted dying laws. These are not new claims; they constitute the bulk of the joint select committee minority report submitted in the name of Hon Nick Goiran. I suspect there will be plenty of opportunities later in the debate to go into detail about how seriously flawed these arguments are, but for now, I will make three points about these claims. First, these wrongful death case studies were based on the omission of important facts and inclusion of unsubstantiated information and half-truths copied from pro-life websites. This is not trustworthy evidence from any intellectual perspective. Second, most of the authors who put their names to these so-called wrongful death case studies argue solely from the viewpoint of a religious and/or fundamental opposition to VAD. They are not unbiased researchers. Third, all cited deaths were legal in the jurisdiction in which they occurred. Not one of them was found to be wrongful by any inquiry in those jurisdictions.

I said earlier that we all need to be wary when it comes to the evidence used to back up some of the claims made to substantiate the case against voluntary assisted dying. Nowhere is this wariness more necessary than in the assessment of claims that coercion is not preventable by having strong legislative measures that criminalise such action. This claim, which is another version of the “impossible to create a safe voluntary assisted dying law” claim, has been tested in the courts of Canada and found to be untrue. Let me be absolutely clear what I mean by this: it would not be untrue if there was a reliable body of peer-reviewed evidence that voluntary assisted dying was being accessed disproportionately by vulnerable people. There is no such evidence. Yes, there are letters to the editor making these claims. Yes, anti-choice websites are full of anecdotes and stories about cases in other places. No, this does not constitute evidence. What the evidence—that is, independent, testable, expert and exhaustive evidence—says is that there are no signs in any of the jurisdictions in which voluntary assisted dying is lawful that there is an increased risk to vulnerable groups or that the laws are being abused to inflict harm on vulnerable people. Those are the facts. They may not suit that particular argument, but they remain the facts.

Perhaps the most preposterous claim made by opponents of this bill is that voluntary assisted dying and suicide are the same thing, or are at least likely to be construed as the same thing in the popular imagination. It is clear to me, both from the evidence and from my reflections and personal experience, that this is not true. Suicide and voluntary assisted dying involve two completely different kinds of death. This does not seem to me to be a particularly contentious or provocative statement. Take these two propositions. The first proposition is that it is acceptable for someone who is very close to death and has no prospect of a cure to take their own life. The second proposition is that it is acceptable for someone who is not close to death and has every prospect of a cure to take their own life. These propositions are not the same; these propositions are not equivalent. To say that they are is simply wrong. For me, the key concept here is hope. The bill is not about removing hope for a cure, hope for an end to the pain, hope for the future or hope for a better life; it is about what we say when hope has run out—when there is no hope for a cure, no hope for an end to the pain, no hope for the future and no hope for a better life.

The report by the Ministerial Expert Panel on Voluntary Assisted Dying addressed this question with eloquence, drawing on similar observations made by the Ministerial Advisory Panel on Voluntary Assisted Dying in Victoria, which reported in July 2017. On page 11 of the Western Australian “Ministerial Expert Panel on Voluntary Assisted Dying: Discussion Paper”, the panel says —

Suicide involves the tragic loss of life of a person who is otherwise not dying, whereas voluntary assisted dying involves a person’s choice about their mode of death when they are already dying. Suicide is usually undertaken alone as an act of desperation, whereas voluntary assisted dying is a pathway involving medical and family support. Suicides are potentially avoidable; “every effort should be made to prevent these deaths” and there is a “range of critical work being undertaken to prevent suicide”. By contrast, the people “who are the focus of voluntary assisted dying face an inevitable death as a result of an incurable disease, illness or medical condition. It would not be appropriate to use the same terminology to describe” their choice about the circumstances of their impending death. For these reasons, the Panel believes the word ‘suicide’ should not be used in relation to voluntary assisted dying. It is wrong to confuse these two very different kinds of deaths.

Let me turn finally to the question of whether this bill would be improved and, indeed, and perhaps more importantly, whether the outcomes for individuals requesting access to voluntary assisted dying would be improved if we were to prohibit doctors from discussing voluntary assisted dying with their patients in the same way that they routinely discuss other medical options. Again and again, people whose narratives we listened to in the select committee inquiry spoke about the moment when a doctor says to a patient, “I have bad news for you.” What we heard came next was always a variation of the same questions. Those questions were: will I have to suffer; and, if I do, what will you be able to do for me? For us in this Parliament to contemplate imposing a limit on the information provided at this critical point would, I suggest, be outrageous. Yes, Victoria has this prohibition, but it is the only jurisdiction in the world to do so. Such a move would be a complete subversion of good clinical practice, which relies as much on patients being fully informed as it does on doctors adhering to high professional standards. I put it to members

who are considering this matter that there is no other circumstance whatsoever in which we would consider it good practice for a Parliament to impose a restriction on a doctor discussing lawful treatment options with a patient. In debate in the other place, the proposition was put forward that such a measure was necessary to protect people with a disability, and particularly those whose disability might render them susceptible to suggestion. Such a proposition, I think, constitutes a fundamental misreading of the safeguards contained in this bill, which are specifically designed to ensure that eligibility is confined to those whose decision is their own and nobody else's. I find such propositions deliberately overlook current practice, which has never found anything sinister in the fact that doctors are allowed to have uncensored conversations about all other treatment options, including refusal of treatment and palliative starvation and dehydration. Indeed, the fact that palliative sedation of terminally ill patients is often administered in the absence of any consent by the patient appears not to have troubled proponents of this argument until now—a fact that at least seriously undermines, if not completely derails, their claims.

No doubt many of these issues will surface if we proceed to the committee stage, and I will make further comments then should we return to them. But let me conclude by saying that it is my firm belief that we cannot continue as we are. We cannot continue pretending that accounts of people dying in agony are exaggerated and we cannot continue to criminalise the actions of those who seek to help.

The title of this bill is well chosen. Under this law, assisted dying will always be voluntarily accessed. Many will choose not to take that route, and their reasons will be many and varied and must be respected. Evidence shows that amongst the small minority of people who access voluntary assisted dying, many use palliative care services and most die without using the medication. That means that few people in our community will not find themselves in palliative care at some point, and I remain a staunch advocate for improving palliative care services, especially for people in regional and remote communities whose dearest wish is to die at or at least near home.

I want to end with a challenge to those who would oppose this bill. I want to ask whether we can imagine that one day your partner or your child or someone about whom you care very deeply might be close to death and might want to make the choice about how they die. I then ask: will you be prepared, when this person has made that choice, to deny them that choice and to tell them that they made the wrong choice? I ask that question because this is the reality of the law as it stands today. I ask again today the question I proposed to this house in 2010 on the bill introduced by Hon Robin Chapple. I say again: are we prepared to take away from people who have a terminal illness the right to choose how to die? Can you imagine this is a choice that one day you might want to make or that somebody you love might want to make? What we say to people now is that if you make that choice, either you will have to depend on others to break the law or you will have to do it yourself; and, if you do it yourself and you do not want to implicate others, you will have to do it on your own. I am not prepared to contemplate that. I cannot see how it would be right to force that onto people, in any sense, as a result of a decision that we make in this place.

I want to end on a completely different note and I want to share with honourable members, as many members have done earlier in this debate, something that was sent to me by a constituent. This constituent happens to be a woman whom I love very dearly. She is an 80-year-old woman who lives in Pinjarra and she has a close relationship to other members of this house as well, not only people on my side of the house; she is the woman whom Hon Simon O'Brien refers to as Aunty Pat. I share with honourable members a poem that was sent to me by Trish Briggs, also known as Aunty Pat. Aunty Pat writes a lot of this poetry and I think it is just a lovely way of summing up how many people in our community feel about the nature of this bill and the fact that they just want it to happen. These are Pat's words that I want to end with. Here is her poem *V.A.D.* —

I've lived until I'm eighty
 I've earned the right to choose.
 Don't take that choice away from me
 For if you win, I lose.
 Your view of life is positive
 At present mine is too
 But I want death with dignity
 The decisions up to you.
 I do not want my family
 To suffer at my death
 I want them to remember,
 As I take my final breath,
 The time we've spent together
 And the joys that we have shared
 And acknowledged my decision,
 For a painful going, spared.
 So when you come to cast your vote
 Give a thought to those like me
 And since death comes in many ways
 Vote yes for V.A.D.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [9.42 pm] — in reply: I begin by thanking everybody who has made a contribution over the past week or so in this debate on the Voluntary Assisted Dying Bill 2019. I have been in this place for about six years and I think this is the first debate in which essentially every member of the chamber who could make a contribution has made a contribution, and it just shows how we are all treating this debate, how important it is to us and to the community. Thus far, it certainly has been conducted civilly and with great respect, and I congratulate members on that.

I acknowledge those members who shared difficult personal stories, like Hon Alanna Clohesy; Hon Peter Collier; Hon Robin Chapple; Hon Colin de Grussa, who talked about his own experience with cancer; and Hon Matthew Swinbourn, who today spoke to us about his loving son and the reasons for his support of the bill that is before us.

