Parliamentary Debates

(HANSARD)

FORTY-SECOND PARLIAMENT

FIRST SESSION

2025

LEGISLATIVE COUNCIL

Thursday 11 September 2025

Legislative Council

Thursday 11 September 2025

The President (Hon Alanna Clohesy) took the chair at 10:00 am, read prayers and acknowledged country.

AVIAN INFLUENZA

Ministerial statement

Hon Jackie Jarvis (Minister for Agriculture and Food) (10:02 am): I rise to inform the house that Western Australia is now a signatory to the national management agreement for H5 highly pathogenic avian influenza (HPAI) in wildlife. This agreement is an important step forward in establishing national agreements for a coordinated response to an incursion of the H5 HPAI in wildlife, where eradication or containment of the disease is not possible. This agreement was developed in response to the global spread of H5 HPAI and the increasing risk of an incursion in Australia. Since 2020, a strain of H5 HPAI has been circulating globally, causing significant deaths in poultry and wild birds and affecting a large number of wild and domesticated mammal species. It has also caused some cases of disease in people. This virus has now been detected in all continents except Australia. The natural migration patterns of wild birds means that it will not be possible to stop this virus from entering Australia. As it circulates between wild birds, it will also not be possible to eradicate or contain an outbreak in wildlife.

Being a signatory to this agreement reflects the Cook government's commitment to strengthening the state's capability to manage the impacts of a potential outbreak in wildlife in Western Australia and the subsequent impact on the WA poultry industry. As a signatory, WA will benefit from the national security framework to manage H5 HPAI in wildlife in an effective and coordinated way through a clear governance framework and national funding arrangements. Once enacted, this agreement will be in effect for 12 months, reflecting the intent that response activities will need to transition to management activities on an ongoing basis.

WA has received an initial $2 million in funding from the federal government to enhance our capability to prepare for and respond to a potential incursion of H5 HPAI. This funding has been matched by the Cook government and is being used to support a range of activities to further enhance our capacity to prepare for, respond to and recover from an avian influenza outbreak. This funding is also delivering a range of other preparedness activities, including workshops for poultry producers to support their biosecurity planning, the purchase of personal protective and sampling equipment, and the development of a range of communications and advertising materials. The Department of Primary Industries and Regional Development continues to lead the interagency work on HPAI preparedness to facilitate a whole-of-government approach to an outbreak in WA. This One Health approach focuses on working across sectors to mitigate the impacts of an outbreak on human health, animal health and the environment.

EXMOUTH GULF MARINE PARK

Ministerial statement

Hon Matthew Swinbourn (Minister for the Environment) (10:05 am): Today I would like to inform the house of initiatives underway by the Cook Labor government to protect and conserve marine ecosystems in Western Australia. On Friday 5 September this year, the Cook Labor government announced plans for the establishment of the Exmouth Gulf marine park. The proposed marine park will be established across the entire Exmouth Gulf consistent with the recommendations of the Exmouth Gulf Taskforce, and will conserve and protect globally significant marine communities for generations to come. Exmouth Gulf is an important habitat for nursing humpback whales and their calves, dugongs, Indo-Pacific bottlenose dolphins, Australian humpback dolphins and four species of marine turtles. In addition, it is a global hotspot for the threatened sawfish and wedgefish, and home to at least 11 species of sea snakes. The Exmouth Gulf coast is an internationally significant area for several migratory shore bird species, and the coastline contains unique subterranean fauna found nowhere else in the world.

The government has proposed that at least 30% of the marine park be designated as no-catch sanctuary zones, providing the highest level of protection to ecologically sensitive areas. Exmouth Gulf was among the 1,500 kilometres of the Western Australian coast that experienced severe coral bleaching and mortality, and loss of seagrass, as a result of an unprecedented marine heatwave that began in late 2024 and persisted through to the middle of this year. Effective marine park management can alleviate the impact of local pressures, reducing overall stress and enhancing the ability of ecosystems to recover following climatic disturbances such as marine heatwaves. Although sea surface temperatures no longer meet the criteria for a marine heatwave, the Department of Biodiversity, Conservation and Attractions and research partners will continue to assess the extent and long-term impacts of this event as part of the long-term marine park monitoring program. This is important work as it

can take an extended period of time following a marine heatwave for the impact to be known, and it will provide valuable data on the resilience and recovery of ecosystems. The government also recently announced a further $5 million to expand the Healthy Oceans program, building on the previous $5 million commitment made at the 2025 state election. The new investment will fund a grant program to support local coral restoration and research into restoration approaches as the Western Australian coast recovers from the worst marine heatwave on record. The Cook Labor government is committed to protecting and restoring our land and marine environments while advancing strategies to support resilience in response to global climate change.

PAPERS TABLED

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

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Tabling

Hon Anthony Spagnolo (10:09 am): I am directed to present the first report of the Joint Standing Committee on Delegated Legislation titled *City of Bayswater Keeping and Control of Cats Amendment Local Law 2024*.

(See paper 493.)

Hon Anthony Spagnolo: The report I have just tabled advises the house about the issues resulting in the Joint Standing Committee on Delegated Legislation recommending that the City of Bayswater Keeping and Control of Cats Amendment Local Law 2024 be disallowed. The City of Bayswater Keeping and Control of Cats Amendment Local Law 2024 was made by the City of Bayswater on 22 October 2024, published in the *Government Gazette* on 8 November 2024 and came into operation on 22 November 2024.

Clause 4 of the instrument imposes controls on cats that roam off their owner's property, and clause 5 inserts a modified penalty to punish any breach of those controls when a cat is in a public place. These clauses are inconsistent with and not authorised or contemplated by the *Cat Act 2011* and are therefore inoperative and void. They also go beyond the scope of the *Cat Act 2011*, such that they contain matters that are inappropriate for subsidiary legislation. As a result, these clauses offend the committee's terms of reference 10.6(a) and (d).

A previous attempt by the City of Bayswater in 2002 to impose very similar controls on roaming cats was prevented by the committee's immediate predecessor. This instrument represents the city's use of a different means to achieve its original intent, thereby attempting to circumvent the previous committee's processes and its well-known position on local laws, by attempting to control cats in public places and contain cats generally. As clauses 4 and 5 implement the main purpose of the instrument, and given the city's defined attempt to circumvent committee processes, the committee recommends that the whole instrument be disallowed.

I commend the report to the house.

ANIMAL WELFARE (TRANSPARENT FARMING PRACTICES) AMENDMENT BILL 2025

Notice of motion to introduce

Notice of motion given by **Hon Amanda Dorn**.

MEMBERS OF THE LEGISLATIVE COUNCIL—STAFFING

Notice of motion

Hon Maryka Groenewald gave notice that at the next sitting of the house she would move:

That this house:

(a) expresses its concern with the inequitable allocation of additional staffing to some members of the Legislative Council and the manner in which this has been handled and communicated by the government;

(b) notes that requests from some members to the Premier for clarity on this matter remain unresolved;

(c) calls on the Premier to respond to these members and immediately address the inequity of the current staffing arrangements so that all members may perform their responsibility on an equal footing; and

(d) requests, as a matter of transparency, that the government table, without further delay, the review report it commissioned from Hon Ben Morton.

CHILD PROTECTION

Motion

Hon Nick Goiran (Leader of the Opposition) (10:13 am) without notice: I move:

That this house:

(1) recognises that this is National Child Protection Week and that every child in every community needs a fair go;

(2) acknowledges that this year's theme is Every Conversation Matters: Shifting Conversation To Action; and

(3) calls on the Cook Labor government to:

(a) abandon its failed policy amalgamating child protection into the mega-Department of Communities;

(b) implement the opposition's policy enabling children to raise concerns about their care with the independent Commissioner for Children and Young People;

(c) expedite addressing recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse that are now a decade old;

(d) prioritise a long-term placement for the 175 carers approved for that purpose who have not had a child placed with them for more than a year;

(e) start recording and reporting on when a child is placed in emergency care on consecutive occasions;

(f) cease the practice of children sleeping on the floor of a district office;

(g) review the practice of children going home with a caseworker;

(h) transparently report on the funding provided to Aboriginal community–controlled organisations (ACCOs), the number of children being supported by ACCOs and the number of new carers recruited by ACCOs;

(i) institute a special policy for any child in care who is repeatedly reported as missing; and

(j) verify whether a child has been a victim of crime, every time they are returned to care after having gone missing.

It is indeed National Child Protection Week and the theme this year is "Every Conversation Matters: Shifting Conversation To Action". In my capacity as shadow Minister for Child Protection, it is my pleasure to move this motion this morning. I note that I have precious little time to get through the 10 points that are listed in the motion here. The purpose of the motion is to provide a non-exhaustive list of actions that the government can take on child protection so that rather than us talking about it, we can see some action in the child protection space.

I begin with the first action item, which calls on the government to abandon its failed policy amalgamating child protection into the mega-Department of Communities. That could be a 20-minute speech in and of itself. The point to members is this: a report was produced by Prudence Ford in January 2007; it was a review into the then Department for Community Development. Why was this report done in 2007? It was done because of critical findings by the State Coroner into what was then known as the Department for Community Development. In other words, there was this mega-department back in 2007, and the coroner had made some critical findings on that particular mega-department in the previous year. Why? It was because, tragically, an 11-month-old boy—Wade Scale was his name—drowned in a bath with adult medication in his body. The coroner made damning findings about the mega-Department for Community Development. The Carpenter government, if I remember correctly, was in power at the time. To its credit, it accepted the finding in Prudence Ford's report, which was that we needed to have a standalone Department for Child Protection. Members will remember that the then Premier, Mr Carpenter, called a snap election in 2008. Mr Barnett then became the Premier. What did he do? He made sure that there was a standalone Department for Child Protection—and there was for the duration of the Barnett government for eight and a half years. Mr McGowan then became the Premier in 2017 and what did he do? He amalgamated the Department for Child Protection into this mega-Department of Communities, doing the precise opposite of what had been suggested in the Prudence Ford report. I do not have further time to elaborate on that, but it is a significant issue and it is the first thing that we call on the Cook Labor government to do—to abandon this failed policy of amalgamating child protection into the mega-Department of Communities.

The second thing that we are calling on the government to do is to implement the opposition's long-held policy of enabling children to raise concerns about their care with the independent Commissioner for Children and Young People. Again, President, a 20-minute speech could be given on this item, but we do not have the luxury of that this morning. Members may or may not be aware that there is an avenue for children in care to make complaints, and there is an advocate. The advocate is housed in the Department of Communities. It is not an independent advocate. We have said repeatedly year after year that in our view the best place for those individual complaints to be assessed is with the Commissioner for Children and Young People. There will be two members of this place who serve on the standing committee that oversees the Commissioner for Children and Young People, and, at the

very least, those two members, if not others, will be aware that the Commissioner for Children and Young People is prohibited under her legislation from looking at individual complaints and can only look at systemic matters. Someone needs to be looking at individual complaints from children in the care of the state the moment those complaints are made in-house within the department, and we say that they should be assessed genuinely independently of the department. That is something that the government could implement quickly.

The third thing that we are calling for is for the government to expedite addressing recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse that are now a decade old. Once again, a 20-minute speech could be given on this. There is not the time for that. I note that only in the last couple of weeks the Minister for Child Protection issued a media release entitled "Have your say on reforms to strengthen Working with Children checks". I encourage members to be familiar with that media release. In summary, the minister said that the government is now embarking on phase 2 of its reforms on working with children checks. The statement says that this is a result of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse from 2015. Here we are, 10 years later, now embarking on phase 2. I am calling on the government today to expedite this work, and not for it to continue to languish 10 years later.

The fourth thing we are asking the government to consider today, in terms of an action that it could complete, is to prioritise long-term placements for the 175 carers who are approved for that purpose and who, inexplicably, at this point in time know did not have a child placed with them for a single day in the last financial year. Once again, this would be the subject of a 20-minute speech if time permitted. Members who were here during the budget estimates session on child protection would be well aware that the first question I asked in that session as shadow Minister for Child Protection was: How many children in the care of the state are currently waiting for a long-term placement? It was a simple question. For five minutes, the minister representing and the senior advisers who were here were incapable of providing that information. Ultimately, the matter was taken on notice. The child protection estimates hearing was at least two weeks ago. Can someone in government in a position to answer today let us know? They have had two weeks to get to the bottom of this.

For context, more than 5,200 children are in the care of the state. That is 5,200 children whose personal circumstances at home are so poor and they are so at-risk that the state has intervened, taking them from their ordinary family and looking after them in state care in some form. How many of those 5,200 are waiting for a long-term placement? How many? Are there any? Of course there must be some, so how many are there? Why do we want to know this, President? It is because we know that 175 carers have been expressly approved by this government for long-term care and they did not have a child placed in their care for the whole of the last financial year—not for a single day. We know this from answers that were given prior to estimates. Specifically, we were told in answer 6A, prior to the estimates hearings, that 417 carer households were approved for long-term placements and had a child in their care for between one and 364 days in the last financial year, but 175, also approved for long-term placements, did not care for a child during this time. I am not suggesting for a moment that all 175 should have had a child in their care. There may well be justifiable reasons as to why a person who has been approved for long-term care did not have a child for that particular year, but 175 of them? A total of 417 carers had children with them and 175 did not. It seems to suggest, on the basis of these figures, that there is a problem. At the very least, it requires an explanation from the government, and yet none has been provided. I hope that some answers might start to generate today.

