



## Coroner's Court of Western Australia

OUR REF:

26 June 2020

The Honourable Dr Sally Talbot MLC  
Chair  
Standing Committee on Legislation  
Legislative Council Committee Office  
18-32 Parliament Place  
WEST PERTH WA 6005

Via email: [lclc@parliament.wa.gov.au](mailto:lclc@parliament.wa.gov.au)

Dear Dr Talbot

### **INQUIRY INTO THE WORK HEALTH AND SAFETY BILL 2019**

I refer to your letter to the State Coroner dated 3 June 2020 as part of the consultation of the *Work Health and Safety Bill 2019* ("Bill").

The State Coroner appreciates your consultation with the Office of State Coroner. Based on the terms of reference set out in your letter it appears that the framework of your scope of the *Bill* does not directly impact on the Coroner's Court of Western Australia. Therefore the State Coroner does not make any submissions on the terms of reference.

The State Coroner however wishes to make two observations on the proposed *Bill* in relation to the **Coroners Act 1996** and the Coroner's Court.

The first is that as you can appreciate when there is a work death there will be a number of interested parties to the incident to investigate the matter. This will include and is not limited to homicide squad, coronial investigation squad and the new 'investigator' role proposed in the *Bill*. I raise for your interest and the Committee's benefit some consideration as to whose power will prevail when an incident like this happens when considering the respective tasks of the three interest groups above. This relates predominately to protecting scenes of the incident or "crime scene" and the taking or seizing of items from the crime scene. For example the proposed *Bill* has clauses 39 and 175 respectively to deal with these issues which must be read with sections 32 and 33 of the **Coroners Act 1996** and which power prevails? Of course the homicide squad will utilise the **Criminal Investigation Act 2006** and other Acts to do their

investigation.

The second aspect is the terminology used in clause 232(1)(b) of the proposed *Bill*. Where the clause states "if it appeared from the report or the proceedings at the Inquiry or inquest that an offence had been committed against this Act". I raise for your attention that section 25(5) of the **Coroners Act** states that a Coroner cannot frame a finding or comment that suggests any person is guilty of an offence.

I thank you again for being consulted and I hope that these two observations are useful in your further debate of the Bill.

Yours sincerely,

David Davidson  
PRINCIPAL REGISTRAR  
CORONER'S COURT OF WA