I also want to acknowledge Belinda Teh and Noreen Fynn who have been here during the debate. Their suffering has been emblematic of the many families across the community who have borne witness to the harrowing last days of their loved ones. Both Noreen and Belinda have demonstrated great courage during the community debate and I thank you for that.

The evidence is clear. Complete relief of suffering is not always possible, even with optimal palliative care. To argue that palliative care does achieve complete relief is to deny the reality of those who have shared with us their personal experiences. It is also clear from the evidence that compassionate assistance is already rendered to those for whom death is imminent, but that assistance is reliant on the decision-making of the medical practitioner, with no safeguards and sometimes without consent.

Debate adjourned, pursuant to standing orders.

BANNED DRINKERS REGISTER TRIAL — PILBARA

Statement

HON JACQUI BOYDELL (Mining and Pastoral — Deputy Leader of the Nationals WA) [9.45 pm]: Very briefly tonight, I want to make some comments on a statement that was made in the other place on the banned drinkers register trial that is supposed to be rolled out in the Pilbara. Members may or may not be aware that the Minister for Racing and Gaming, Paul Papalia, along with the member for Pilbara, made an announcement in the Pilbara at some point last year suggesting that the banned drinkers register trial would be rolled out in the Pilbara by the end of last year. My view at that point was that that was a very ambitious statement and that there are many complex issues in the Pilbara regarding alcohol abuse and violence and family and domestic violence. I have always supported the banned drinkers register trial. I think it is the right way to go and I have supported the government doing that on many occasions. To my dismay and to the people of the Pilbara's dismay, that trial has never taken place. We find ourselves some 12 months down the track with the banned drinkers register trial still not being rolled out in the Pilbara.

The reason I take exception to this is that many times along the way I have made comments in the media and in this place, I have asked questions about the banned drinkers register trial and I have received briefings from the minister's office on it, because I support it. I have said many times to the minister's advisers that I support the banned drinkers register trial and if I can do anything to assist or be useful in the rollout in the Pilbara, I would be more than happy to do so. It was with great regret that I read a grievance by the member for Pilbara on Thursday, 17 October to the Minister for Racing and Gaming suggesting that the National Party members and I were being spurious in our pursuit of asking about the banned drinkers register trial. As a member for Mining and Pastoral Region, I am asked about this when I am in the Pilbara. People ask when the government is going to roll out the banned drinkers register trial and I say, "I do not know. I hope they do. I am supportive of it. I will ask questions about when this is going to happen."

The member for Pilbara and the minister have suggested that National Party members and I are causing angst in the community and we do not understand the issue. The minister has offered me a briefing. Minister, I have had a briefing! I suggest to the minister that if he has answers to the questions that I continue to ask, he makes them clear and contacts my office and says, "Jacqui, we've got an update on the banned drinkers register trial." I am more than happy to understand what that update is and I am more than happy to support the minister's actions in the implementation of the banned drinkers register trial, but he should not suggest that I or the community of the Pilbara do not understand what is going on with this trial, the reasons it is needed, or the complexity around the support services that need to be wrapped around the families and victims of domestic violence and the people who are struggling with alcohol abuse. This is a very real thing in the Pilbara community. I do not appreciate the minister making this such a political issue, because I have never made any comments to suggest that this is not a good thing for the Pilbara. I believe it is. In asking questions on behalf of the people of the Pilbara, all I have ever done, and will continue to do, is to try to get some clarity, 12 months down the track, of where that trial is up to. The minister announced it 12 months ago and said it would be rolled out. I am entitled to ask those questions. I suggest that the minister gets on and delivers the trial, delivers the software and works with the key stakeholders, and then we can all move on. But he should not suggest that I have used this as a political football

or that I am somehow trying to undermine the implementation of the banned drinkers register in the Pilbara. That is rubbish! It is ridiculous! If the minister is suggesting that, he does not understand the questions I have asked or the comments I have made publicly.

I am more than happy to have a briefing and be updated, as I have regularly said to members of the minister's office and publicly. I am ready and waiting to assist, and I know that once the minister actually gets on top of the issue, the people of the Pilbara will welcome the rollout, as will I. Thank you.

ANIMAL WELFARE — RACEHORSES

Statement

HON ALISON XAMON (North Metropolitan) [9.51 pm]: I rise because I want to respond to the ABC's horrific 7.30 report that was aired last Thursday, which I was horrified to watch after I arrived home from Parliament. That was, of course, the report that highlighted the incredibly cruel practices occurring over east within the horseracing industry. I think anyone who saw that report would have been absolutely horrified by the brutal images they were confronted with, particularly because we need to note that these animals have been specifically bred for the purposes of our entertainment and profit. Like greyhound racing, it is clear that horseracing is an industry that is predicated on overbreeding and the using and disposing of animals. That is something the Greens have consistently raised in this place. I have raised this issue in this place already in this term of Parliament, in the context of some of our racing bills.

I note that the industry's consistent claim has been that it cares for the horses throughout their whole lives, and the official line has been that only 34 thoroughbred horses have been sent to slaughter each year. I note that these figures differ from Racing and Wagering Western Australia's figure that about 100 thoroughbred horses were registered as being either euthanased or sent to an abattoir in 2018. It is very difficult to get a determination of how many of those horses were ultimately sent to an abattoir. The investigation undertaken by the ABC suggests that the actual number was that up to 4 000 horses a year are being sent to either abattoirs or knackeries. If that is not bad enough, we saw that the horses filmed as part of that investigation were being subjected to the most heinous acts of cruelty leading up to their untimely deaths. I felt physically ill watching that footage. I think that Australians are rightfully shocked by this, both inside and outside the industry. It is vital that these kinds of practices are exposed. The community has a right to know what kind of behaviour is underpinning the operations of the industry. The investigation managed to uncover evidence of racing horses from Victoria, South Australia, the Australian Capital Territory, New South Wales, Queensland and Tasmania being sent to an abattoir in Queensland. I note that no mention of Western Australia was made in this report.

I asked the Minister for Racing and Gaming about this issue this afternoon in question time. I note that the minister has also issued a ministerial statement, which is good—it means that concern is being exercised. As a result of the comments that have been made, the Premier previously advised that these practices are not occurring within Western Australia. I also understand—this has been reflected in the ministerial statement—that there is no system of recording exactly what happens to our horses within Western Australia after they have left racing. This means we do not have any way of knowing what is happening to our retired racehorses in WA, and this needs to be rectified as a matter of urgency. The statement recognised that horses are being exported to South Australia. I am going to remind members that some of the horses that ended up in those abattoirs were from South Australia. The minister referred to the fact that a number of unregistered private businesses process horses for pet meat, and that there is currently no way that racing authorities have any authority or visibility over this process. The minister talked about the limitations within our statutes and regulations to be able to monitor what is happening with our horses.

Having said that, the tracking of horses or, for that matter, any other welfare measures that we might want to look at imposing are not going to be effective on their own. Those measures will have to accompany a rigorous monitoring and enforcement regime. I think 7.30 did a very good job of highlighting the inadequacy of the regulatory regimes that exist within New South Wales. We know that in 2016, the New South Wales horseracing industry implemented a range of welfare measures after the cruelty in the greyhound industry was exposed. People in that industry were, for good reason, obviously desperate to avoid the sort of outrage that people had expressed towards greyhound racing, so a number of commitments were made to domicile and rehome every racehorse and to make sure that they were tracing the racehorses throughout their life cycle, similar to what happens here with greyhounds. I will have a bit more to say about that in a moment. As it turned out, it seems that the commitments that were made only three years ago were not even worth the paper they were printed on. Three years on, New South Wales still does not have a rehoming program, and the database recording horses' movements is wildly inaccurate. In fact, the database showed horses as still racing when they had already been sent to slaughter. The head of the regulatory agency, Racing NSW, categorically denied knowledge of any racehorses being slaughtered and instead confidently said that he thought the New South Wales regulations were being followed, when clearly they were not. That raises obvious questions about the capacity of the industry to regulate itself.

Getting back to the issue of greyhounds, I note that in Western Australia we have requirements to track greyhounds across their life cycle. However, I have received anecdotal evidence that even this is not very well monitored or effective, and members will be hearing more about that from me in the future. We know that animal welfare

protections should never be a secondary consideration. Most certainly, they should not just be treated as a public relations exercise. I think it is absolutely clear that there is a need to better understand what is happening to racehorses here in Western Australia. I am glad that the minister seems to have been put on notice on this issue and seems to be taking it seriously. At the very least, the industry needs to step up and make sure that it is being transparent and accountable about what is involved throughout the life cycle of animals that are bred purely for our “entertainment”. We need to know more about what is happening with the overbreeding and wastage ahead of horses racing, the injuries that are occurring to horses while they are racing and also what is happening to those horses after they have effectively been discarded.

WA REGIONAL ACHIEVEMENT AND COMMUNITY AWARDS

Statement

HON DARREN WEST (Agricultural — Parliamentary Secretary) [9.59 pm]: My member’s statement is a very positive one tonight. Last Friday, I attended the WA Regional Achievement and Community Awards held at the Hyatt Regency Perth. A very large crowd of about 500 predominantly regional people came to celebrate all that is good about the great organisations and individuals who live among us in regional Western Australia. There were a number of categories and I will briefly run through the finalists and winners of all of them to give them a special shout-out for the fantastic work that they do across the state.