I move to the fifth point. We are asking the government to start recording and reporting on when a child is placed in emergency care on consecutive occasions. It was incredible during the budget estimates session to ask about this issue and to be told that no data is being collected. I quote now specifically from the session on 26 August 2025 when I asked the minister:

> Has any child had an emergency placement for the entirety of the 2024–25 financial year …

For some context here, members, I am talking about emergency placement. I am not talking about long-term placement—I just referred to that—and I am not talking about short-term placement; I am talking about emergency placement. I asked:

> Has any child had an emergency placement for the entirety of the 2024–25 financial year—just moved from one emergency placement to another for a whole year?

The minister representing said:

> I might ask Mrs Samuels to provide some comment about what an emergency placement is and whether we have that data.

I said:

> No, I do not want to know what an emergency placement is. I know what an emergency placement is. I want to know whether any child has been in emergency placements for the entirety of 2024–25.

Mrs Melanie Samuels responded:

> We do not collect that data in that way so, no, I could not answer that question.

How can it be, members, that after a decision was made by the government to amalgamate child protection into this mega-Department of Communities, it does not know whether children are being kept in consecutive emergency placements? If that is the case and if what was said in the estimates session is true and no correction needs to be made and that is not happening at the moment, can we start doing that now? Can we have the director general issue a directive that, from next week, if consecutive emergency placements are made, that information is recorded? Is that asking too much? We would like to see a shift from conversation to action, and this is but the fifth of the 10 examples that I would like to provide today.

The sixth example is we are asking the government to cease the practise of children sleeping on the floor of a district office. I asked about this during the budget estimates session. I specifically asked on 26 August this year:

> Is the director general aware of any child sleeping on the floor at a district office in the last financial year?

We never get a simple response to a simple question when it comes to budget estimates. It is almost as though people are trained to purposely waste as much time as they can during budget estimates in responding to simple questions. The question was:

> Is the director general aware of any child sleeping on the floor at a district office in the last financial year?

Eventually, part of the response was:

> I am aware of one instance where there has been a child for a brief period of time that has spent a portion of time in an office, but I would not say that was overnight, before they were able to be found accommodation.

What does that mean? I go back to the question:

> Is the director general aware of any child sleeping on the floor at a district office in the last financial year?

If he is not, he needs to find out about it, because multiple workers have drawn this to my attention. Something is not right. Now, either the workers are lying when they are coming to me and saying that this is something that goes on, and that would be a problem, or the more likely explanation is that this is going on and the director general is unaware of it. Later in that particular session, he said, to his credit:

> I would expect to be notified if there was an instance where a child was in that situation by practice.

I agree with him entirely. He should be notified. Is it happening? We are asking for that practice to stop, and it should stop today.

The seventh item that I bring to the attention of members of this house is that we are calling for a review of the practice of children going home with a caseworker. This is no idle suggestion. The government acknowledged in the budget estimates hearings that this is happening regularly. In fairness to Hon Jackie Jarvis, she is the representative minister on this matter—she is not the Minister for Child Protection, but I specifically asked her about this during budget estimates on 26 August. I asked about the number of instances when a caseworker has had to take a child home. In other words, the department has not been able to find another place for the child at risk so they have had to go home with a caseworker. Is this practice going on? We know it is going on because Hon Jackie Jarvis said in response to the question that the need for an employee to undertake emergency care for a child has remained consistent over the three years examined—66 times in 2022–23, 66 times in 2023–24 and 69 times in 2024–25. On 23 of those occasions, the child did not require overnight care. The translation of that is that in the majority of cases, they had to have overnight care. We should be concerned about that now. Let us be clear. Unlike my previous point, which called on the government to cease the practise of children sleeping in district offices, we are simply asking for a review of this practice. I have purposely asked for a review rather than the cessation of this activity because I can foresee scenarios in which, perhaps quite genuinely, there is literally no other option but for the caseworker to take the child home. If we have data saying that this is happening consistently—more than once a week, every week of the year—it is time for this to be reviewed. That review could be implemented tomorrow if the government wanted to.

I move quickly to the eighth point. We are calling for transparent reporting of the funding provided to Aboriginal community–controlled organisations, the number of children being supported by Aboriginal community–controlled organisations and the number of new carers recruited by Aboriginal community–controlled organisations. There is insufficient time to deal comprehensively with this point today, but I note that in questions prior to the budget estimates hearing, I asked about the cost of implementing the Aboriginal and Torres Strait Islander child placement principle. The response was that a specific cost is not attributable to implementation of the principle, given integration of the principle across all aspects of the child protection system et cetera. Later, in response to a question that I had asked about how much funding is being provided to Aboriginal community–controlled organisations to assist with this principle, the answer was to refer to response B, which was the response that I just read. In other words, we cannot seem to get details from the government about specific costs. I followed this up during budget estimates on 26 August, when I asked:

> Minister, do we have an indication as to how much of the $914 million of the budget is allocated to ACCOs?

Hon Jackie Jarvis ultimately said:

> Again, honourable member, we do not have the budget broken down by organisation, so we would need to go through the organisations and differentiate ACCOs versus other organisations.

Please do so, minister. Please make sure that the department and the Minister for Child Protection do so. I believe the question was taken as a supplementary in budget estimates. There is no good reason that funding provided to Aboriginal community–controlled organisations cannot be transparently reported. There is no reason that the number of children who are being supported by Aboriginal community–controlled organisations cannot be transparently reported. There is no reason that the number of new carers recruited by Aboriginal community–controlled organisations cannot be provided, because, presumably, this bucket of money is being provided to Aboriginal community–controlled organisations to do something. It is either to recruit carers or to look after children, so let us find out how much is actually being spent and to what ultimate end.

The ninth point is that we are asking the government to institute a special policy for any child in care who is repeatedly reported as missing. Does this really require explanation? If a child goes missing in care—remember, there are approximately 5,200 children in the care of the state—the government, like any parent who would be stressed if their child went missing, should be taking all measures necessary to find that child. If that child is repeatedly reported as missing, there should be a special policy to deal with that. I draw to members' attention that I have asked about this. Members will know that I generally ask about this once a week. On 19 August, we were told that since 1 January this year, six children had been reported to the Western Australia Police Force. In other words, six children had gone missing on between two and 13 occasions. In other words, there is one child in the care of the state who has been reported to the police as missing on 13 occasions. Do members think that it might be time to have a special policy to deal with those types of individuals who go missing repeatedly? We are calling on the government to do that.

Last but not least, the tenth item is that we are calling on the government to verify whether a child has been a victim of crime every time they are returned to care after having gone missing. It is bad enough that a child goes missing. Some of those circumstances in which a child goes missing are not the fault of the government or the department. If they go missing repeatedly, the government needs a special policy, which was my earlier point. When they are returned to care, somebody needs to ask them whether they have been a victim of crime during the period that they were missing. I have asked repeatedly about this and, astonishingly, the answer that has consistently come back from government is along the lines that it would be a diversion of resources. In fact, the specific comment that has been provided by the minister in question time is that this diversion is not deemed an appropriate use of frontline resources. Get real, Cook Labor government! If a child goes missing in the care of the state, they are the government's responsibility. If they go missing and they come back into care, it is the government's responsibility to find out whether they were a victim of crime. Do not say to us that it is somehow a diversion of frontline resources. To find out whether these children were a victim of crime is precisely what frontline resources should be used for.

Hon Jackie Jarvis (Deputy Leader of the House) (10:35 am): I, too, want to acknowledge that it is National Child Protection Week. Hon Nick Goiran has provided an action item list, and I would like to respond on behalf of the government by addressing many of those action items that are in train by the Cook Labor government. This child protection system has never been resourced better than under this government. Since 2017, we have increased the funding to the child protection portfolio by almost $360 million. This is, of course, important funding. It supports vulnerable children and young people. There is record investment in the child protection system, including an additional $250 million this financial year to make sure that the system stays strong. We have increased the number of case-carrying frontline protection workers by 40% since 2018–19 to make sure that we have got more support on the ground than ever. We have given historic pay increases and improved conditions for child protection workers across the state. We know this is tough work and that it is hard to recruit people, so from 1 April, we have had that historic pay increase, making child protection workers in WA among the best paid in the country. As of 30 June this year, 81% of children who are referred to intensive family support services remain safely at home with their parents after 12 months and 85% of children whose families were referred to the Aboriginal In-Home Support Service remain safely at home.

Hon Nick Goiran had a concern about the action item list and about how children can raise concerns with the Commissioner for Children and Young People. He said that children should be able to. I am advised that children in care already have the right to raise concerns with the Commissioner for Children and Young People and that information on how to raise concerns is shared with children in care through planning meetings and communications provided in residential care homes. To make a complaint to the Commissioner for Children and Young People, the children can visit the website on which there is a "contact us" page. The commissioner has quite rightly provided a child-focused approach to the complaint processes. We encourage children in care to engage with this as needed. The website has information about the types of complaints young people can make, whether it is about a government department, an agency or an organisation. The website has a child-focused video, which outlines the process for young people considering the complaint process.

Since 2018, we have been committed to implementing the very important royal commission recommendations. The royal commission made 409 recommendations. The state government is responsible for 310 of the recommendations and has proposed a 10-year implementation program. To date, the state government has acquitted 63%, or 195, of these recommendations, and there is a range of things that we have acquitted so far, including formal apologies to victim-survivors of child sexual abuse; the *Children and Community Services Amendment Act 2021* expanding mandatory reporting; investment in responses for children displaying harmful sexual behaviours; participation in the national redress scheme; passing legislation to lift the statute of limitations for victims of child sexual abuse civil action; the launch of Safer WA; expanded mandatory reporting of sexual abuse for groups including ministers of religion, school counsellors and psychologists and from 1 May 25, youth justice workers; and phased reforms of the working with children check system. Every committee recommendation we committed to is underway, with the remaining 115 in various stages of delivery. The Department of Communities has acquitted 53 recommendations, with another 45 underway. Of the department's remaining recommendations, 18 rely on work led by the Commonwealth government. Work is in progress to complete the remaining 26 recommendations.

With regard to carers who do not have children currently placed with them, the safe and best interests of the children are, and should always be, paramount. It is the Department of Communities' primary focus to provide long-term arrangements and stability when it can. There will always be circumstances in which foster carers do not currently have children placed with them, such as carer households that are on short breaks or provide only emergency care. Some carer households can be between care arrangements for a variety of reasons, and we work closely with those families. We also work closely on engaging community sector organisations and Aboriginal community–controlled organisations to ensure that they are recorded practices across the whole state.

There are a number of considerations when we look at care arrangements for children. The priority, obviously, is to keep children linked to families, schools and recreational activities that maximise the opportunities for reunification with their family. We want to maintain connection with family, community and culture, particularly for Aboriginal and culturally and linguistically diverse children. We want to be mindful of education and training needs, particularly for young teens who might be attending TAFE. We also want them to have regular contact with family who live nearby. It may not be in the best interests to place children with carers who are outside the metropolitan area or are a long way from where the young child has extended networks.

There is also self-determination, which is important for young people. A young person might refuse to move away from their community, which is understandable. Of course, we need to have consideration for contact arrangements determined by magistrates and make sure that any carer a child is placed with can meet those obligations. We want to be mindful of the impact of travel, particularly for young children and babies. We obviously do not want children missing school regularly to attend contact visits. It is always our first priority to locate care arrangements with families or significant others, and, when that is not possible, long-term arrangements within the district is obviously the preference.

With regard to emergency care arrangements, the Cook government prioritises keeping children safe at home when it is safe to do so, as I said, but we do take responsibility for finding a safe place for vulnerable children. This is, of course, the Department of Communities' highest priority. Our child protection staff go above and beyond. As the honourable member mentioned, I have represented the Minister for Child Protection for several years in this place and get regular briefings ahead of budget estimates and annual report hearings, and I know that those staff do go above and beyond. I am sure that everyone in this house would agree that child protection work is amongst the most difficult there is in the public sector. The department's amazing child safety practitioners take the time to develop an understanding of each child. Each child has an extensive file of records that details their care arrangements, decisions, support and plans. The department maintains extensive records on more than 5,000 children in care. These records track the history of care arrangements for each child. They record what type of care arrangements the child has had. However, as we have said in this place many times, the out-of-home care system is dynamic. The needs of children can change daily for a variety of reasons. Decisions about child care are also made in accordance with legislation requirements, and the best interests of the child are always paramount. To be clear, the department maintains records for every child in care. The nature of these over 5,000 individual records does not provide for easy automated reporting for some aspects. The department's priority is, and always will be, to work with children in care, and we do not want people dragged off the front line to complete data reports.