The Insurance Commission Regional Safety Award finalists were the Royal Perth Hospital Prevent Alcohol and Risk-related Trauma in Youth program and the Shire of Denmark Roadwise Advisory Committee, with the category being taken out by Boab Health Services for its exceptional commitment to the safety of its staff as they travel around the remote areas of WA. The Department of Local Government, Sport and Cultural Industries Making a Difference Award finalists were the Shire of Laverton Youth Service and the Kimberley Remote Area and Wheatbelt Rural Health Placement program, with the category being taken out by the Wheatbelt Secondary Freight Network program, which has brought 42 local governments together to work on the most efficient ways to get our very important products to market. The Prime Super Business Achievement Award finalists were the Life and Soul Health and Fitness Club, Desert Sands Mechanical in Geraldton and AGRIFresh in Badgingarra, with the category being taken out by Gravity Etc of Dalyellup. The Curtin University School of Education Teaching Excellence Award finalists were Renee Knapp from Boyup Brook and Dallas Bruce of Geraldton, with the category being taken out by the Mirima Dawang Woorlab-gerring Language and Culture Centre in Kununurra. An outstanding speech was made by the winner of that category. The RAC Volunteering Award finalists were Truffle Kerfuffle Inc of Manjimup and the Beacon Progress Association, which does a terrific job in the wheatbelt, with the category being taken out by Les Wallam of Eaton, who has devoted his life to the development of the Roelands community near Collie. The Rinehart Development of Northern Regional WA Award finalists were the Karijini Experience and Live Ningaloo, with the category being taken out by Froth Craft Brewery of Exmouth—and we all drank to that! The Department of Primary Industries and Regional Development Economic Development Award finalists were Grant Simpson Rural Fencing from Yalgoo and AGRIFresh from Badgingarra, with the category being taken out by Djarindjin Community Airport, which is 100 per cent owned by the Djarindjin Aboriginal Corporation and lies at the top of the Dampier Peninsula. What a great speech we heard from the winner of that category. The Community TAB Community Service Award finalists were Julian Pace, who has been very inspiring in setting up his happiness company, and Grant Westthorp of Albany, with the category being taken out by Nanette Williams from Nickol, who has a passion for community health and has been a vital part of the Karratha community for the past 36 years. The Woolworths Community Group of the Year Award finalists were the Moore Catchment Council in Moora and Harvey Community Radio in Harvey, with the category being taken out by WA iSports of East Bunbury. I heard the most inspirational acceptance speech that I have ever heard from a young man who has a disability and spoke from his heart and very articulately on accepting that award. The Ricoh Australia Customer Service Award finalists were Bullara Station Stay and Bianca Turri Photographer, with the category being taken out by Shannon Richards from Boulder, who has been an employee at the Goldfields Oasis. The Prime Super Employer Excellence in Aged Care Award finalists were Springhaven Frail Aged Lodge and South West Community Care, with the category being taken out by CraigCare in Albany. The Horizon Power Leadership and Innovation Award finalists were Claire Roach of Harvey and Grant Westthorp of Albany, with the category being taken out by the Albany Roller Derby League in Spencer Park. The winner of that category also made a terrific speech.

It was really great to be at that awards night. It highlighted the very positive and important input that people have in our communities right across the state. We have great community organisations and individuals in the metropolitan area, but people in remote areas have to manage without a lot of the services that others take for granted, and they just find a way to get things done and make things happen. I wanted to spend a few minutes tonight to acknowledge all the people who were nominated, and all the people who do terrific community work right across the state. Whether they were an award winner or a finalist, we appreciate very much what they do for our communities.

CRIMINAL LAW AMENDMENT (UNCERTAIN DATES) BILL 2019

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Leader of the House)**, read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [10.06 pm]: I move —

That the bill be now read a second time.

The Criminal Law Amendment (Uncertain Dates) Bill 2019 will amend the Criminal Code and the Children's Court of Western Australia Act 1988 to close technical loopholes that may arise when uncertainties as to the date of an indictable offence, the age of the victim at the time of a sexual offence or whether an accused was a child at the time of an offence, prevent perpetrators being convicted of crimes that can otherwise be proven.

The measures in this bill have been developed with regard to improving access to justice for victims of serious crimes and is consistent with the principle that an accused is not exposed to a harsher penalty than existed at the time of the offence. Although this bill will have application across a range of matters in which there is uncertainty of particular dates, there is no doubt it will facilitate the successful prosecution of sexual offences against children. It is often a feature of child sexual abuse cases, given the historical nature of offending, the tender age of the child and the trauma inflicted, that it is difficult for a victim to recall specific dates of abuse. Unfortunately, perpetrators may evade conviction where, although all other facts are proved, it cannot be conclusively established when the offending took place. This represents a serious miscarriage of justice. This bill thus extends improvements in the administration of justice for victims of child sexual abuse.

I now provide more detail on the circumstances to be covered in proposed new chapter IIB of the code. Proposed section 10L of the code will address problems that arise where an indictable offence occurred sometime in a period during which the relevant written law was amended. Currently, if conduct constitutes an offence under both old and new offence provisions, a perpetrator cannot be convicted because it cannot be established which provision was in force at the time of the offence. Proposed section 10L will remedy this loophole by providing that an accused may be charged in respect of the relevant offence with the lesser maximum statutory penalty, whether that is under the old or the new law. If it can be proved to the court that the offence occurred sometime in the relevant period, the person may then be convicted and sentenced in respect of the lesser penalty offence.

Additional issues may arise when a sexual offence occurred sometime in a period during which the victim had a significant birthday. Proposed section 10M will address circumstances in which it is unclear which age-dependent child sexual offence would apply. It will also address uncertainty about whether a victim was still a child at the time of a sexual offence. To illustrate, it may be uncertain whether alleged conduct constitutes sexual offences against a child under 13 years of age or different sexual offences against a child 13 years and above. As may often be the case with historical child sexual abuse, the victim may not be able to recall the specific dates of abuse. It may only be possible to establish that the conduct spanned a period during which the victim turned 13.

Proposed section 10M will resolve these types of uncertainties by providing that an accused may be charged in respect of the relevant offence with the lesser maximum statutory penalty, whether this is before or after the victim's relevant birthday. If it can be proved that the sexual offence occurred sometime in the relevant period, the person may then be convicted and sentenced in respect of the lesser penalty offence.

Proposed section 10N will address problems where there is uncertainty regarding the birthdate of the victim of a sexual offence, which could be an issue in remote regional areas, or for children with refugee backgrounds. This may again be particularly relevant when dealing with age-dependent sexual offences. Consistent with proposed sections 10L and 10M, the accused may be charged in respect of the relevant offence with the lesser maximum statutory penalty, regardless of whether the offence is where the victim must be of a particular age or another offence where the victim was of a different age. If it can be proved that the offence occurred, the person may be convicted and sentenced in respect of the lesser penalty offence.

As new chapter IIB of the code is to remove technical impediments to convicting perpetrators with particular regard to historical child sexual abuse, it is intended to apply to acts or omissions committed prior to and upon commencement of the amendment provisions. However, the bill will not retrospectively alter or add new offences.

I now turn to part 3 of the bill, which proposes amendments to the Children's Court of Western Australia Act to deal with circumstances in which it is uncertain whether an accused was a child or adult at the time of the commission of the offence. In such circumstances, it may not be possible to establish which court has jurisdiction to hear the matter. This situation may tend to arise when an offence occurred sometime in a period spanning the accused's eighteenth birthday, when the exact date of the offence is uncertain. It may also occur when there is no formal registration of an accused's date of birth. By way of actual example, in one case, a person was alleged to have committed sexual offences against a child in a period spanning a number of years. Particular dates on which the offending occurred were unable to be specified. Charges alleging very serious sexual offences could not be pursued because the state could not establish whether the accused was over or under 18 years of age at the time the particular offences were committed.

Proposed sections 19(2AA) and 19(2AB) will provide for the Children's Court to have and retain jurisdiction if the charge alleges that the offence was committed by a person who may have been a child. Proposed section 19(2AB)

in particular is intended to avoid prosecutions being discontinued when, during the trial, evidence suggests that the accused was, or may have been, an adult at the time of the offence. This will prevent additional stress and trauma for victims due to trials having to commence afresh in another court. To provide for the additional circumstances under proposed sections 19(2AA) and 19(2AB), the definition of “child” in section 3 of the children’s court act is to be expanded. Minor consequential amendments are also proposed to the Evidence Act 1906 and the Magistrates Court Act 2004 to maintain consistency with the children’s court act definition of “child”.

In conclusion, the amendments proposed throughout this bill will resolve technical impediments that currently prevent prosecution and conviction, in particular, regarding sexual offences against children. The sexual abuse of children is one the worst crimes imaginable. The provisions proposed in this bill improve the administration of justice for victims of child sexual abuse. They represent further improvements by the McGowan Labor government in the wake of the Royal Commission into Institutional Responses to Child Sexual Abuse and will be complemented by further appropriate reforms over time.

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

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

[See paper 3301.]

Debate adjourned, pursuant to standing orders.

House adjourned at 10.13 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

TELLUS HOLDINGS — SANDY RIDGE PROJECT

2460. Hon Robin Chapple to the minister representing the Minister for Mines and Petroleum; Industrial Relations:

I refer to the Tellus Holding's Sandy Ridge Project, and the related questions I posed on 15 February 2019, and 2 April, and I ask:

- (a) has construction work begun, in any sense, for the Sandy Ridge project;
- (b) have all requisite approvals and documentation been submitted by the proponent:
 - (i) if no to (b):
 - (A) why not;
 - (B) which items are outstanding; and
 - (C) has the department been advised on when to expect these outstanding items; and
 - (ii) if yes to (b):
 - (A) when were these submitted; and
 - (B) when were these approved by the relevant authority;
- (c) were Tellus granted several months to amend the documentation referred to at (b):
 - (i) if yes to (c):
 - (A) on what grounds was this granted;
 - (B) did Tellus resubmit amended documents; and
 - (C) were Tellus given permission by the relevant authorities to commence construction within this time frame; and
 - (ii) if no to (c), were Tellus given permission by the relevant authorities to commence construction within this timeframe;
- (d) is the Minister aware that construction commenced at the Sandy Ridge project without a detailed safety review:
 - (i) if no to (d):
 - (A) who authorised this; and
 - (B) how was this authorised without the Minister's knowledge; and
 - (ii) if yes to (d), why did the Minister allow this, knowing that the project entails radioactive elements;
- (e) has radiation baseline monitoring been conducted at the site:
 - (i) if no to (e), why not; and
 - (ii) if yes to (e), would the Minister please table the results;
- (f) would the Minister please table:
 - (i) the radionuclide species to be deposited at the site;
 - (ii) the frequency with which these radioactive isotopes will be deposited at the site; and
 - (iii) the half-lives of these radionuclides;
- (g) would the Minister please advise, in full, how the proponent or the department seeks to minimise radioactive leaks from the site;
- (h) considering that the half-life of some radioisotopes are in the range of tens-of-millennia, is the Minister confident that the measures referred to in (g) are sufficient to prevent any radioactive leak from the facility, while it houses radioactive material;
- (i) does the Minister consider it pragmatic to defer to Radiological Council on matters of industrial and public safety, in relation to radioactive material:
 - (i) if no to (i), why not;
- (j) has the Department, or proponent, provided the Radiological Council with all relevant documentation for the purpose of independent expert review:
 - (i) if no to (j), why not; and
 - (ii) if yes to (j), when, and by whom, was this submitted to the Radiological Council;

- (k) has money been allocated, by the department or proponent, to the engagement of independent experts such as the Radiological Council:
- (i) if no to (k), why not; and
 - (ii) if yes to (k):
 - (A) would the Minister please table the expected breakdown of this expenditure; and
 - (B) has this money been received, in full or part thereof, by the relevant independent reviewer;
- (l) does the Minister intend to have the documentation referred to at (b) and (c) independently reviewed:
- (i) if no to (l), why not; and
 - (ii) if yes to (l), would the Minister please advise as to when this review is expected to be completed; and
- (m) as per the reply from 2 April, would the Minister please detail under what criteria an isotope will be “deemed to be suitable...for burial” at the site:
- (i) what is the fate of any “unsuitable” isotopes?

Hon Alannah MacTiernan replied:

- (a) Yes.
- (b) Yes, the necessary approvals under the *Mining Act 1978* and *Mines Safety and Inspection Act 1994* have been granted.
- (i) Not applicable.
 - (A)–(C) Not applicable.
 - (ii) (A) Mining Proposal and Mine Closure Plan (MPMCP) submitted 9 August 2018.
Native Vegetation Clearing permit (NVCP) submitted 14 December 2018.
Project Management Plan (PMP) submitted 19 September 2018.
PMP amended to include the Mt Dimer aerodrome submitted 23 April 2019.
 - (B) MPMCP approved 4 June 2019.
NVCP approved 7 February 2019.
PMP approved 23 January 2019.
Amended PMP approved 4 June 2019.
- (c) Yes.
- (i) (A) MPMCP: In order to provide additional information required to conduct a thorough environmental impact assessment and ensure adequate management of potential risks, in alignment with the Part IV approval granted under the *Environmental Protection Act 1986*.
NVCP: Not applicable.
PMP: It is an expectation that PMP’s are discussed at length in order that the final documents comply with the legal and technical expectations of the Department. Further, DMIRS had received information that Tellus was considering not extracting the kaolin from the deposit for commercial purposes. In the event that the commercial extraction did not proceed, the Sandy Ridge facility would not have been deemed as a mining operation, and therefore the *Mines Safety and Inspection Act 1994* would not apply.
 - (B) Yes, where applicable.
 - (C) Yes, conditional on having all required approvals in place.
- (ii) Not applicable.
- (d) The PMP approved on 23 January 2019 included a safety review for the development of a Kaolin mine.
- (i) Not applicable.
 - (A)–(B) Not applicable.
 - (ii) This information is not required for a Kaolin Mine.
- (e) No.
- (i) This information is not required for a Kaolin Mine.
 - (ii) Not applicable.

- (f) The Radiological Council will regulate this aspect of the waste facility given the approval granted under Part IV of the *Environmental Protection Act 1986* via the Department of Water and Environmental Regulation.
 (i)–(iii) Not applicable.
- (g) See (f).
- (h) See (f).
- (i) The *Radiation Safety Act 1975* has precedence over the *Mines Safety and Inspection Act 1994*, and therefore the Radiological Council is the ultimate authority that will regulate radiation protection of workers and the public.
 (i) Not applicable.
- (j) Yes.
 (i) Not applicable.
 (ii) Information is routinely provided to the Radiological Council by Inspectors of the Mines Safety Directorate of DMIRS.
- (k) See (f).
 (i)–(ii) Not applicable.
 (A)–(B) Not applicable.
- (l) See (f).
 (i)–(ii) Not applicable.
- (m) See (f).
 (i) See (f).

WATER QUALITY — COORINJINNA POOL — PILBARA

2462. Hon Robin Chapple to the Minister for Environment:

I refer question without notice 873, asked in the Legislative Council on 20 August 2019, and I ask:

- (a) has the Department of Water and Environmental Regulation concluded its investigations into the heavy metal pollution at Whim Creek:
 (i) if no to (a), when is the investigation expected to conclude;
 (ii) if yes to (a), has the data from the investigation been made publicly available;
 (iii) if no to (ii), why not; and
 (iv) would the Minister please table the results of this investigation;
- (b) does the Minister consider it likely that these heavy metals are derived from industrial processes:
 (i) if no to (b), why;
- (c) could the Minister please explain why the article, previously referred to in question without notice 873, maintains that pollutant levels are above guideline levels despite the department advising the contrary;
- (d) has the Balla Balla River system has been tested in previous years, as stated in the article:
 (i) if yes to (d):
 (A) when were these conducted; and
 (B) what chemical species were tested for;
 (ii) were any of these contaminants found to be above recommended guidelines; and
 (iii) would the Minister please table any past data on water quality in the Balla Balla River system, from the last decade;
- (e) does the Minister agree that large amounts of heavy metals are not conducive to the health of flora and fauna;
- (f) can the Minister confirm that the environmental pond at The Whim Creek Copper Project overflowed into the surrounding environment:
 (i) if no to (f), can the Minister advise as to the source of the contaminants; and
 (ii) if yes to (f):
 (A) does the Minister consider the ‘100-year-event’ rationale to offer sufficient environmental protection to be used in future industrial projects; and
 (B) does the Minister maintain the ‘100-year-event’ rationale to be sufficient in the face of climate change and increasingly extreme weather; and

- (g) does the Minister consider the decommissioning of The Whim Creek Copper Project to have been completed to an acceptable standard:
- (i) if yes to (g), why is current proponent (VentureX) said to have inherited a problem; and
 - (ii) if no to (g):
 - (A) why was this responsibility not given to the current leaseholder; and
 - (B) why did the Department not move for litigation against the former leaseholder?