The circumstances in which children come into care are not mandated by the time of day and, as we know, can occur at any time of the day or night. When a child comes into care, it is a priority to make sure that they feel safe. This can occur in the middle of the night, and often does. We make sure that the child is in a safe place. As I think we covered in estimates, they may be taken to a district office so that the administration processes can be completed to find a suitable placement. The placement may depend on the age of the child, whether siblings are involved, the geographical location and the type of care, and the child will be taken into that care arrangement as soon as possible. As part of that, the government owns 85 properties that are also used for out-of-home care service provision. I should also add that since 2018–19, the government has added 372 frontline child protection workers.

As I said, this is a 40% growth. Child protection funding has increased by more than $360 million. We are committed to working across all areas of child protection.

With regard to Aboriginal community–controlled organisations, there has never been a greater level of Aboriginal involvement in the child protection system. We are really keen to make sure that when Aboriginal children and families come into contact with the child protection system, they are assisted with Aboriginal-led solutions. We know that Aboriginal-led approaches empower families and communities, and we recognise the importance of ACCOs. The Department of Communities' ACCO strategy was developed in partnership with the sector. There has been record investment of $154.8 million in early intervention since 2017. This investment in commissioning ACCO-led service provision, and the expansion of the Earlier Intervention and Family Support service model to regional and remote locations, has strengthened efforts to reduce the over-representation of Aboriginal children in child protection.

With regard to missing or unaccounted for children, as of July 2025, there were 5,274 children in out-of-home care, as I mentioned. The overwhelming majority are settled in safe care arrangements—5,274 children. We acknowledge that there are some circumstances in which young people will make their own choices, and they may leave approved care residences and may reside in self-selected living arrangements. The Department of Communities ensures that every child has access to the same supports that would be available to them if they were in approved care. A very small number of children in care—generally, less than 0.1%—leave their care arrangements without telling anyone. When children leave their care arrangements and are not self-selecting a living arrangement, every effort is made by Communities and WA police to contact them. As the honourable member opposite suggested, we need to make sure that all necessary measures are taken, and indeed they are. The Department of Communities and WA police have implemented a memorandum of understanding with corresponding procedures regarding missing children, which includes a risk assessment tool, practice guidelines and processes to better determine the whereabouts of children and young people when their whereabouts are unknown and focus on those children in care who are potentially at serious risk. Every day, child safety practitioners try to contact family and friends when a child is missing. They visit the locations that the young person is known to visit to locate them. Thankfully, usually the young person is found quickly, and, once contact has been made, the caseworker works with them to ensure that they have the right supports.

With regard to children who may be the victims of crime, it is obviously a traumatic experience if a child has been a victim of crime. Disclosures can happen at any time. We also know that children and young people do not disclose immediately. Because disclosures can happen at any time, the Department of Communities ensures that all reported or disclosed allegations of a child in care being a victim of crime are treated as a priority and investigated accordingly, no matter when the information is received. All incidents relating to a child in care are reported to Department of Communities senior leadership and to the police as appropriate. Department of Communities caseworkers actively engage with young people in care to ensure that they have access to the counselling, services and supports that they need for their own safety and wellbeing. Any reports of a crime by a child are taken seriously by Communities and WA police, with all appropriate actions taken.

In the last couple of minutes, I want to outline the support we give to foster and family carers. We acknowledge and recognise the support that foster and family carers provide. Over 77% of children in care live with foster and family carers. It is the predominant care type in the out-of-home care system. In the 2025–26 budget, we reflected the midyear review decision to provide foster and family carers, as well as grandcarers and special custodians, a one-off cost-of-living payment in addition to their usual subsidies and supports. We have also invested significantly in supporting the state's foster and family carers through continuing $17 million in support services, including OurSPACE to provide carers with free specialised therapeutic counselling services; a partnership with Inklings, The Kids Research Institute Australia program, to prioritise infants' development in out-of-home care settings; extending KidSport funding for the biological children of foster and family carers, in addition to KidSport vouchers being available to the children and young people they may be caring for; and the development of a Fostering Connections unit to provide additional support to promote the important role of foster and family carers. We have relaunched the "Become a Foster Carer—Make a difference to a child's life" campaign. I think the Minister for Child Protection, Hon Jessica Stojkovski, has spoken passionately about her family's journey as foster carers. We relaunched the campaign in partnership with Aboriginal community–controlled organisations, community services organisations, businesses and peaks, including the Chamber of Minerals and Energy of WA—which was the result of a bit of out-of-the-box thinking. It was the Labor government that established the WA Foster and Family Carers Week celebration to acknowledge people's contributions. I am sure members will agree that it was a terrific week of acknowledgement of those people.

President, with that, I will take my seat. As I said, I want to acknowledge that it is National Child Protection Week. Hon Nick Goiran is obviously passionate about this issue, as are workers in the system and, indeed, our government.

Hon Dr Brian Walker (10:50 am): I will take just a few minutes to deal with the motion. I want to give the perspective of someone who has dealt with this issue on the front line as a doctor. It is all very well listening to

what the government wants to do, but this is on members on both sides, and I am going to ask that we all agree that governments of whatever persuasion are not at all happy with the state of child care as it is currently. I heard the good words just now, but what are the actual outcomes?

I am going to speak about actual cases that happened to me over some years spanning both Liberal and Labor governments, and members can make up their minds about how things are actually happening on the ground. For example, there was the time we were told to take a child, a breastfed infant, into care because it was drunk from drinking its mother's milk imbued with lots of alcohol. It was for the umpteenth time, I believe. We had this child over the weekend and the parents were not allowed to visit because, of course, of the danger to the child, and the family was not allowed to visit. On the Monday morning, the department of child protection decided that, no, it was culturally appropriate to give the child back to the drunk mother and father because it was the best place for this child to be. That was some decade and more ago and I wonder what happened to that young girl.

Another one that occurred to me involved the abuse of a single mother. She did actually have drug problems but was now completely fine. As a single mother of a young daughter, she had to find a way of keeping body and soul together by working, so she got a job in the local hostelry. While she was there, she had a friend, a good young woman, looking after and caring for the child. Did DCP accept that? No, it did not. It began to attack the mother, accusing her of actually failing to look after the child because it was not her but someone else, a trusted adult, looking after the child. She was threatened with having the child removed from her permanent care because she was earning money to keep body and soul of mother and child together. She was available, amenable to being spoken to and was not difficult in any way. It was going for low-hanging fruit to put pressure on this young woman. It was a tragedy.

At the same time, the department of child protection was informed by me of a young girl in a local school who was being sexually threatened by another pupil, a young boy, in the same class. The threats were of a sexual nature and were being escalated to a point at which we could assume that this young girl was at risk of being raped. It is my duty to give a mandatory report, and I did that. DCP called up and asked for the details of the girl. I said, "Well, the girl's fine. She's okay, but she's being assaulted on a daily basis at the school. It's the young boy I'd like you to take care of." DCP said no to that and wanted the details of the girl. The boy was the one who was offending and the one who was going to be committing the rape, but DCP wanted the details of the girl because it was about the girl and it wanted to look after the girl. The girl was fine with her parents and it was when she was at school that the rape may likely occur. I asked DCP what it would take for it to take action. The answer was—members are not going to believe this—that once the girl had been raped and police had been involved, then DCP would get involved with the boy. I find that unacceptable. I actually reported it to DCP, and the director of DCP found it acceptable; it was within the parameters. I believe the minister was involved. I will not mention names, but that is unacceptable.

More recently, we had a child of drug abusing parents who was constantly at risk of being assaulted. The child was being left alone, unattended at home while the parents were out either searching for drugs, stealing money for drugs or being affected by drugs. The child was cared for by loving, caring grandparents who gave the child everything—all the support, all the schooling, all the care—they wanted. Then DCP decided it was going to give the child back to the biological parents because that was the right place for the child to be. The parents were still using drugs, abusing drugs and ending up violent and not caring for the child. The grandparents had access and they could see the child going downhill, but nothing they could do would influence DCP to allow the child to be returned to proper adult care.

Then there is the time one of my doctors called me in tears—I was actually cutting someone open in ED at the time—saying, "I've got a problem. There's a child here who I need help with and DCP is not helping me." What had actually happened? It was a six-week-old infant who had been brought in three days prior because it was unable to feed; it was actually malnourished. The infant was malnourished because the mother was away in Perth seeking drugs and the grandmother, who was a schizophrenic patient, was not able to give the child bottle-fed milk. She was instructed and given help and support, and off they went again. The child came in again in a perilous state—dehydrated and malnourished. I have photographs on my phone, and I am very happy to show them later to anyone who is interested. I said, "Has DCP been involved?" They replied that, yes, it had and there would be a team meeting on Tuesday. They were in Fremantle. This was on a Thursday. I was livid. I took some time out from my busy clinic and called DCP. I was told, "Yes, we will deal with it on Tuesday." It was unacceptable. The department is in Fremantle and the child was in the Wheatbelt and action needed to be taken. The answer was that it had been registered with DCP and there would be a team meeting on Tuesday. I was not satisfied, so I gave the young doctor guidance and said, "Watch this." I called the DCP officer in the local town and said, "You will come and assess the child now; it's a matter of emergency." They said, "Oh, but it's late. We're just about to break up for the day." It was a Thursday afternoon. I insisted they come to the ED and see the child, and they did, but with much muttering and with much deprecation. They were actually considering making a complaint about me because of my actions to save that child. They eventually came and realised the child was at death's door. They said, "Oh well, we'll make arrangements to have the child put into care." My response was to get the Royal Flying Doctor

Service to take the child to Perth Children's Hospital and sent a long letter explaining what had happened. I spoke with the paediatrician, who smiled—I think he smiled because there was a gentle laugh at the end—and said, "Yes, we've dealt with this before with DCP. It's standard procedure." They happily took the child and I do not know what happened after that because, of course, it was not in my hands anymore. The concept that concerned doctors could be rebuffed for a team meeting when something might happen, when a child is at death's door—it was actually within 24 hours of dying of multi-organ system failure because of dehydration and malnourishment—is going on today.

Time does not permit me to carry on with this, so I will stop right here and just point out that there are systemic issues at play here and both sides of politics need to fix it. It is not about what government wants to do; it is the quality of the people who are dealing with it. I have spoken with DCP providers. They are the people employed in the offices, the hardworking DCP people who are exposed to this trauma day after day, and who suffer their own PTSD because they are doing their best to help these children who are at risk of severe problems. It is not just surviving the day; it is also the ongoing education, or lack of education, throughout their lives. They are disadvantaged from the very outset and they are trying their best to help, but all they have is bureaucratic box-ticking methods and management who do not seem to care about the individual but more about the statistics they are giving to the department. I have spoken to these people on a number of occasions, and I am sure Hon Nick Goiran has done so as well, and they are burnt out because the passion and the desire to care for these vulnerable, desperately at-risk children has simply dissipated with the backlog of cases they have to deal with and the lack of real help offered. I have seen this with children in foster care in another area in which I have worked. I have seen the pain when a family that has been doing a fantastic job with six or seven children brought into foster care has had the children taken from that safe caring environment and put back into the very same environment they were removed from because the parents need to be given a chance to educate the children and bring them up in a culturally appropriate way. We are failing.

Hon Jess Beckerling (10:59 am): I rise today to make a brief contribution on this motion. I thank Hon Nick Goiran for moving it today during this important National Child Protection Week. As I begin my contribution, I want to acknowledge the tragic history that stains child protection in this state. I want to pay my respects and extend my sympathies to the victim-survivors of the stolen generations and their families. I acknowledge that while Aboriginal and Torres Strait Islander kids are no longer being removed under the abhorrent and racist 1905 act, they are still removed at a rate that is 20 times higher than that of non-Aboriginal children.

In 1997 in WA, there were 310 Indigenous children living in out-of-home care. That was about 28% of all children in care at that time. In 2023, that figure climbed to 3,068 Aboriginal children, which is 59% of all children in care, while Aboriginal children make up only about 7% of Western Australia's total child population. This is a systemic failure. A recent Human Rights Watch reports states that many Aboriginal children are still being removed from their families because of a system that focuses more on policing families than providing them with much-needed support. Only a small proportion of the money that the WA government spends on child protection is used for family support services. In the year 2022–23, less than 5% of the government's total child protection expenditure was allocated to family support services, which is the lowest of any state or territory, compared with the national average of 15%. The report found that neglect is often conflated with poverty and used to justify removal. Poverty, including housing and food insecurity, must be treated as a state failure, as opposed to a failure of an individual that justifies child removal. It is well known that current Australian social welfare payments are not adequate to lift people out of poverty.

Human Rights Watch also reported that Aboriginal mothers are avoiding seeking help to escape family and domestic violence for fear that their child or children will be removed. Under WA law, a child is deemed in need of protection if the department successfully argues to the Children's Court of WA that a child has suffered or is likely to suffer harm because of physical abuse, sexual abuse, emotional abuse or neglect. In cases relating to Aboriginal and Torres Strait Islander families, the most common reasons for reports to the Department of Communities are allegations concerning exposure to FDV. Women share stories of having children removed as they try to escape violence, instead of receiving the necessary support to access safety.