Hon Stephen Dawson replied:

- (a) No.
- (i) The Department of Water and Environmental Regulation’s investigation into this matter is ongoing and a timeframe for when it will be completed is not able to be provided at this stage.
 - (ii)–(iv) Not applicable.
- (b) Based on available information, it is likely that emissions from the Whim Creek Copper mine have contributed to concentrations of metals in Whim Creek. However, it is not possible to determine the extent to which industrial processes have contributed, given that mining tends to take place in naturally-occurring mineralised areas.
- (i) Not applicable.
- (c) Question without notice 873 referred to two different sources: the ABC Pilbara’s article “Whim Creek copper mine faces questions over possible Pilbara river pollution” published on 18 August 2019; and “photographs of pollution and sample tests of water that were taken at Coorinjinna Pool”. Coorinjinna Pool is around 18 kilometres downstream of the Whim Creek copper mine and the ABC article referred to metals, salinity and acidity in water samples from ponds, leach pads and bores at Whim Creek copper mine exceeding guideline values.
- In my response to question without notice 873 part 2, I referred to “concentrations of metals in the sample results to which the member referred meet health-based recreational water quality guidelines”. These sample results were posted on the Honourable Member’s website and the Department undertook a comparison against the health-based recreational water quality guidelines.
- It is not clear whether the ABC considered the test results posted on the Honourable Member’s website or the health-based recreational water quality guidelines.
- (d) The Department does not have any records of water sampling being conducted in the Balla Balla River system in previous years.
- (i) (A)–(B) Not applicable.
 - (ii)–(iii) Not applicable.
- (e) Yes.
- (f) Yes.
- (i) Not applicable.
 - (A)–(B) The ‘100-year-storm-event’ rationale does offer sufficient environmental protection. However, projects regulated under the Environmental Protection Act 1986 are assessed on a case-by-case basis to determine environmental protection measures that must be included in the site design, or if additional environmental management procedures are required to ensure risks to the environment are acceptable.
- (g) Decommissioning of the Whim Creek Copper Project has not yet commenced and is not a requirement of the Environmental Protection Notice.
- (i) Not applicable.
 - (ii) (A) It is the responsibility of the current Mining Tenement Holder to manage onsite infrastructure as well as potential groundwater contamination relating to this infrastructure. The current Mining Tenement Holder’s contamination investigations will consider both historic and current activities at the Whim Creek Copper Project and also the overflow of process water into the Balla Balla River.
 - (B) Investigations regarding historic and current activities remain under investigation. Once the investigation is finalised, the Department will identify whether there has been a breach of the Environmental Protection Act 1986 and, if so, take appropriate action in accordance with the Department’s Compliance and Enforcement Policy.

ENVIRONMENT — PRESCRIBED BURNING

2465. Hon Diane Evers to the Minister for Environment:

- (1) Please provide a list of all the departments, agencies and offices involved in any way in prescribed burning under the Minister's responsibility and what activities they perform in regards to prescribed burning?
- (2) For the financial years 2017–18 and 2018–19, what was the estimated cost and the actual cost of the involvement of these bodies in prescribed burning?
- (3) Do any of the departments, agencies and offices in (1) provide funding for prescribed burning to any other persons or entities:
 - (a) if yes to (3):
 - (i) to who and for what services; and
 - (ii) how much was provided to or is estimated to be provided for each of the years 2017–18 and 2018–19?

Hon Stephen Dawson replied:

- (1) The Department of Biodiversity, Conservation and Attractions' (DBCA) Parks and Wildlife Service undertakes prescribed burning for community protection and land management purposes on lands to which the *Conservation and Land Management Act 1984* applies and also on unallocated Crown land and unmanaged reserves outside of gazetted townsites under a Memorandum of Understanding arrangement with the Department of Planning, Lands and Heritage. DBCA's Botanic Gardens and Parks Authority does not conduct prescribed burning on an annual basis but has conducted two small experimental burns as part of a fire ecology research program in Kings Park (six hectares in 2015) and Bold Park (seven hectares in 2016).
- (2) Parks and Wildlife Service
 - 2017/18 Estimated \$18,624,944
 - 2017/18 Actual \$21,257,006
 - 2018/19 Estimated \$20,421,700
 - 2018/19 Actual \$21,124,372
 Botanic Gardens and Park Authority
 - 2017/18 Estimated – Not applicable.
 - 2017/18 Actual – Not Applicable.
 - 2018/19 – Not applicable.
 - 2018/19 – Not applicable.
- (3) No.
 - (a) Not applicable.

EMERGENCY SERVICES — PRESCRIBED BURNING

2466. Hon Diane Evers to the minister representing the Minister for Emergency Services:

- (1) Please provide a list of all the departments, agencies and offices involved in any way in prescribed burning under the Minister's responsibility and what activities they perform in regards to prescribed burning?
- (2) For the financial years 2017–18 and 2018–19, what was the estimated cost and the actual cost of the involvement of these bodies in prescribed burning?
- (3) Do any of the departments, agencies and offices in (1) provide funding for prescribed burning to any other persons or entities:
 - (a) if yes to (3):
 - (i) to who and for what services; and
 - (ii) how much was provided to or is estimated to be provided for each of the years 2017–18 and 2018–19?

Hon Stephen Dawson replied:

- (1) The Minister is responsible for the Department of Fire and Emergency Services that performs the following activities:
 - DFES and the Department of Planning Lands and Heritage (DPLH) have a Memorandum of Understanding (MOU) for DFES to manage bushfire risk on Unallocated Crown Land/Unmanaged Reserves (UCL/UMR) within gazetted town sites and the greater Perth Metropolitan area. Under this agreement DFES manages 89,000 hectares of UCL/UMR.
 - DBCA is responsible for all UCL/UMR outside of this area.

DFES meets with the DPLH and the Department of Biodiversity, Conservation and Attractions (DBCA) annually to discuss and coordinate the proposed UCL/UMR program of works across the State to ensure the best outcome for the Western Australian community.

DFES also engages at regional levels with local government (LG) and DBCA to ensure prescribed burning programs are cohesive, collaborative and maximise the use of resources to reduce costs.

DFES works with the Western Australian Local Government Association (WALGA) to enhance the tools available to local governments in meeting their obligations to manage bushfire related risk under the Bush Fires Act 1954.

DFES through the Office of Bushfire Risk Management, provides a Prescribed Burning Assurance Program, working with agencies such as DBCA to align their prescribed burning activities to the international risk management standard (ISO31000).

- (2) The actual amount spent on prescribed burning carried out by DFES for the years requested:

2017–18 – \$119,365.

2018–19 – \$74,172.

Note: Prescribed burning is only one mechanism to mitigate bushfire risk. There are many other mitigation activities funded by DFES such as mechanical clearing and slashing to manage the risk of bushfire.

- (3) Yes.

- (i) DFES administers funding to local government and agencies to treat bushfire related risk. The State Government announced an additional \$35 million over four years for bushfire mitigation, as a part of the rural fire reform package. This commitment significantly increased funding for mitigation works on state owned or managed land. Funding through the Emergency Services Levy was made available to treat risk in December 2018. This is in addition to the \$15 million of Royalties for Regions funding running to 2019–20 that is accessible to local Governments in eligible areas that have an endorsed Bushfire Risk Management Plan.

Note: prescribed burning is only one mechanism to mitigate bushfire risk. There are many other mitigation activities funded by DFES such as mechanical clearing and slashing to manage the risk of bushfire.

- (ii) 2017–18: Funding for mitigation works (ESL) was first made in December 2018.
2018–19: DFES estimates that it administered \$30,200 to local government for prescribed burning activities, which is a small component of the mitigation activities performed to protect communities from the threat of bushfire.

ANIMAL WELFARE — MULESING

2467. Hon Alison Xamon to the Minister for Agriculture and Food:

I refer to the article “Clothing brands in mulesed wool ban” in *West Business* on 4 September 2019, referring to the planned phase out of mulesed wool by retailers David Jones and Country Road, and ask:

- (a) does the Minister agree with the statements made by Farmers WA Wool spokesperson, Steve McGuire, that retailers phasing out mulesed wool in their clothing ranges is counter-intuitive to good animal welfare;
- (b) is the Minister concerned that this attitude may impact negatively on all Western Australian wool producers, including those farmers who do not mules their sheep or who use pain relief during the procedure;
- (c) is the Minister aware of the economic impacts to date of overseas wool buyers boycotting mulesed Western Australian wool or choosing alternative sources of non-mulesed wool;
- (d) can the Minister provide any data on:
- (i) the number of farmers who currently mules their sheep;
- (ii) the number of farmers who have not completed accredited training to complete this procedure;
- (iii) the number of farmers who use registered pain relief treatments (such as Tri-Solfen) to minimise the suffering of sheep during the mulesing procedure;
- (iv) whether progress has been made to transition Western Australian flocks to wrinkle-free merino breeds that have a lesser need to be mulesed; and
- (v) whether Department of Primary Industries and Regional Development is conducting any ongoing research into alternatives to mulesing and, if yes, can the Minister detail any progress; and
- (e) can the Minister detail what plans the Government has to implement the Australian Animal Welfare Standards and Guidelines for Sheep which would make pain relief for mulesing mandatory and, if yes, by what date:
- (i) if no to (e), by what date?