Child protection, I am sure everyone in this chamber will agree, is the responsibility of whole communities. Everyone who has raised kids knows what a massive difference it makes to have a community from which support can be drawn. Often we do not even realise how critical it was until our kids are much older and we look back and realise who we were depending on. Although doing it isolated is extremely challenging for the parent or parents and introduces all sorts of problems for the kids, from adults in our homes, community centres in our neighbourhoods to our schools and here in the halls of Parliament, keeping kids safe from harm and giving the best chance to thrive is all our responsibility.

Child protection is also not limited just to the crisis care that many of us envisage when we hear the term spoken out loud. Although I commend the government on the important steps it has been taking to improve the practices of child protection workers in this state, including the provision of additional funding to help with the resource strains in this year's budget, together with the important work to establish culturally appropriate practice

frameworks that are Aboriginal-led, I invite everyone here to consider that protecting young people from harm can and must extend beyond the limited and narrow scope of a single government department.

To understand what is possible, I draw on the wisdom and knowledge of First Nations community leaders, the voices of children and young people themselves, the Commissioner for Children and Young People and the recommendations that came out of the Royal Commission into Institutional Responses to Child Sexual Abuse. Inherent in First Nation's people's approaches to protecting a child's wellbeing is the concept of holistic, community-wide social and emotional wellbeing. That is, for our koolangkas, or children, to grow up into strong, healthy adults, they must grow up connected to family, community and culture. They must be connected to a healthy natural environment and, for First Nations kids, to their own country. They need access to nutritious food, clean air and clean drinking water. They must grow up in communities free of poverty and housing insecurity and in classrooms and public domains free of systemic racism. Of course, they must also grow up in homes and communities free of all forms of violence.

The Commissioner for Children and Young People, informed by the voices of more than 11,000 children, advocates for child protection in WA to be focused on seven key priorities. They are: Early intervention and family support strategies; stability and connection planning; improving health outcomes; support for out-of-home care leavers; support for First Nations and culturally and linguistically diverse children in out-of-home care; addressing the crossover from protection to youth justice; and independent advocacy for children and young people in the child protection system. This focus on prevention, on early intervention and wraparound support underpins best practice and holistic approaches to child protection. It requires governments to prioritise and invest adequately in diverting families from child protection services through other means, including—but, of course, not limited to—free school food programs, public housing and homelessness support, to parenting and family supports and investment in truly community-led and culturally responsive family and domestic violence support.

The theme for this year's National Child Protection Week, as Hon Nick Goiran mentioned, is Every Conversation Matters and Shifting Conversations to Action. There can be perhaps no more comprehensive invitation to act on child protection than the 310 recommendations that were laid out in the findings of the recent Royal Commission into Institutional Responses to Child Sexual Abuse. In her 2018 speech, the then Minister for Child Protection, Hon Simone McGurk, said the following:

> I am proud to state to the house that in response to the evidence and subsequent recommendations, the McGowan government has accepted, or accepted in principle, 93 per cent—or 289 of 310—of the applicable recommendations.

But the most recent annual progress report from 2022 shows that the government has implemented 167 of those 310 recommendations, or just 53%. I noted that Hon Jackie Jarvis introduced some new information to us in the chamber earlier, and I am looking forward to following up on that. It goes to the lack of these progress reports. We have been waiting for three years now to see what progress has been made to implement the remaining 47% of those recommendations, which we all agreed were so critical to be implemented.

I conclude my contribution today with the hope that the that this Cook Labor government will continue to deliver on its commitment to implementing the remaining 47% of those recommendations and that it will consider the many other factors that I have mentioned today that increase a family's risk of interacting with the child protection system. I hope that the government increases the funding and prioritisation of prevention, early intervention and support models, lifts kids out of poverty and addresses the root causes of harm and continues to actively cede the responsibility of Aboriginal and Torres Strait Islander protection and all the long-term connected family-oriented care to adequately funded and appropriately respected Aboriginal and Torres Strait Islander Community Controlled Organisations. Thank you.

Hon Maryka Groenewald (11:07 am): I, too, rise to support this very important motion, which is close to my heart, and commend Hon Nick Goiran for standing up for this issue over the years and being able to glean and learn so much in this space.

Having National Child Protection Week is important because it gives us the space to re-evaluate where we are at. Perhaps we are not doing things as well as we should be. Although these weeks are important, I think there needs to be some action attached to them. How are we tracking on these key metrics? How are we going, as Hon Jess Beckerling said, in how we are accessing reports and measuring the efficacy of these programs in our community? That is very important. It is important, too, to discuss how we as lawmakers can promote the best interests of our children. The key is how we can have policies and laws that actually place children first, recognising that they really are the most vulnerable in our community. Every conversation does, indeed, matter.

I will start with the Fogliani report. A classic example is that during estimates we were faced with Dorothy Dixers and time fillers, and questions on social issues hardly seemed to be answered most of the time. I have asked this question several times over the last couple of weeks, especially in regards to the Fogliani report: Where are the recommendations up to, and which of these key recommendations have been implemented? From 2019 to now, only eight of those crucial recommendations have been implemented. We have an issue as significant as children

and young people with suicidal ideations and we are still finding that most of the recommendations about looking after the holistic wellbeing of a child's mental health is still is not addressed as it should be. Each unimplemented recommendation represents a safeguard that could save children's lives. The answers I have received are that many of the recommendations are still pending. There are also the non-answers that we get, which was mentioned earlier.

It seems to be the same same. The status quo is not a good thing when we are talking about the wellbeing of children and young people.

At the same time, there is a lack of urgency on our adoption policy. I know that this might not be a palatable conversation for many people, but we are creating so many different avenues for people to have children yet we are not willing to have a look at the adoption policy in Western Australia. In WA, more than 5,300 children live in out-of-home care, and over half of them—over 2,000 children—have been there for more than five years. In contrast, when we look at the figures for 2023–24, only 23 adoptions were finalised in Western Australia. There were just five local adoptions alongside three intercountry and three step-parent adoptions of children. The number of adoptions has collapsed from 673 children being placed in 1997 to just a handful today. I know that many families are willingly fostering children, but adoption, as a long-term viable option, really does need some consideration. At the same time, the government is exploring all these new ways to have children, but we cannot speak about one area of policy that we could absolutely look at in this conversation around child protection and providing children with a stable, loving home. Of course, we must explore how we can reform these laws and processes so that children can find more permanent homes.

It is interesting that when we look at the issue of child protection, factors around families such as domestic violence and mental health issues are on the rise. Children are growing up in these environments. Yes, we are throwing extra money at it, as the government has stated, but more kids are in care, where the issues become more complex. That workforce is absolutely struggling within its limited capacity of staff and funding, despite more money being thrown at it.

Recently, the health minister and the Attorney General have worked together to again stonewall me when I talk about the issue of child protection in the context of gender experiments on children. This is a very important issue to consider as well, and something that I am deeply mindful of. The drugs that we are prescribing to young children are not neutral. If we are looking at child protection, we need to look at this issue as a whole. We are finding that countries like the United Kingdom, Sweden and Finland are banning the use of those synthetic drugs, knowing that it has a tremendous impact on children's wellbeing and mental health. As Western Australians, we have to take notice and look at those changes. With the limited time that I have left, I note that on Monday we launched a parliamentary petition calling for three things that I think fit within the child protection space and look at the notion that every conversation matters. It seeks an inquiry into the gender diversity service, to look into the fact that the Fogliani recommendations are not being implemented at the pace that they should have been, and, of course, to look at the wraparound services that families need, especially when we are looking at the longevity and wellbeing of children.

What we do in this space and how we look after the most vulnerable in our community has lasting implications. It can be for good or it can be for bad. That is why I am happy to support this motion today, because the demands it makes of this government are entirely appropriate and absolute common sense. Even from my time working with young people in care, I know that young people just want stability. They want to know that people are there for them and love them. The stability of home and the stability of families is so crucial. I really encourage us, when we have these conversations, to look at the avenues that already exist and at how we can strengthen policies on things like adoption to make stable homes more available to those children and young people who are perhaps in care.

Hon Michelle Hofmann (11:13 am): I rise to support this incredibly timely motion, given that it is National Child Protection Week. I commend Hon Nick Goiran for bringing this motion to the house and I commend my colleagues who have spoken on it this morning. I will start by acknowledging the incredible work of all child protection workers, who are at the coalface of this issue. Many of them are incredibly passionate and give so much of themselves to their role, far beyond what their job description might require, but I wish that we had less need for them because I wish that we did not have an issue of such scale. This year's theme during National Child Protection Week is "Every Conversation Matters: Shifting Conversation To Action". It is a powerful reminder that although our words are profoundly important, they are not enough—we also need to act. It is our responsibility as legislators to turn recognition of these issues into reform and to turn our policies into tangible protections.

I am very passionate about this issue not just as a legislator; it also goes to the heart of who I am as a mother of three beautiful kids. The idea that there are kids in our state who are constantly suffering harm and neglect is truly heartbreaking. The motion before us today identifies some of the systemic issues in the structures of our regulatory system and exposes how kids are falling through the cracks, with some kids falling through the cracks repeatedly. In 2023–24, the Department of Communities received over 61,000 reports and identified over 71,000 children of concern across WA. The scale of these figures shows why this motion is so urgent. The motion calls for change across our system to break cycles of trauma and build a better future.

In WA today, over 5,200 children are in out-of-home care, with Aboriginal children 20 times more likely to be removed from their families than non-Indigenous children. I want to highlight a story that was raised in March last year. It is a terrible example of how problems within our system can exacerbate harm to children. In March 2024, Briana received an email from Western Australia's child protection authorities informing her that they were planning to remove her only child, her three-month-old, from her care. This email came shortly after the domestic violence refuge in which she had lived since Mica's birth had evicted them. Child protection workers were taking the child from Briana's care due to her unstable housing situation. The words that Briana has spoken on this highlight the issue before us:

> They never had an issue with my parenting until I didn't have a roof over my head … Just because someone's homeless we shouldn't be taking the child off them. You should be offering them more help if anything.

This demonstrates how we are creating further issues in some situations when what is really required is to address the root cause of the issue of concern and actually provide care to people in those situations.

I would like to focus on a different aspect of our child protection processes, and it is one that I believe is working quite well. I think it is important to be mindful of it and to consider the principles that underlie it as we talk about the measures that we should be implementing in the child protection space. Many members may be aware of the working with children legislation that we have here in Western Australia. I was pleased to hear further comments this morning that even though they may be quite late in coming, there are further enhancements and the system is constantly being reviewed and improvements sought. This act is one of our clearest statements about where the balance of risk must always lie, with a child's safety placed above all else. It established a screening scheme requiring anyone in child-related work to hold a valid working with children check card. Hundreds of thousands of active working with children check cards are provided in WA, which is a reflection of the scale of this scheme and the impact and focus we have on protecting children in schools, sports clubs and communities.

A detailed process is involved; I have gone through it myself as a volunteer in my local community. Applications are assessed by the Department of Communities' screening unit. They take into account particular issues of concern, which could be criminal charges or convictions, including spent convictions, relevant professional conduct and any other matters that might indicate risk. The outcome is simple—a certificate is provided if there is a positive notice, or if there is a negative notice, the individual who applied is prevented from engaging in child-related work. At the time when the legislation was brought in, the focus behind this—the fundamental principle that underlined this scheme and legislation—was that people with criminal histories who put our children at risk, particularly acts of paedophilia and other sexual deviance, should not be allowed to work with children. This is clearly what our community expects.

There are a variety of provisions in the legislation that prevent someone from obtaining a working with children check. If an applicant has been convicted of a class 1 offence, they are automatically given a negative notice. Those offences include—it is in section 12(7) of the legislation—murder of a child, sexual offences against children and persistent child sexual abuse. There are no exceptions to this because the assessment of such blatant sex offenders is not considered necessary, and a negative offence notice will be automatically issued. There are other offences that do not always result in the rejection of an application, but there is an assumption of a negative notice unless there are exceptional circumstances. Those are class 2 offences, which are for serious but broader offences such as violent assaults, child pornography or serious drug offences. The key point here is that there are critical, serious offences that we consider, as a society, should preclude someone from being able to work with children because we are interested in ensuring that we can protect children wherever we can.

The legislation goes even further. It even extends to young offenders. Schools are prohibited from arranging work experience placements in their schools for students who have committed any of these class 1 or class 2 offences. Even supervised short-term school activities are barred because we are so concerned about the risk for our children. These provisions show a consistent principle that, when in doubt, we put children first. These principles should guide all areas of child protection including our placement decisions, emergency care practises, support for carers and the oversight of children who are missing from care.

National Child Protection Week asks us to shift from conversation to action. Our working with children regime clearly shows what action looks like—clear rules, strict prohibitions and child safety as the overriding principle. Let us measure all of our child protection policies against that standard. This motion does exactly that; it calls for abandoning a failed amalgamation policy that buried child protection in a mega department, exacerbating the risks of children falling through the cracks. This motion calls for supporting independent avenues for children to raise concerns directly with the Commissioner for Children and Young People—something I am sure my colleague will speak on momentarily. It calls for the urgent implementation of the remaining Royal Commission recommendations. It calls for regular reporting and transparency and, above all, a system that provides every child with the protection that they deserve. I urge members to support the motion.

Hon Rod Caddies (11:23 am): I had something else that I planned to speak about, but a lot has been spoken about, so I have made a few different notes here. I want to talk about some stuff. I worked in residential care for 15 years

with the Department for Child Protection and Family Support, so I have had a lot of firsthand experience with the impacts on young people in care and the importance we should place on how we go about bringing people into care. Too often we see governments stepping in only at crisis point, when children and families are already distressed. Families already know things are getting bad and they are looking for help.

I will give an example of a lady who talked to me when I was in residential care. She was an Indigenous lady. She had two young girls living with her who were her nieces. She had had them in her care for quite a while and they were doing very well. Her rent had gone up $50 a week and she could not afford it. Basically, she had her two nieces, they were doing very well, but her rent went up and she could not care for them. She had to go live with other relatives on a couch and could not take them with her. I tried to send emails asking whether there was something we could do or whether there were other options. The reason I am telling this story is because we are talking about the Department of Communities and the department for child protection and putting them into a big mega department. Even when it was the department for child protection, it was hard enough to get things to where they needed to be, get approvals and make that happen. We could have found a way to say, "Hey, let us pay the rent for a year, $50 a week, so those girls would still be in care of their auntie." Instead, it is thousands of dollars in costs to keep kids in care and the devastation it brings to them and their whole family. That cost alone would be a good reason to do it, but also for the reasons that I am saying. We say child protection is in the best interests of the child, but I do not think government decisions like that are in the best interests of a child. It has been a problem. It is not just a Liberal or Labor government problem. It does not matter who is in government. I was there for 15 years. I have seen it on both sides. It was a problem from both governments. I think governments are often doing the best they can, but they are not getting down and speaking to the people who really understand and know what could be done to fix some of these things that would be, firstly, better for the community, and secondly, good for the taxpayer.

We heard Hon Jess Beckerling talk about putting more money into intervention programs prior to this happening. I think that is where, as a government, we should be focusing and putting more money into: support and prevention. I think that would eliminate a lot of the problems. There are so many terrible stories I could tell about children who I cared for—sorry, obviously, it is quite emotional for me.

The Acting President: Honourable member, would you like to take some time? Shall we come back to you when you have recovered?

Hon Rod Caddies: Thank you.

Hon Neil Thomson (11:28 am): Thank you for the opportunity to speak on this very important issue on National Child Protection Week. Thank you to the other speakers. I have been very touched by all the contributions made here today. I think all members in this place know that the most vulnerable people in the community are our children. We all endeavour, in our own way, to see an improvement. Some of conversation referred to as part of the theme of Child Protection Week is "Every Conversation Matters" because we know that the challenge of child protection is ongoing in our society. Unfortunately, we see so many factors and such complex issues that, in some in ways, it cannot be fully resolved. There are always going to be issues as we go forward in our society.

We could name some of those mental health challenges, particularly with social media. I have raised issues in this place about access to drugs and, for example, vapes. I note a recent article in *The West Australian* that said it was under the counter. Sorry, it is actually on the counter and within a few yards of the school close to where I stay when I am in Perth. They are openly available for children to access for sale without any regulation. We see the challenges of some of the chemicals that are included in those vapes.

We have seen the rise of drugs. We will speak on the liquor control legislation in this place, and we know that alcohol forms a very big part of problem drinking and the family violence that comes from that. In my region I have also seen a massive increase in the use of hard drugs, particularly methamphetamine, which is impacting on the terrible crime statistics that we see in family and domestic violence. In the Kimberley, in terms of averages, you are 30-times more likely to be assaulted. All these issues are plain for us to see. We have a great report available online—the *Child Protection Activity Performance Information* report. It is quite thorough and quite telling.

I think of the conversations we have to have to really see what we can offer. I am sure as members of the communities that we represent, we ask, "What can we add to the conversation? What can we add to it?" I note that there are things in the data that seem to provide a much greater increase in matters and processes for child safety investigations. I did not look at the data from 2017–18 or 2023–24. By comparison, in some ways much of that data has not changed a lot. The number of children in care is the same, around 5,000. But we seem to see a greater backlog and I think the minister could maybe look at that in terms of how investigations into child protection matters are processed and the timeliness of that.

May I add, there was also the opportunity to refer to the Office of the Auditor General's report on the child protection case management system. Again, it is a practical application. This is a very important tool for our child protection officers. I add to the endorsement by many members in this place that the officers do incredible work.

They have a very difficult role, and I acknowledge the pay rise for some of the lowest paid members that was offered by this government. I want to be positive about some of the things they have done, because we need to make it a more positive place to work and attract more of those people to be able to do the work that is required. However, I note there are some very serious findings in relation to the case management system and some of those reports are due in December this year.

My suggestion, if I may, to the minister and the department, notwithstanding some of the structural issues that Hon Nick Goiran has also talked about, is to please separate the department so it can focus on its job. I made a suggestion to use technology to a greater ability and to really embrace the new technology so that we can track families and provide support. There are many things I could say, but the government should exercise those powers that it has or has the ability to have. I think part of the job is at least finding the low-hanging fruit and implementing the things that can be implemented so that we can make some progress. Every single change, every child that is affected, is an improvement that can be made. Noting the comments made by the honourable member to my left, I might give him the opportunity, if that is within the order of this place, for a few minutes for a final statement, if he wishes. I acknowledge that, thank you.

The Acting President (Hon Dr Brian Walker): I am sorry, honourable member, that is not actually possible. Does Hon Nick Goiran want to have a word in reply?

Hon Nick Goiran (Leader of the Opposition) (11:34 am) in reply: Acting President, just to conclude, I acknowledge the contributions made by the various members, including Hon Dr Brian Walker and his experience as a GP. I would like to spend more time talking about his contribution, but there is simply no time for it. I acknowledge Hon Jess Beckerling, in particular for her emphasis on the disproportionate number of Aboriginal children in care. Hon Maryka Groenewald spoke about the Fogliani report, amongst other things. Hon Michelle Hofmann gave a dissertation on the working with children check scheme. Hon Rod Caddies shared his very personal experience as an experienced practitioner dealing with residential care, and of course, I thank Hon Neil Thomson for his support on the motion. I wish we had more time to deal with some of the remarks made by the representative minister. I note that on the 10 points that I raised, not one word was made by the government—not one word. There were eight things addressed, but nothing with regard to the practice of children sleeping on floors, nor with this consistent practice of children going home with workers. Why was nothing mentioned about that today? That is a question that needs to be asked.

Motion lapsed, pursuant to standing orders.

ADVANCE CARE PLANNING

Motion

Hon Kate Doust (11:35 am) without notice: I move:

That this house:

(a) notes two out of five Western Australians are at risk of dying without a will;

(b) recognises that as people age, more complex health issues arise which make financial, legal, or end-of-life decisions challenging;

(c) notes the number of Australians living with dementia is expected to double by 2058;

(d) acknowledges that increased literacy on wills, power of attorney, and guardianship arrangements will help avoid intestacy, and ease the pressure on families dealing with the complexities of ageing and care; and

(e) notes the resources available to families in establishing legal safeguards such as the Public Trustee, Legal Aid WA, Citizens Advice Bureau, and Peel Community Legal Services.

Thursday is a challenge, and I thought, let us uplift ourselves and talk about the one issue that none of us can avoid, and that is death. Sadly, we see that we have a significant number of people dying intestate where they do not have a completed or signed will. That is not only here in Australia, where there are approximately 9.2 million people who die without a will. In Western Australia we find that more than 40% of people in our state who could make a will choose not to.

As I have said in the motion, that pans out to about two out of every five Western Australians dying without a will. That is a pretty significant issue. It is a very complex issue; it is a complex challenge within the legal system and a lot of it comes down to that a lot of us do not want to have to deal with the idea of managing our own mortality. Therefore, it leads to a lack of preparation of our estates. Some people will make those advanced decisions and some people are prepared; they make their wills, they make their advanced care directives, and they plan for who will hold their power of attorney and their enduring guardianship. People do that, but we see that more than 40% in the state do not, and that is a significant number. That can then create significant difficulties for surviving relatives.

Despite the recognition that drafting a will is essential, there is a persistent belief that we are always going to have time. That is not always the case and I suppose, members, for me, having dealt with the death of my brother nine years ago—he literally dropped dead with no time to plan and no time to think about what he wanted to do with his estate—it left the family not only grieving, but it extended the process of having to work through administration and the complicated arrangements of dealing with banks and superannuation and all the other organisations that you have to deal with to wrap up a person's interest. It took five years to do that. I recently had a cousin pass away within 24 hours, who had a will, but had not yet signed it. We are working through all of those issues for her, her partner and her children and her friends.

In this motion today I listed a direct reference to the issues around our ageing community and our health issues that are complicated by people living longer. In particular, there is a focus on dementia, because next week is Dementia Action Week. If we look at the stats provided by Dementia Australia, specifically for WA, they say that we currently have 42,000 people living with all forms of dementia, and that this figure is projected to increase to an estimated 87,000 by 2054, with a projected percentage change of 107%.

Moving down a rung, it is not just that people are reaching an older age. In Western Australia we currently have 2,900 people living with young-onset dementia, and this figure is predicted to increase to an estimated 4,250 people by 2054 with the projected percentage change to 47%. The issue of making a will is not just something that a person does in old age. We need to encourage people to do it at an earlier stage of life when they have full capacity and able to make those very clear decisions so that they are not caught out without a will or with an advanced stage of dementia and no longer deemed to have the capacity to make decisions around their life or their estate. I say that because I, like a number of other members in this chamber to whom I have spoken, am dealing with parents who have dementia. My father and my mother both have different forms of dementia. Fortunately, my brother's death was a trigger that encouraged my father to make a will and we put in place a power of attorney and enduring guardianship. This has made working through my father's situation, now that he is deemed not to have capacity, easier and provided clarity about how he wants his life and his end-of-life decisions managed. But it is a challenge and not everyone wants to do it.

The number of people who do not make a will, either because they choose not to or they do not know how to, makes this a societal issue, and we have to look at why. Some of the reasons people choose not to make a will are that they are ignorant about the necessity for a will. Let us be clear: it is not compulsory. It is a choice, so a person does not have to make one. Many people have a sense of invincibility, particularly when they are younger. They think that it will never happen to them or that it will never happen to them at that point, but, let us face it, we have all lost friends at different points of our life and, sadly, some of them were very young. There is an assumption that others will manage the estate: "It's not my problem when I'm gone. Somebody else will fix it." There might be a distrust of community or government agencies, and I give the example of the Public Trustee because that is the body that a lot of people end up dealing with. There is a belief that the assets that a person has are insufficient to require a will, there are legal complexities around inheritance and there could also be a lack of education about will-making requirements.

When we look at the scope of the problem, the lack of engagement with estate planning has the potential to impact not only family and friends, but also our economy. I say this because for each individual now, the growth in superannuation or the growth in people having property, and starting to do so at a much younger age, also has an impact. The changes in the dynamics of family structures and multiple marriages can also add to the complexities around estate planning. That might turn off some people from making those decisions because it makes it harder. Nobody wants to offend anyone in the family about who is getting what, do they? Without a specific will to give guidance, the burden of administering the estate is quite often placed in the hands of the Public Trustee and sometimes, but not always, this can add to the frustrations, the grieving process and the delays.

Dying intestate can be regarded as a wicked problem because there are so many reasons that lead people to not make a will. On the flip side, there are also many solutions that we can apply to try and encourage a behavioural change so that people make a will. Why do people not make a will? One reason is that we do not want to think about dying; we do not want to think about not being here. We do not want to tempt the inevitable or fate by talking about it. That may lead to procrastination. People put it off and then, as I said using the example of my brother, it is too late. We never know what is going happen. We never know when we are going to go, and it is then left for other people to resolve the issue.

Governments of all persuasions have put in place legislation to try and codify these issues to make it simpler for people to manage, be they with wills or without wills—when they die intestate. A couple of years ago, the government improved the administration legislation to support families and provide a more equitable distribution of estates. We need to look at the barriers to estate planning. There are a diverse range of reasons: it could be a person's age, their gender, a smaller asset ownership or the family structures that make them think that they do not require a will. They might have only one child and think that they do not need a will because their assets will simply go to that child. That is not necessarily the case. There can also be societal barriers and issues around the distrust of government agencies and lawyers. In some cases, it is the fear of death that can leading to an avoidance

of estate planning. It could be issues around language or location. A person living in a rural or regional area or in an Indigenous community may not have access to the information or legal advice needed to make a will. Governments have endeavoured to manage the complexities of the various asset-ownership structures in estate planning. Although sometimes these arrangements will require the use of a lawyer, a lot of people cite the fact that the challenges of the maze of legal processes, including issues around power of attorney, guardianship and end-of-life processes, all add to the complexities and confusion of the process, and sometimes people just back away from that because it becomes too hard. Part of the task is working out how we resolve that.