Hon Alannah MacTiernan replied:

- (a) Phasing out mulesed wool does not have to be counterintuitive to good animal welfare. Mulesing is just one of many ways sheep producers can manage breech flystrike in their flock. Producers who cease mulesing without a plan or without implementing different management strategies can increase their risk of breech flystrike and therefore have decreased welfare outcomes. There are many producers who successfully run non-mulesed sheep with very high animal welfare outcomes.
- (b) There are many properties successfully running non-mulesed sheep with high animal welfare outcomes. Producers do need to plan their transition from mulesing and utilise the many management techniques available before just ceasing mulesing.
- (c) I am investigating whether there is data on the economic impact of overseas wool buyers boycotting mulesed Western Australian wool. I am aware that mules-free wool is obtaining a market premium.
- (d)
 - (i) In 2017 the Department of Primary Industries and Regional Development (DPIRD) conducted a telephone survey of 400 randomly selected producers, 72% of Merino lambs were mulesed (Curnow M & Conte J (2019) Western Australian Sheep Producer Survey 2018. Department of Primary Industries and Regional Development, May 2019).
 - (ii) There is currently no accreditation course for mulesing. The course 'Perform Mulesing Procedures on Sheep' was managed by the Western Australian Training Accreditation Council and delivered by the Kondinin Group from 2008 to 2012. This course has not been delivered since 2012.
 - (iii) 50% of Merino producers in a telephone survey of 400 randomly selected producers used pain relief on those lambs that were mulesed. (Curnow M & Conte J (2019) Western Australian Sheep Producer Survey 2018. Department of Primary Industries and Regional Development, May 2019).
 - (iv) Research conducted by DPIRD has shown that skin wrinkle is an important indicator trait of breech strike. This has resulted in the development of a breeding value for skin wrinkle that breeders can use to breed wrinkle-free sheep.
 - (v) DPIRD (at the time DAFWA) were the first research institute nationally to cease mulesing on its research and commercial flocks. Since then, DPIRD has been actively involved in researching practical methods (tail docking, chemical application, time of crutching/shearing, genetics) to help producers manage non mulesed sheep. DPIRD has more recently conducted research with the University of Western Australia to identify specific odour compounds from sheep that make them attractive to blowflies. DPIRD has also recently run a successful workshop for producers, vets and industry on the various pain relief options available at lamb marking, promoting best practice welfare.
- (e) Under the Australian Animal Welfare Standards and Guidelines for Sheep, endorsed in 2016, pain relief is mandatory when mulesing animals between 6 and 12 months of age. A person must not mules a sheep less than 24 hours old or over 12 months of age. Mulesing is almost always carried out on lambs under 6 months of age. Further information is being sought on the scientific basis for allowing mulesing without anaesthetic for animals under 6 months. DPIRD's Animal Welfare Regulation Unit is currently drafting regulations to give regulatory effect to the Land Transport of Livestock (sheep and cattle) and Saleyards and Depots Standards. Following the completion of these regulations, drafting for the Sheep Standards will commence, and this is expected to occur in 2020.
 - (i) Not applicable.

MINISTER FOR HOUSING — MINING AND PASTORAL REGION VISIT**2469. Hon Jacqui Boydell to the minister representing the Minister for Housing; Veterans Issues; Youth; Asian Engagement:**

- (1) I refer to the Minister's visit to the Mining and Pastoral Region from 10 to 15 of September, and I ask:
 - (a) will the Minister please provide an unredacted copy of the Ministers itinerary and travel arrangements;
 - (b) will the Minister please provide all briefing notes and advice provided to the Minister in relation to meetings, functions and other commitments undertaken by the Minister; and
 - (c) who accompanied the Minister during the visit and at each meeting, function or other commitments undertaken by the Minister?
- (2) On what date, at what time and by what means were the following local members of Parliament notified of the Minister's visit:
 - (a) Hon Ken Baston MLC;
 - (b) Hon Robin Chapple MLC;
 - (c) Hon Robin Scott MLC;

- (d) Hon Vince Catania MLA; and
- (e) Hon Kyran O'Donnell MLA?

Hon Stephen Dawson replied:

- (1) (a)–(c) On 10 to 15 September 2019 the Minister engaged in the following
- Tour of key infrastructure developments (Kununurra)
 - Meeting with Transitional Housing tenants
 - Asian Engagement Strategy Launch event hosted by the East Kimberley Chamber of Commerce and Industry (Kununurra)
 - Tour of Ord River Irrigation Area
 - Meeting with Mirriuwung Gajerrong (MG) Corp
 - Visit to the Wyndham Port and Bastion
 - Dinner with Industry Stakeholders (Kununurra)
 - Met with East Kimberley Marketing Group
 - Briefing with Kimberley Development Commission
 - Met with Nyambu Buru Yawuru
 - Kimberley Regional Launch of Asian Engagement Strategy (Broome)
 - Dinner with Industry Stakeholders (Broome)
 - Meeting at Nirrumbuk
 - Tour of town based reserves Nillir Irbankjin and Mallinbgar
 - Meeting with Broome Aboriginal Short Stay staff
 - Mystery Road film set tour
 - Broome Port briefing and tour
 - Meeting with Broome Shire President, Shire of Derby/West Kimberley Shire President and Regional Manager, Department of Communities
 - Meeting with Pearl and Aquaculture Industry representatives
- The Minister was accompanied by staff from his Ministerial Office as well as staff from the Kimberley Development Commission.
- (2) (a) Email sent on 6 September 2019 at 3.43pm
- (b) Email sent on 6 September 2019 at 3.44pm
- (c) Email sent on 6 September 2019 at 3.44pm
- (d)–(e) Not notified – no meetings in Members electorates.

MINISTER FOR EDUCATION AND TRAINING — MINING AND PASTORAL REGION VISIT**2470. Hon Jacqui Boydell to the Minister for Education and Training:**

- (1) I refer to the Minister's visit to the Mining and Pastoral Region on 7 September, and I ask:
- (a) will the Minister please provide an unredacted copy of the Ministers itinerary and travel arrangements;
 - (b) will the Minister please provide all briefing notes and advice provided to the Minister in relation to meetings, functions and other commitments undertaken by the Minister; and
 - (c) who accompanied the Minister during the visit and at each meeting, function or other commitments undertaken by the Minister?
- (2) On what date, at what time and by what means were the following local members of Parliament notified of the Minister's visit:
- (a) Hon Ken Baston MLC;
 - (b) Hon Robin Chapple MLC;
 - (c) Hon Robin Scott MLC;
 - (d) Hon Vince Catania MLA; and
 - (e) Hon Kyran O'Donnell MLA?

Hon Sue Ellery replied:

- (1) (a)–(c) [See tabled paper no 3298.]
- (2) (a)–(d) Email: Friday 6 September 2019 3:33pm.
- (e) Mr O'Donnell is not the local member and was therefore not advised.

MINISTER FOR TRANSPORT — SOUTH METROPOLITAN REGION VISIT

2472. Hon Nick Goiran to the minister representing the Minister for Transport:

I refer to the email from the Minister's office, dated 12 September 2019 and received at 3:52pm, and I ask:

- (a) for what period of time was the Minister in the South Metropolitan Region;
- (b) further to (a):
 - (i) how many meetings, events, functions or similar did the Minister attend;
 - (ii) who attended each of the meetings, events, functions or similar with the Minister; and
 - (iii) did the Minister receive or create any documents during or in preparation for the meetings, events, functions or similar;
- (c) if yes to (b)(iii), what were those documents;
- (d) further to (c), will the Minister table those documents;
- (e) if yes to (d), when; and
- (f) if no to (d), why not?

Hon Stephen Dawson replied:

- (a)–(f) The Minister was in the South Metropolitan Region on 13 September 2019 to attend an event held by the Member for Southern River. The Minister was in the South Metropolitan Region for approximately 45 minutes and was accompanied by ministerial advisers.

Emails of this nature are sent as a courtesy and contain contact details if the member required further detail. It must also be noted that these notifications are exactly what was done under the previous government. If the member found this notification to be a nuisance, the member can be removed from future correspondence.

ENVIRONMENT — YAKKA MUNGA STATION — LAND CLEARING

2473. Hon Robin Chapple to the Minister for Environment:

I refer to question without notice C672, asked on 25 June 2019; and specifically, the answer supplied by the Minister for Environment to part 6, and I ask:

- (a) could the Minister advise whether either party (i.e. the Department or Shanghai Zenith Investment Holdings Pty Ltd) has, at present, engaged any litigation process as a result of the land clearing discussed in question without notice C672;
- (b) does the Minister consider it likely that either party will move for litigation;
- (c) does the Minister consider the *Environmental Protection Act 1986* to be sufficient in preventing unauthorised land clearing:
 - (i) if yes to (c), could the Minister explain how land clearing occurred at Yakka Munga Station; and
 - (ii) if no to (c), how does the Minister propose to further safeguard against such instances;
- (d) does the department provide international companies with targeted information relating to Australian environmental protection law:
 - (i) did Shanghai Zenith liaise with the department, at any point prior to the incident, in relation to Australian environmental law; and
 - (ii) if yes to (d)(i), on what dates did Shanghai Zenith undertake correspondence with the department; and
- (e) does the Minister consider Shanghai Zenith to have been adequately informed, in relation to relevant legislation, to have avoided such an incident from occurring?

Hon Stephen Dawson replied:

- (a) As of 9 October 2019, I am not aware of any current court proceedings in relation to this matter.
- (b) The investigation by the Department of Water and Environmental Regulation into the unauthorised clearing is ongoing. Once finalised, the most appropriate enforcement response will be determined by the Department in accordance with its Compliance and Enforcement Policy. I cannot comment on the likelihood of legal action being taken by Shanghai Zenith Investment Holdings Pty Ltd (Zenith) against the State Government.

- (c) Yes.
- (i) In accordance with the *Environmental Protection Act 1986* (EP Act) it is an offence to clear native vegetation unless the clearing is undertaken in accordance with a clearing permit, or the clearing is of an exempt kind.
- The Department of Water and Environmental Regulation did not grant a clearing permit to Zenith for clearing at Yakka Munga Station and was not aware of the clearing until after it had occurred and was reported. Shortly after receiving the report, the Department commenced an immediate investigation into the matter and found that the clearing was not of an exempt kind and was unauthorised. On 20 June 2019, a Vegetation Conservation Notice was issued to stop any further unauthorised native vegetation clearing.
- (ii) Not applicable.
- (d) Information on the EP Act and native vegetation clearing legislation is available through a series of Fact Sheets and Guidelines that are published on the Department's public website. The onus is on all companies, including international companies, to ensure that any activities undertaken within the state are compliant with current Australian and Western Australian environmental law.
- (i) The Department has no record of Zenith making enquiries about Australian environmental law or clearing of native vegetation at Yakka Munga Station prior to the incident.
- (ii) Not applicable.
- (e) See response to (d).

HEALTH — URGENT CARE CLINICS

2475. Hon Martin Aldridge to the parliamentary secretary representing the Minister for Health:

- (1) I refer to the Government announcement on 10 September 2019 in relation to Urgent Care Clinics, and I ask:
- (a) will the Minister please identify the “more than 125 participating practices” in Western Australia and their respective locations;
- (b) will the Minister please advise the hours of operation for each identified clinic;
- (c) will the Minister please advise which clinics provide pathology, plastering and radiology services within the same premises;
- (d) with reference to remarks by the Premier on *ABC radio* on 10 September 2019, which clinics provide CT scanning services;
- (e) with reference to the Ministers media statement claiming that clinics will “offer appointments from 8am to 8pm, seven days a week”, how many of the clinics will operate at the times and days the Minister has advised; and
- (f) how many of the clinics will offer bulk billing appointments to patients as committed by Labor in the pre-election commitment?
- (2) In relation to the advertising campaign for Urgent Care Clinics, I ask:
- (a) who has been contracted to create the content and what is the cost of the contract;
- (b) who has been contracted to purchase the media and what is the cost of their services;
- (c) what media platforms will be used to deliver the campaign;
- (d) what is the individual cost associated with each platform identified in (c); and
- (e) will the Minister please table the brief to the governments appointed media agency for the campaign?
- (3) In relation to the establishment of Urgent Care Clinics in Albany, Bunbury, Kalgoorlie, Geraldton, and the Kimberley, Pilbara and Collie–Preston regions, how does the Government plan to determine the best method of clinic delivery and when will that decision be made?

Hon Alanna Clohesy replied:

I am advised:

- (1) (a) The GP Urgent Care Network pilot includes practices covering around 70 postcodes. The practices are in the Perth metropolitan area and the Bunbury region. A list of practices that were endorsed to participate in the pilot effective at the launch on 10 September is attached. [See tabled paper no 3300.]
- (b) Service model required applicants to have hours of operation between 0800–2000 as a whole across the network. Individual practice operating times may vary with the current availability shown on the GP Urgent Care website.

- (c) Participating practices must provide either on site, or in close proximity to the practice, access to diagnostic services, including but not limited to, radiology and pathology. This includes prearranged agreements with service providers to ensure urgent care patients are managed promptly, including the reporting of results. Having ready access to the infrastructure and equipment required to perform key treatments, including but not limited to suturing and plastering, is also a key component of the optimal service model for GP Urgent Care practices.
 - (d) Please refer to (1)(c).
 - (e) Please refer to (1)(b).
 - (f) As of launch date of the Urgent Care Clinic pilot, 60 practices were offering Bulk Billing arrangements, 77 practices were offering Mixed Billing arrangements (which includes the availability of bulk billing options for particular patients), and 7 practices were offering Private Billing arrangements. All patients have an option to attend a GP Urgent Care Clinic which bulk bills when searching the GP Urgent Care directory.
- (2) (a) 303 MullenLowe. The cost of the contract sits within the Department of Health Creative Advertising Services contract. A\$250,000 budget for creative was approved.
 - (b) Initiative. A\$700,000 budget for media was approved.
 - (c) The campaign will run across television, outdoor, radio and digital channels across Perth metropolitan and the Bunbury region.
 - (d) The campaign media budget breakdown (net costs) is \$171,000 for TV, \$155,000 for Outdoor, \$45,000 for Radio, and \$219,000 for Digital.
 - (e) Creative and media brief attached. [See tabled paper no 3300.]
- (3) The GP Urgent Care Network election commitment is a state-wide initiative. Initially the Perth metropolitan area and Bunbury region will be piloted, with an ongoing evaluation being undertaken as part of the initiative.

During this time, the Department of Health will consult and work with local health care providers to develop and implement additional regional-specific models based on the needs of these regions.

CHITTERING HEALTH CENTRE

2477. Hon Martin Aldridge to the parliamentary secretary representing the Minister for Health:

I refer to the Chittering Health Centre, and I ask:

- (a) what State Government services are offered from the centre;
- (b) what is the annual cost of providing each service from the centre; and
- (c) what is the cost to the State Government for occupying the centre and what are the terms of the lease?

Hon Alanna Clohesy replied:

I am advised:

- (a) WA Country Health Service (WACHS) provide the following services, including visiting services, from the Chittering Health Centre:
 - Community Nursing (Child Health, School Health, Immunisation).
 - Speech Pathology services.
 - Occupational Therapy Services.
 - Social Work services.
 - Physiotherapy Services (commencing November 2019).
 - Dietetic Services.
 - Aboriginal Health Services.
 - Health Promotion.

The facility at Chittering is also used regularly by other staff as a base to conduct WACHS work in order to minimise fatigue and travel time.
- (b) \$226,078
- (c) The initial five year lease expires on 30 September 2020, with an additional five year option. The annual cost for the lease is \$24,960 per annum plus GST.

CHILD SEXUAL ABUSE — GOLDFIELDS

2481. Hon Nick Goiran to the Leader of the House representing the Minister for Child Protection:

I refer to your answer to my question without notice No. 822 in which you informed the House that in the first six months of 2019, the Department's Goldfields District received 73 notifications, and I ask:

- (a) were 5 of the 73 notifications of child sexual abuse during this period substantiated;
- (b) of the other 68 notifications, how many were referred to other agencies; and
- (c) further to (b), which agencies received those referrals?

Hon Sue Ellery replied:

- (a) Yes.
- (b) Section 31 of the Children and Community Services Act 2004 enables the Department of Communities to receive information that raises concerns about a child's wellbeing. This information is called a "notification" for reporting purposes. Section 31 enables the Chief Executive Officer to make enquiries as considered reasonably necessary for the purpose of determining whether action should be taken to safeguard or promote the child's wellbeing. All notifications should be recorded and assessed using the Interaction Tool. There are three possible outcomes from a notification; no further action, referral to another agency, progress to an initial inquiry. This information is held on individual case files and, as such, it would impose a significant administrative burden on Communities to source this data.
- (c) Not applicable.

CHILD PROTECTION — FOSTER CARERS

2482. Hon Nick Goiran to the Leader of the House representing the Minister for Child Protection:

I refer to your tabled paper 2983, in response to my question without notice 929, where it states that "where carers are dissatisfied with a care planning decision set out in the child's care plan, they can request a review through the Care Plan Review Panel", and I ask:

- (a) how many requests for a review were made in 2018;
- (b) how many reviews were undertaken; and
- (c) how many days did each review take, from the applicant's request to the applicant being notified of the outcome?

Hon Sue Ellery replied:

- (a) In 2018, there were 19 Care Plan Review applications received.
- (b) In 2018, there were six Care Plan Review Hearings.
- (c) The number of business days between the date an application was received and the date the outcome letter was sent to the applicant were as follows:
 - 245
 - 220
 - 169
 - 128
 - 164, and
 - 134.

METROPOLITAN REDEVELOPMENT AUTHORITY — BAYSWATER TOWN CENTRE

2483. Hon Tim Clifford to the minister representing the Minister for Lands:

I refer to the Metropolitan Redevelopment Authority's (MRA) planned redevelopment of the Bayswater Town Centre, and I ask:

- (a) what is the purpose of the MRA undertaking this redevelopment instead of the City of Bayswater, considering the City of Bayswater already submitted a development plan for the town centre in May 2018;
- (b) which authority initiated the transfer of responsibility for the redevelopment of the town centre to the MRA;
- (c) was a consultation process undertaken by the Minister's Office, the Department, and/or the MRA prior to this decision:
 - (i) if yes to (c):
 - (A) who was consulted; and
 - (B) will the Minister please table minutes and record of attendance; and

- (ii) in particular, were any meetings held with developers or community groups:
 - (A) if yes to (c)(ii), will the Minister please table the minutes and record of attendance; and
- (d) how did the MRA manage any conflicts between between their activities and any staff or consultants involved in the process that may own properties in or near the affected area?