I noted in my motion that we are fortunate to have a range of organisations to help: the Public Trustee, Legal Aid Western Australia and the Citizens Advice Bureau. I used the Peel Community Legal Services as an example because it has been a dominant feature in part of my electorate. I am sure that all members have community legal organisations in their electorates that they would recommend as well. People can go to a range of places for help, not just high-end legal firms.

We have to change the conversation about making a will. The challenge is to shift the dial on the conversation and to try to find the triggers for change. A lot of evidence shows that people will quite often think about signing a will if there has been a life-changing event, be it an illness, a marriage, the birth of a child or a change in financial circumstances. People will then think about making a will. We also have to change the mindset so that people are encouraged to think that estate planning is not a burden but actually a gift—a gift that we want to provide to our family and friends when we are no longer here. That is about changing the mindset.

The biggest and the hardest shift—I know this from personal experience—is to have the conversation within our own families about forward planning for all these events. That is a really hard discussion to have, but we need to promote the reasons for doing that in the community so that we can reduce those numbers of people without a will and increase the numbers of people planning for their end of life and for how their families will deal with it.

I note a very good document that I encourage all members to read, *The Inheritance State of Play Snapshot*. It has been put out by Solomon Hollett Lawyers and it talks about inheritance, which is actually at the core of why people do not want to make a decision. There is a very good piece of work in here about the expectations of inheritance. I am not going to have a jab at millennials or gen Zs—I miss Hon Wilson Tucker when we have these sorts of discussions about Boomers and millennials, but he should read this document as well. It talks about inheritance and what people expect, and the expectations of certain generations around wills. It is a good read.

In my last couple of minutes, I will put to members some of the solutions that they might want to consider because we cannot expect people to change their mindset overnight. Sometimes we have to have micro nudges to instigate a change in people's mindset. These are some of the things that I have looked at that might encourage people to do things differently, to address some of those barriers to change and to increase the number of people making these decisions. Perhaps we need to enhance the method and manner by which we educate people and how we enable access to education around rule-making in estate planning.

Some other interesting ideas I have come across include the concept of having holographic wills, digital wills, educating students at school about the need to plan for the future and community end-of-life processes. I want to give a shout-out to my friend Mr David Scaife, the member for Cockburn. I am supporting him in a community event he is holding that is really focused on the discussion of end-of-life planning. I know Hon Matthew Swinbourn has been very active over many years in delivering messages and explaining to people the legal arrangements around estate planning as well. I think there is a challenge for us as members of Parliament, and I throw this out to you: What are we going to do as members, as role models in our communities, to go out and encourage people to change their mindset and to encourage them to think about the future? I know dying is a tough thing to think about, but we should think about it so that families are not left in such a difficult and complicated legal matrix that then just exacerbates grief and all the other problems. I think the challenge for all of us is to have those conversations so that we can drive the behavioural change on this issue and encourage more Western Australians that it is significant, not just for them but certainly for their families, to make a will and make those decisions that will ease the pressure on their families when they move on.

I wanted to have this discussion today. I think it is an important discussion because it is going to impact on each one of us, our families and certainly all our constituents at any point in time. I look forward to hearing from members about what they plan on doing to try to change the numbers that we currently have and increase the number of people who make those very significant decisions for themselves about the end of life.

Hon Pierre Yang (Parliamentary Secretary) (11:51 am): Thank you for the opportunity to make a contribution on this very important motion moved by my good friend and senior colleague Hon Kate Doust. As we heard from Hon Kate Doust, there is one thing that we cannot avoid and that is death. No-one can avoid that. Some of us may be able to avoid paying tax, but I certainly would not advise anyone here to do that.

Members may know that I worked in the legal profession for about 10 years from 2007 to 2017. After I was elected here, I stopped practising law. During my time in the legal profession, the first couple of years was spent doing articled clerk training and then becoming a restricted practitioner under the supervision of a senior colleague. After

that, I became an unrestricted practitioner in the legal profession. In the last three and a half years of my time in the legal profession, I was practising as a sole practitioner. The majority of my cases and clients were family law–related matters but a large number of cases were also estate planning, will drafting and probate-related matters.

I want to focus my contribution today on one aspect—that is the Administration Act, to which a very significant improvement was made by this government back in 2022. I want to give a shout-out to Hon Matthew Swinbourn, who was the parliamentary secretary with carriage of the Administration Amendment Bill 2022 in this place. That was a few years ago, but it was a significant reform that we implemented for the benefit of all Western Australians.

It was significant for the following reasons. The *Administration Act 1903* obviously was amended throughout the last century. Nonetheless, one aspect of the act had not been reformed or amended for more than 40 years. When a person died intestate, the *Administration Act 1903* stipulates how much a person would inherit in accordance with section 14. That aspect of the Administration Act was left untouched for about 40 years. The last reform took place in 1982. If a person died without a will and left a husband or wife or a de facto partner, the surviving partner will take all the chattels of the household without question. But if a person died leaving a husband or wife or de facto partner, and leaves issue, the net value of the intestate property would be inherited by the person no more than $50,000. That was the situation prior to the 2022 bill. That amount was significantly increased by this government and passed by this house. At that point, the figure was increased to $472,000. Members could imagine the difficulties caused to the surviving partner prior to that reform, knowing that life would be uncertain and the only amount that they would be guaranteed was $50,000. It was just unimaginable.

I had a case that fitted exactly that scenario. A client I represented at the time had a partner who unfortunately passed away without a will. He had a number of children and this client was a new partner to the deceased person. They had to go to the Supreme Court under the *Family Provision Act 1972* to have a lengthy legal battle to arrive at a fair and reasonable outcome. In that case, at the last minute before the start of the trial, the parties settled, notwithstanding spending hundreds of thousands of dollars collectively on legal fees. There were no winners in that scenario. The legal fees had to be paid out from the estate. It was a really unfortunate situation with no winner emerging from that legal debate. I guess the only good one could extract from that scenario was that they avoided the trial, which would have been more expensive. I give a shout-out to the government for increasing the amount available to the surviving partner.

I wish to add that I am not giving the government response on this measure; I am providing a contribution as a member of this place.

If we look at the average property price in Perth over the last 40 years, it increased from a mere $41,000 in 1980 to an average of $635,000 in 2024. If we go back a year, it was $590,000. You would not be able to buy even a bathroom with the $50,000 stipulated by the Administration Act prior to the amendment we implemented in 2022. However, this reform is now striking the right balance enabling a surviving partner in a situation in which their partner has passed away without a will to get a fair outcome. More significantly, the *Administration Act 1903* now allows the minister to review that amount every two years. The last increase was put in place by the Attorney General on 27 June 2025. The amount now allowed is $546,000, which is in line with the property price increase we have witnessed in the state in the last few years. It is a significant reform.

I want to give a shout-out to the government and the parliamentary secretary who had coverage of the bill back in 2022. I want to thank Hon Kate Doust for bringing this very important motion to this house. I encourage all of us in our daily conversations and communications with our constituents, other family members and people we are associated with or we come across to have the conversation, when there is an opportunity to do so, and encourage people to look at having their will drafted and signed or updated, and at getting an enduring power of attorney and an enduring power of partnership and guardianship because it will help those who love us dearly to look after our affairs after we have gone.

Hon Michelle Hofmann (12:01 pm): Nothing in life is certain except death and taxes is a fairly famous phrase, and I echo the comments made by my colleagues this morning—but I will leave it to Hon Pierre Yang on whether or not they are both certain.

I rise to speak on this motion today because I have worked in this space. I had my own sole practitioner business as a lawyer, providing wills and estate planning advice to clients for several years. One of the biggest challenges about working in this space is that we as lawyers are engaging in very difficult conversations with our clients. Most people do not want to talk about death. They do not want to talk about what happens when they die. They do not want to talk about what would happen if they were to be involved in a terrible accident and receive an impairment or were to suffer from dementia or another condition that would impair their ability to make decisions. The reality is that it is so important to engage in these conversations and to act in a preventive way. Most people put getting their affairs in order on the "important but not urgent" list of things to do, and it often never gets done, and that is a great shame.

We already heard in quite a bit of detail about what happens in Western Australia if a person passes away without a will. I challenge everyone to ensure that their legal affairs, particularly their will, are in the best state possible—

finalised and signed. It is the best thing you can do; it is a gift for your family when they are having to deal with very tragic, difficult circumstances. It will give people not only peace of mind, and they can tick it off that to-do list, but also a real gift. I have seen how important it is. I understand we have talked a lot about when people pass away without a will, but we are also talking about significant issues that arise from a legal perspective when there is what is termed "a loss of capacity" and impairment such as dementia. I have experienced this firsthand with my grandfather over the past few years. It is challenging on a personal and emotional level to continue to work on a family relationship with someone who, on a good day, remembers your name, who your husband is and how many kids you have, but, on a bad day, cannot recall where they are or even the names of their kids and their spouse.

When it comes to getting your affairs in order in this space, it does not have to be difficult. A lot of innovation has happened amongst legal practitioners in more recent years. There are many lawyers who operate mobile practices and who will actually come out to your home and help you work through the legal requirements for preparing a will and other estate planning documents. Often, they also have fixed fees. A lot of people, particularly as they get more elderly, are reluctant to make an appointment to go into a lawyer's office in that sense, but there is the convenience of many lawyers who offer this service.

In many situations when someone passes away without a will, the Public Trustee gets involved. I note before I continue my comments that the vast number of cases involving the Public Trustee are never publicised. They are dealt with, and we do not tend to hear about the good cases. But I will highlight some of the issues that have been raised about the Public Trustee and some of the suggestions about how we can improve its operation in the administration of trusts and deceased estates. I start by acknowledging the good work of the Office of the Auditor General. A performance audit was conducted and a report came out in August 2022 titled *Public Trustee's Administration of Trusts and Deceased Estates*. The Auditor General looked into the Public Trustee. It is quite important that we have sufficient oversight because the Public Trustee manages more than $1.4 billion worth of assets. It administers trusts and handles deceased estates, often in cases when a person has passed away without a will. The Auditor General looked at the application and appropriateness of the fees, which is something that has been an issue of contention. The Auditor General found that although the Public Trustee has a gazetted fee schedule and it was not breaching that fee schedule in any way, some trust clients were charged large fees for relatively little work being performed on their behalf. There were also findings that the Public Trustee should better inform its clients of both what could be charged and what has been charged in their efforts. This goes to the structure of the funding of the Public Trustee, because the way that it works is that the Public Trustee is able to subsidise the costs of the organisation from fees taken from other clients, so some clients pay for not just work done on their behalf, but also subsidise work done for clients who do not have the means in their estate to pay. The commentary around this from the Auditor General is:

> While people should pay for the services they receive, it is not fair for a public institution entrusted to act in their best interests to have them unknowingly subsidise others.
>
> …
>
> This model delivers an inherent incentive to maximise fees from clients regarded by the Public Trustee as having the capacity to pay, but who by community standards would not be considered wealthy. This is not appropriate.

Going through the findings of that report, it was not a condemnation of any staff. The staff were acknowledged as very hardworking in trying to fulfil their duties but have very large and immensely emotionally demanding workloads. They have to deal with people in very tragic circumstances who are dealing with grief. The findings of the report were:

> Trust fees did not always reflect actual work effort and were not effectively communicated to clients
>
> …
>
> The Public Trustee charged deceased estates in line with the fee schedule, but did not meet its administration timelines
>
> …
>
> The Public Trustee has controls to manage many but not all of its fraud risks

Further work has been done in this space including into fraud risks, which, very positively, revealed minimal issues had been raised. The comments in that space were more around the fact that the complex environment within which the Public Trustee operates raised initial concerns around potential fraud, but there was no indication of systemic breach of financial management principles. It is always reassuring to know that we can have some faith in the management principles within our public institutions.

Interestingly, the Public Trustee, Brian Roche, who very rarely speaks out on matters in the media, spoke to the media on 18 June, calling for the government funding model to change in some ways. He considered that it would be helpful to subsidise fees for vulnerable clients who are unable to pay. Instead of the self-funding model—the Public Trustee has suggested that it could be within the remit of the government to decide to not charge fees, but

that is a matter for the government to consider what is appropriate—the state government should help subsidise those who cannot afford the trustee's fees, rather than offsetting those charges against the accounts of people who have the capacity to pay.

I will highlight briefly in the short time I have remaining that there are cases when further investigation is required because there could be significant issues. A recent news article in June reports that the WA Public Trustee charged a woman with dementia $137,000 in fees while managing her assets at a loss. Clearly, an issue like that needs to be investigated when it arises. There is a concern that some of the practitioners and organisations who are aware of these issues are concerned about even speaking about them out of fear of jeopardising their relationship with the Public Trustee.

In my last few seconds, I would encourage everyone to go and get their will done. If even one person goes and gets their affairs in order after this debate, it will be worthwhile. I encourage members to speak about this in their community as well.

Hon Dan Caddy (Parliamentary Secretary) (12:11 pm): I acknowledge at the outset that I will be giving the government's response. I will address various aspects of the motion that have been put to us today but, given the time restraints, obviously, I do not think I will get to everything. By a happy coincidence, my very good friend and previous resident expert in the house on this topic—although I see that now we have two of them—covered a lot of ground on intestacy legacy amounts. I will start by acknowledging my friend Hon Kate Doust's contribution. I know this is a topic in which she has an incredible personal interest. I acknowledge her personal story that went along with her contribution.

I will talk generally about guardianship and administration and what is happening in that space in Western Australia. As members would be aware, the Law Reform Commission of Western Australia is currently undertaking a comprehensive review of Western Australia's guardianship and administration laws. The existing scheme, which is administered under the *Guardianship and Administration Act 1990*, enables substitute decision-makers to be appointed to make personal health and financial decisions on behalf of adults who do not have the capacity to make those decisions. The decision-makers can be appointed by the State Administrative Tribunal or under an enduring power of attorney or guardianship, or advance health directive made by the person prior to losing capacity.

This is a little off topic, but it is important because it is all interrelated. As members would be aware—certainly those who were here in the 41st Parliament—the former Attorney General referred the review to the commission in 2024 to fast-track the consideration of the recommendations relating to guardianship and administration laws in the final report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. The commission was initially due to provide a final report to government on 1 April this year but the Attorney General has approved an extension of time until the end of this year, following a request from the Law Reform Commission. The discussion papers are already out in two volumes. They have been released, as has an outline. That and the report, as it stands, have been released in English, Chinese, Italian and Vietnamese.

I would like to talk a little bit to the *Administration Act 1903*, which has been referred to in some detail by my good friend Hon Pierre Yang, so I will not go through all the figures at the end. That act governs what happens to someone's estate when they die intestate. For the benefit of members of the house who are not across this, the act describes how an estate is distributed by providing a formula for dividing assets based on family relationships, particularly a spouse or de facto partner, and children. That was referenced by Hon Pierre Yang in his contribution. In 2022, amendments were made to the act that changed how a deceased estate was to be distributed on intestacy, and also to increase the minimum distribution thresholds, known as intestacy legacy amounts. They were the figures that Hon Pierre Yang went through. Those increases were long overdue. No changes had been made to them for just over 40 years and the distributions to relatives had really lost pace with market values. I think Hon Pierre Yang outlined the differences in housing prices between 1982 and now to show what that meant. There were three main effects of the amendments made by this government, which were to immediately increase those amounts, to prescribe a formula for calculating the amount of the intestacy legacy amounts from time to time in the future and to require—this is critical—the relevant minister, which is currently the Attorney General, at specified times to review the intestacy legacy amounts and decide whether or not to apply the prescribed formula to alter those amounts and, following a review, report the outcome. The reason that is important goes back to the fact that nothing was changed to those amounts for nearly 40 years. Because of those amendments, we now have a built-in mechanism whereby every couple of years the amounts will be reviewed so that in the future they will be more in line with the current values in Western Australia when people find themselves in this situation and are dealing with those things outlined by Hon Kate Doust.

I am fast running out of time. I want to briefly go to paragraph (e) of the motion. I think four entities were named. I note that it is not an exhaustive list, but I just wanted to touch on the list briefly and talk about the services that are available and some of the great work that has been done. One of the entities named on that list is Legal Aid WA. Obviously, Legal Aid is a statutory agency that provides legal assistance right across the state. It receives funding from the Department of Communities to provide assistance to Elder Rights WA, which is a specialist legal

advice and assistance service relating to a whole range of things, within which is wills and powers of attorney and guardianship and advance health directives, which is something that has come up previously. It is capable of providing some legal assistance on guardianship and administration proceedings in the State Administrative Tribunal. One of the other entities mentioned is Law Access. That is a statewide pro bono referral service. If a person cannot afford a lawyer and is not eligible for free or low-cost legal assistance services and meets Law Access's eligibility criteria, Law Access may well find a lawyer who will assist without charging their usual fees. There are also a host of legal centres such as the Citizens Advice Bureau, the Fremantle Community Legal Centre and the Great Southern Community Legal Services that also provide for people who find themselves dealing with an estate without a will. Those centres provide low-cost legal assistance. They are spread right across the state. This is very much a statewide thing. Once again, similar to the other two entities that I mentioned, they will provide legal assistance with concerns about everything, from superannuation to advance health directives, but specifically included in the remit is guardianship and administration, and certainly wills and estates.

The state government also funds a diverse range of initiatives to support older people in our state. I have less than a minute left. I was going to talk about two specific programs, but I will not now. As we know, the number of seniors as a percentage of our population is ever increasing. I echo the sentiments of Hon Kate Doust and Hon Michelle Hofmann by saying that the most critical thing that everyone can do to unburden their loved ones when it eventuates that they are no longer here is to go and get a will, however they want to do it. That will help their loved ones.

Hon Klasey Hirst (12:21 pm): I am really pleased to be able to make a contribution to this really important motion brought to us by my colleague and friend Hon Kate Doust, and I want to thank her for doing so. I also want to thank Hon Pierre Yang and Hon Michelle Hofmann, who are out of the chamber on urgent parliamentary business, for sharing their experience as lawyers. Hon Kate Doust mentioned navigating and dealing with complex systems once someone has passed. She mentioned banking, and that is something that I can talk about because I was a banker. I spent most of my career working in a bank branch. During that time, both here in Perth and in Kalgoorlie, I became a bit of a deceased estates expert. That was not something that I wanted to do; it happened because I dealt with so many matters. Far too many people die without a will. As we have heard, around 40% of Western Australians are at risk of dying without a will. When we see that figure on paper, it looks high, but from my own experience, I can tell members that it feels even higher when the person looking across from you is grieving. I have so many stories that I could tell, but I want to share just a couple that illustrate the point of this motion.

Back in 2012, I was still working here in the city. My husband and I were preparing to get married, and maybe that is why this story has stuck with me so much. A young woman of a similar age to me sat down in front of my desk. She was trying in vain to gain access to a bank account to which she was a signatory. There was a hard hold on that bank account. Then she shared her story with me. The other account holder was her partner, or had been her partner. They had both originally come to Australia on a working holiday visa. He had arrived slightly earlier than her, and they had made the innocent decision to add her as a signatory to his bank account. This is not uncommon; it happens all the time. All their wages and expenses went in and out of this bank account, and they also had a savings account set up in the same way for all their hard-earned savings. Then the unthinkable happened. While they were working at a small winery down south, they were involved in a head-on crash on Bussell Highway between Busselton and Margaret River. She miraculously survived with serious but not critical injuries, but he died at the scene. As per banking procedure, when the bank was notified of his death, a hard hold was placed on the account. Everything was frozen. That is not uncommon. But he had no will. This was further complicated by a dispute between the woman and his parents, who were overseas. We could see that her wages had been coming in but she had no access. I met her several weeks after the crash. She was dealing with the unimaginable grief of losing her partner and recovering from her own injuries, and now she was trying to navigate how to access funds to live and rebuild her life. I will never forget the look in her eyes—a young woman so far from home who had lost the love of her life. At the moment that she needed stability most, her hard-earned wages and savings were locked away. That is why I plead with people now: do not leave your loved ones in that position.

Another example I have is from a few years later. I had just arrived at the West Perth branch and a lady in her 60s sat down in front of me with a young man in his mid-30s. She was clearly going through something difficult; there were tears in her eyes before I even said hello. The young man was her son and he told me that his father had passed away very suddenly just days earlier. He was bringing his mother in to sort out the bank accounts. They explained that her husband had always taken care of the money. They had what she thought was a joint credit card, which she used occasionally. She admitted that she did not really understand banking. When I looked up the accounts, none were in joint names. She was not even a signatory on the accounts. The credit card of course was not truly joint; she was an additional card holder. The funds in the account were not insignificant; they were heading towards retirement. When I asked if there was a will or if either had been named the executor, the answer was no. I had to explain that all the accounts would be frozen and the credit card would also be stopped. They thought that they would leave the bank that day with full access to the funds and instead they left with even less. Because of the size of the estate, sorting it out was extremely complicated. I worked in that branch for a year. When I left for Kalgoorlie in 2015, it still was not resolved. I worked with them through that year, trying to make

progress, but because she had not worked for years and she had no income, she was not eligible for a credit card. There was money and assets—a significant amount—but until the letters of administration were granted, they were completely inaccessible to her. A colleague called me late in 2016—I had been gone for over a year—to tell me that it had finally been settled, more than two years after her husband had passed away. This story has stayed with me for over a decade. Imagine suddenly losing your life partner and finding that you do not even have access to the money to pay your bills. That is what dying without a will can do to a family. This woman was grieving her husband of many years; she was suddenly left without him or the means to live at the same time. To carry both those burdens at once was a cruelty that she should never have faced.

This story hits home at the moment. I am at the same stage in my life now as her son was. My mum has been retired for some years and my dad is heading there very soon. Mum does the banking and Dad, by his own admission, does not know what to do. We are helping them put things in place now, but I know we have left it really late. That is the reality for so many families; we do not talk about it soon enough and, too often, we do not act until it is almost too late. There is also a misconception among so many that an enduring power of attorney continues after death, and that the person they give power of attorney to will be able to sort out their estate. It does not; it ceases at death. That was always such a difficult conversation to have. I can recount countless conversations with the person in front of me having a power of attorney but not being the executor. In most cases, the will was old and the executor may have either passed away or been unavailable. Sadly, on more than a few occasions, the relationship had broken down. These are complex situations to navigate, which brings me to my next point: wills must be kept current.

On a personal level, my dad's dad wrote his will in 1970 when my dad was just nine years old. His siblings were already adults. Of course, by the time he died in 1989, his circumstances had changed significantly. He had verbally told people about his updated wishes, but he never updated his will. A will is not a set and forget; life changes and families change, and wills must change with them. People should not only get a will, but also keep it up to date. The stories are heartbreaking. I share them not to dwell on the sadness but to show why planning matters. Too many families only discover these difficulties after it is too late, but what gives me hope is that there are services out there, often free or low cost, that can help families avoid being in these situations in the first place. We have heard about some already: the Citizens Advice Bureau, Legal Aid WA, Elder Rights WA, the Public Trustee and the community legal services. There are so many of these across the state doing this important work, but I just want to give a shout-out to a few special ones that mean a lot to me. To the Goldfields Community Legal Centre: I have lost count of how many people I referred to you over the years. Thank you for what you do for the people of the Goldfields. To Midlas, helping the people in the north-eastern suburbs: thank you. To Redgum Justice, formerly the Gosnells Community Legal Centre: Sarah and her team do incredible work in the south-east to support and help people, thank you.

I turn to another thing quickly. Your union can also help you with this. It will provide will-drafting services. As a proud unionist, I have to say that it is another great reason to join your union, not just for your rights at work, but for the practical protections for your family when it matters most.

I think about that young woman stranded here after a crash, unable to touch the savings she and her partner had worked so hard for. I think of that mother in West Perth, suddenly widowed, unable to access the very money she needed. If you do not have a will, please make one. Do it today. If you made one years ago, pull it out, check it and update it. Do not leave it until it is too late. This is not about lawyers or paperwork. This is about your family, about giving them clarity instead of confusion, about sparing them the heartache on top of grief, about making sure your wishes are honoured and your loved ones are protected. Making a will is one of the greatest acts of love you can leave behind. Please do not put it off. Do not put your family through what I have seen too many families endure. I thank the honourable member again for bringing this important motion to the house.

Hon Dr Katrina Stratton (Parliamentary Secretary) (12:31 pm): I am acutely aware that I am standing to speak after hearing from three much more learned colleagues from both the finance sector and the legal sector. I stand with a different kind of expertise of lived experience. I thank very much Hon Kate Doust for bringing this matter to the chamber today. We have had many conversations in the corridor about the importance of estate planning.

Much of my childhood was informed by the story of a will, but it was not the absence of one, it was the outrageousness of one from my great grandfather. He was a very wealthy man and had seven children with his wife and one child with his mistress. The conditions of his will were that the entirety of his estate was to go to his mistress and the child that they shared on the condition that she did not re-partner. It is fair to say that he was looking to practise some coercive control from beyond the grave. The eight children contested this will, as you might imagine, and, very sadly, it meant that my grandfather never spoke to any of his siblings again. So not only should we have a will, but we should probably make sure that it is an appropriate will, for want of a better legal term.

At age 39 I was widowed very suddenly. I sat out the motion yesterday on road trauma because I have lived the experience of it. Of course, we did not have the opportunity to discuss what Steve's end-of-life choices were. It sounds really odd to say it now with the distance of time, but I had forgotten that we had signed our will, so I spent

a number of weeks in that very early traumatic grief space thinking that he had died without a valid will. We had had our will done. We were both members of the Community and Public Sector Union–Civil Service Association of WA. He was a child protection worker at the time that he passed away. We had had this will done after the birth of our second child, so it was an updated will, but in the craziness of the baby time, I did not remember that we had had it signed and it was not until somebody asked me whether I had actually looked at the will to check that it was not signed that I realised. We had in fact signed it, dated it and had it witnessed. But even those few weeks gave me a glimpse of what it would be like if he had died without a will—what that would mean for my financial future, for my ability to service the mortgage and for when my children became adults. I have had the honour twice of being the executor of a will and, as others have said, it is a gift because it means that you can carry out the wishes of your loved one as they wanted them to be carried out.