Hon Stephen Dawson replied:

Please refer to the response to Legislative Council Question on Notice 2484.

METROPOLITAN REDEVELOPMENT AUTHORITY — BAYSWATER TOWN CENTRE

2484. Hon Tim Clifford to the minister representing the Minister for Planning:

I refer to the Metropolitan Redevelopment Authority's (MRA) planned redevelopment of the Bayswater Town Centre, and I ask:

- (a) what is the purpose of the MRA undertaking this redevelopment instead of the City of Bayswater, considering the City of Bayswater already submitted a development plan for the town centre in May 2018;
- (b) which authority initiated the transfer of responsibility for the redevelopment of the town centre to the MRA;
- (c) was a consultation process undertaken by the Minister's Office, the Department, and/or the MRA prior to this decision:
 - (i) if yes to (c):
 - (A) who was consulted; and
 - (B) will the Minister please table minutes and record of attendance; and
 - (ii) in particular, were any meetings held with developers or community groups:
 - (A) if yes to (c)(ii), will the Minister please table the minutes and record of attendance; and
- (d) how did the MRA manage any conflicts between between their activities and any staff or consultants involved in the process that may own properties in or near the affected area?

Hon Stephen Dawson replied:

- (a) The Bayswater Town Centre is a strategic METRONET station precinct, with the station to become a major junction of three metropolitan rail lines. The State Government has invested in transformative infrastructure to act as a catalyst for future growth. The METRONET East Redevelopment Area, which will include the Bayswater Town Centre, will help capitalise on this investment by enabling an integrated approach to areas around the stations to create connected community centres that are universally accessible and provide a range of housing, jobs and services.
- (b) The Minister for Planning approved the initiation of an amendment to the Metropolitan Redevelopment Authority Regulations 2011 to extend the Midland Redevelopment Area.
- (c) Yes. The Minister sought comment from the WAPC and City of Bayswater via correspondence. [See tabled paper no 3299.]
- (d) Any staff or consultant conflicts are managed in accordance with the Agency's Conflict of Interest and Code of Conduct policies.

RENEWABLE ENERGY

2485. Hon Tim Clifford to the minister representing the Minister for Energy:

I refer to the renewable energy input in Western Australia, and I ask:

- (a) what percentage of renewable energy is currently in the:
 - (i) the South West Interconnected System (SWIS);
 - (ii) the North West Interconnected System (NWIS); and
 - (iii) remaining systems outside the NWIS and SWIS; and
- (b) what is the projected percentage of renewable energy input by 2030 for:
 - (i) the South West Interconnected System;
 - (ii) the North West Interconnected System; and
 - (iii) remaining systems outside the NWIS and SWIS?

Hon Stephen Dawson replied:

- (a) (i) In 2017–18, 15.5% of the energy generated on the SWIS was from renewable sources, including rooftop solar PV.
- (ii)–(iii) Separate renewable generation figures for the NWIS and off-grid are unavailable. However, in 2017–18, 1.2% of the energy generated outside of the SWIS was from renewable sources, including rooftop solar PV.
- (b) (i) Generation from renewable sources is expected to more than double, to account for over one-third of annual electricity generation in the SWIS by 2030.
- (ii)–(iii) Energy Policy WA has no projections for NWIS or off-grid areas.

CLIMATE CHANGE POLICY — LOW-CARBON TRANSITION

2486. Hon Tim Clifford to the minister representing the Minister for Energy:

I refer to the transforming energy generation section in the State Government's climate change issues paper, specifically the reference to Western Australia's share of Commonwealth funding to support Western Australia's transition to a low-carbon future, and I ask:

- (a) will the Minister please table all funding applications for Federal investment, including the funding and/or investment program, project name, funding amount, date of application and date the funding was granted, if applicable, made during this term;
- (b) of these funding applications, which were successful; and
- (c) will the Minister, please table feedback provided by the Federal Government, regarding the unsuccessful applications?

Hon Stephen Dawson replied:

- (a) The Government wishes to work with the Commonwealth in respect of Western Australia's transition to a lower carbon energy system noting that the Commonwealth has made substantial funding commitments relevant to the National Energy Market, including;

buying out the New South Wales and Victorian Governments' shares of Snowy Hydro (around \$6 billion);

funding for the Snowy 2.0 pumped hydro storage project (a \$1.4 billion equity injection; total expected cost up to \$5.1 billion plus \$2 billion for transmission upgrades); and

\$56 million for Project Marinus, a Bass Strait transmission connection between Victoria and Tasmania, and a commitment to underwrite the 'Battery of the Nation' pumped hydro storage project in Tasmania.

There is however no formal funding application process relating to the engagement that the State Government has initiated with the Commonwealth to obtain a fair Commonwealth Government contribution to the energy infrastructure needs of Western Australia.

- (b)–(c) Not applicable.

PREMIER — MEETINGS — CLIMATE CHANGE

2487. Hon Tim Clifford to the Leader of the House representing the Premier:

- (1) Has the Premier or any representatives from his office, during this term of Government, met with representatives from any of the following organisations regarding climate change:
 - (a) School Strike for Climate;
 - (b) 350.org;
 - (c) Conservation Council of Western Australia;
 - (d) The Wilderness Society;
 - (e) Lock the Gate;
 - (f) Extinction Rebellion;
 - (g) Doctors for the Environment;
 - (h) Beyond Zero Emissions;
 - (i) Australian Conservation Foundation;

- (j) Australian Firefighter Alliance;
 - (k) Australian Youth Climate Coalition;
 - (l) Get Up;
 - (m) Greenpeace; and
 - (n) Climate Council?
- (2) If yes to any of the organisations/community groups listed in (1), will the Minister please table all meeting dates?

Hon Sue Ellery replied:

- (1) (a)–(b), (d)–(n) No.
 - (c) Yes.
- (2) (a)–(b), (d)–(n) Not applicable.
- (c) 7 May 2018; 26 July 2018; 5 September 2018; 14 March 2019
- The Premier’s Office has also met with the Citizens’ Climate Lobby and Pew Australia.

CLIMATE CHANGE — CARBON DIOXIDE EMISSIONS

2488. Hon Robin Chapple to the Minister for Environment:

On Thursday, 22 August 2019 the Perth Climate Action Team held the Burning Globe Awards for the “2019 WA Polluter award” and found that Chevron were the largest polluter in this State. This data was gathered from the “Safeguard facility reported emissions 2017–18”. This prompts me to ask, what are the Western Australian current CO₂e emissions, as understood by the Minister’s Department, emanating from the corporations and facilities below:

- (a) Chevron as a corporation operating in Western Australia;
- (b) Woodside Energy as a corporation operating in Western Australia;
- (c) Apache as a corporation operating in Western Australia;
- (d) BHP Iron Ore as a corporation operating in Western Australia;
- (e) BHP Alumina as a corporation operating in Western Australia;
- (f) BHP Petroleum as a corporation operating in Western Australia;
- (g) Rio Tinto as a corporation operating in Western Australia;
- (h) Fortescue Metals Group as a corporation operating in Western Australia;
- (i) Westfarmers Ltd as a corporation operating in Western Australia;
- (j) Yara as a corporation operating in Western Australia;
- (k) Roy Hill Holdings as a corporation operating in Western Australia;
- (l) Alcoa of Australia Ltd as a corporation operating in Western Australia;
- (m) the operations of the Chevron facilities on Barrow Island:
 - (i) Gorgon Project; and
 - (ii) WA Oil Operations;
- (n) the operations of the Chevron Wheatstone (LNG) hub;
- (o) the operations of the North West Shelf JV project hub;
- (p) the operations of the Yara Fertiliser plant;
- (q) the operations of the Yara Technical Ammonia plant;
- (r) in relation to (a)–(q), if the Minister cannot provide the information, why not; and
- (s) in relation to (a)–(q), if yes:
 - (i) where is that data held or sourced from; and
 - (ii) when was that data provided?

Hon Stephen Dawson replied:

(a)–(q) The “Safeguard facility reported emissions 2017–18” is released by the Commonwealth Clean Energy Regulator and based on reported CO₂-e emissions from corporations and facilities required to report under the *National Greenhouse and Energy Reporting Act 2007* (NGER Act) . The Commonwealth NGER Act provides a single national framework for reporting and disseminating company information about greenhouse gas emissions, energy production, energy consumption and other information specified under that legislation.

(r) Greenhouse and energy information reported to the Clean Energy Regulator and provided upon request to the Western Australian Government under the NGER Act is confidential, and this information cannot be disclosed to third parties.

The Clean Energy Regulator publishes information about registered corporations as well as information about facilities covered by the Australian Government’s Safeguard Mechanism, which applies to facilities with direct (scope 1) emissions over 100 000 tonnes CO₂-e per annum.

“Safeguard facility emissions reported for 2017–18”, including baseline emissions in force, direct scope 1 emissions, and the responsible emitter(s) for each facility is publically available from the Clean Energy Regulator and can be accessed through its website.

(s) Not applicable.