There are other ways that you can gift people after your death. I was telling Hon Kate Doust yesterday about one of the other gifts that my mother-in-law gave to me. She knew that she was going to die and she was a committed Catholic. She had outlined for me the hymns and the prayers that she wanted to have at her funeral. As a non-Catholic who did not necessarily have an understanding of the meaning of some of those hymns, I felt that was a really, really powerful thing that she had gifted to me. One of the greatest challenges I had after Steve passed was choosing the music for his funeral. He had very eclectic musical taste. Even though it is not necessarily legally enforceable, I have outlined in my will the songs that I wish to have played at my funeral—another gift to my children.

Again, I am not a legal expert, but one of my widow friends had a devastating experience. She and her partner at the time had created a will. They got married some six months later. Nine weeks after their wedding, her husband passed away very unexpectedly and the marriage had nullified the will, so she lives with that consequence, as her children turn 18, of navigating what that means for them. If you have not got a will, please get one. It is a very, very loving gift to your family.

Motion lapsed, pursuant to standing orders.

EVIDENCE BILL 2025

Committee of the whole

Resumed from 10 September. The Chair of Committees (Hon Steve Martin) in the chair; Hon Dan Caddy (Parliamentary Secretary) in charge of the bill.

Clause 25: Compellability: foreign sovereign and others

Progress was reported after the clause had been partly considered.

Hon Nick Goiran: We are currently considering clause 25. This deals with the compelling of a foreign sovereign and others. Yesterday, prior to the adjournment pursuant to standing orders for the taking of members' statements, we were considering this clause and its subclauses dealing with scenarios of whether somebody is compelled to give evidence in a hearing. The context here is that clause 22 specifies that every person who is competent to give evidence about a fact is compellable to give that evidence. There are, of course, certain circumstances that are an exception to that, in which somebody might lack capacity in their competence or have reduced capacity. Then there is this situation that we are dealing with at clause 25 about the foreign sovereign and others. The point I made yesterday was, in particular, to draw to members' attention that they themselves, the 37 members of this chamber, are impacted by clause 25(3), which states:

> A member of a House of an Australian Parliament is not compellable to give evidence if the member would, if compelled to give evidence, be prevented from attending —
>
> (a) a sitting of that House or a joint sitting of that Parliament; or
>
> (b) a meeting of a committee of that House or that Parliament, being a committee of which the person is a member.

The clauses that follow deal with judges and jurors in which there is an accused and co-accused with a differing approach taken depending on whether the co-accused is being tried jointly. There are also provisions that follow dealing with spouses and their compellability to give evidence, and witnesses in public revenue cases. I foreshadowed yesterday that the next clause that I would like to examine once we are finished with clause 25 is clause 29, dealing with witnesses in public revenue cases. Before we do that, I had foreshadowed that this whole issue of compellability and its intersection with exceptions for members of Parliament in certain circumstances, including in committee hearings, reminded me of an episode that occurred in the 41st Parliament. I had begun drawing members' attention yesterday to report 90 of the Standing Committee on Estimates and Financial Operations, which was tabled in November 2023. In particular, I was drawing to members' attention paragraphs 6.10 to 6.13, found at page 21 of that report. This dealt with the non-appearance at a hearing of the Chief Assessor of Criminal injuries Compensation. What happened there is that the Standing Committee on Estimates and

Financial Operations requested that the chief assessor appear at a Department of Justice hearing on 16 June 2023 and the chief assessor did not attend.

When that happened, as we can see in this report at paragraph 6.11, the Standing Committee on Estimates and Financial Operations resolved to hold another hearing to take place on 9 August 2023. The committee requested that the chief assessor and the director general appear. Note here that unlike the language in this clause and the clauses under part 2, division 1, which outline compelling a person to give evidence, the language used in the committee report is that those individuals, or the chief assessor in particular, were requested to attend. One might say that a courtesy was extended by the parliamentary committee to this witness requesting that the person attend, but not compelling the person to attend this particular committee hearing. What is then recounted in the committee report is worth noting. The committee states that the chief assessor advised:

> I have been informed an invitation to attend the Standing Committee on Estimates and Financial Operations in August 2023 has been extended to me through the Deputy Director General of Court and Tribunal Services and thank you for the invitation.
>
> However, I decline the invitation as the business of the Standing Committee is not within the ambit of the operations, roles and responsibilities of the Chief Assessor as set out in the *Criminal Injuries Compensation Act 2003*.

What we have here is a standing committee of Parliament requesting a witness to attend. In this particular instance, the Chief Assessor of Criminal Injuries Compensation was requested to attend not once, but twice, and then the chief assessor sent a letter saying that she declines.

Back to this clause, dealing with the compellability of, specifically, foreign sovereign, we see that they are not compellable to give evidence. It also says here that a member of Parliament is not compellable to give evidence—not in all circumstances, but only if the circumstances are such that it would prevent a member from attending a sitting or a joint sitting of Parliament, or indeed, a committee member meeting of which that individual is a member of that committee. In those circumstances, the person would not be compelled. I note that, in this section, there is no reference to the Chief Assessor of Criminal Injuries Compensation or special privileges given to that individual to be able to say that they decline to attend. We are currently considering clause 25, but I note that clause 26 states:

> (1) A person who is a judge or juror in a proceeding is not competent to give evidence in that proceeding.
>
> (2) However, a juror is competent to give evidence in the proceeding about matters affecting the conduct of the proceeding.
>
> (3) A person who is or was a judge in an Australian or overseas proceeding is not compellable to give evidence about that proceeding unless the court gives leave.

When I examine these clauses, specifically in part 2, division 1 of the bill, dealing with witnesses, it would seem to me—I get to my point and my question to the parliamentary secretary at this time—that the Chief Assessor of Criminal Injuries Compensation is captured by part 2, division 1 because she is a person who is competent to give evidence about a fact and compellable to give that evidence. It seems to me that there is no special provision here for the chief assessor. My question, parliamentary secretary, is two-fold. First of all, is it the case that the Chief Assessor of Criminal Injuries Compensation is a person who is able to be compelled to give evidence at a hearing? Secondly, is there anything in the bill that would prevent a parliamentary committee from compelling the chief assessor to attend a parliamentary hearing? To be clear, before the parliamentary secretary takes advice on this, I am making a distinction at this time between a hearing and a parliamentary hearing. My first question is whether the chief assessor is a person who is competent to give evidence about a fact and therefore compellable to attend a hearing. Secondly, is there anything in the bill that would prevent a parliamentary committee from compelling the chief assessor to attend a hearing?

Hon Dan Caddy: This bill obviously governs hearings in court and tribunals; it does not cover hearings that are part—

Hon Nick Goiran: Not the State Administrative Tribunal.

Hon Dan Caddy: Basically. I thank the member for the correction there. Parliamentary procedures are governed by standing orders, as the member knows. That sort of answers the first part of his question. With respect of the member's specific question: Can the chief assessor be called? Yes, she can be called to hearings governed by this bill. As far as a parliamentary hearing goes, the answer is no.

Hon Nick Goiran: Let us deal with the second of those. When the parliamentary secretary says no, to be clear, is there nothing in this bill that would prevent the chief assessor from being compelled to attend a parliamentary hearing? The parliamentary secretary is saying that the bill does not impact upon parliamentary proceedings.

Hon Dan Caddy: By way of interjection, the standing orders are what govern that.

Hon Nick Goiran: Is there nothing in the bill that prevents the assessor from being compelled to attend a parliamentary hearing because the bill does not impact upon parliamentary hearings?

Hon Dan Caddy: If I may, the member is correct. There is nothing in here that prevents it, but there is nothing in here that allows it either. The bill is silent on this.

Hon Nick Goiran: I accept that. I accept that there is nothing in the bill here that would compel the chief assessor to attend a parliamentary hearing, but the point is that we are not doing anything here that might prevent the committee from compelling the chief assessor to attend, assuming that the committee wanted to do that, and assuming that the committee had the power to do that under its standing orders.

That being so, I am happy to leave that point there. But I want to seek clarification on the chief assessor being able to attend hearings. For example, the member might be aware that there was a highly controversial incident in which a District Court judge made certain remarks impacting upon the conduct of the chief assessor and one of the other assessors. I have spoken about this previously and it is on the parliamentary record. Today is not the day to relitigate those issues. They are on the public record. There is a District Court judge who called into question the conduct in the Office of Criminal Injuries Compensation. I think that is a fair and accurate statement of fact. It is on the record and those who might not be sure of that can reflect on that record.

If it were the case that there were legal proceedings on foot in a court and a District Court judge wanted to satisfy himself or herself with respect of matters in the purview of the chief assessor, I take it that it would be possible for the chief assessor to be compelled to attend before a court to give evidence in those circumstances. The point being, there is no special carve out for the chief assessor. I know I have made quite a bit of a point about the chief assessor, but as the parliamentary secretary would be aware, the chief assessor is what is referred to as a quasi-judicial officer. I want to make sure here, and let it not be confused that I am not only concerned about the chief assessor, I am merely using that as an illustration for quasi-judicial officers. There is clearly a provision dealing with judges, which follows at clause 26.

To bring me to my question, is there anything in part 2 division 1 or indeed in any other part of the bill that might exempt a quasi-judicial officer from being compelled to give evidence in the same way that there are provisions in this part and division that prevent a foreign sovereign, a member of Parliament, a judge or a juror from being compelled in certain circumstances to give evidence?

Hon Dan Caddy: The short answer is no. Obviously, clause 26(1) states:

> A person who is a judge or juror in a proceeding is not competent to give evidence in that proceeding.

That obviously means that in other proceedings, if someone who is a judge is required for whatever other reasons to give evidence, they may well be called.

Hon Nick Goiran: I thank the parliamentary secretary for that response. With his indulgence, I think it is still useful to continue to use this as a package of clauses considered in context. As I have already indicated, the next substantive one I want to look at is clause 29. Looking at that issue of judges, the parliamentary secretary will see that at clause 25, which we are on at the moment, there are limited circumstances in which a member of Parliament can exercise some form of immunity from being compelled as a witness. There are limited circumstances. They would have to be able to demonstrate that it would prevent them from attending a sitting of Parliament, a joint sitting of Parliament or a meeting of a committee.

As the parliamentary secretary just pointed out, it seems that the only circumstances in which a judge is not able to be compelled is if the matter on foot is about the proceeding over which they are obviously presiding. Is there any explanation as to why, necessarily, a judge would be compelled to attend another hearing when a judge might be scheduled to attend a different hearing? Judges have hearings scheduled all the time, as we do as members of Parliament.

We already know that we are due to be here next Tuesday, Wednesday and Thursday. The parliamentary secretary and I would not be able to be compelled to give evidence in a hearing next week on Tuesday, Wednesday or Thursday. I know the parliamentary secretary is very busy because he is on a lot of committees, in particular. He could be compelled to attend on Monday or Friday next week, depending on what his committee schedule looks like. Judges also have hearings scheduled for next week. Why is it that judges do not have the same, if you want to call it, privilege of being immune from being called as a witness in hearings and compelled to do as a member of Parliament?

Hon Dan Caddy: If a judge is called to appear in another proceeding, that judge would be treated like if any other witness was called. If there is a conflict, it is managed around the availability of witnesses. An example may be that a surgeon may get a summons and request through process for that summons to be put aside until such time as they are available and can make themselves available to the court.

Sitting suspended from 1:00 pm to 2:00 pm

The Deputy Chair (Hon Andrew O'Donnell): Members, we are dealing with the Evidence Bill 2025 and the question is that clause 25 stand as printed.

Clause put and passed.

Clause 26: Competence and compellability: judges and jurors

Hon Nick Goiran: Parliamentary secretary, I had indicated that my next round of questions would be on clause 29, but given the discussion we have just had on clause 25, I want to close the loop on the issue about judges. Where we landed was with an indication from the parliamentary secretary that if a judge were compelled to give evidence at a hearing, the judge would be treated in the same way as any other witness. In particular, we were talking about a scenario in which the judge had competing court commitments and court hearings, and the parliamentary secretary provided a useful example of a surgeon who might have certain requirements. Is it the case that a judge being compelled to be a witness would be subject to the discretion of the court in terms of their availability in contrast to a member of Parliament, for whom there would be no discretion of the court?

Hon Dan Caddy: Yes.

Hon Nick Goiran: On my earlier point on clause 25, why are we treating members of Parliament differently from judges? A member of Parliament will automatically be immune from being compelled to give evidence at a hearing in those certain circumstances. What is the rationale for a member of Parliament being treated differently from a judge?

Hon Dan Caddy: This particular clause is—I have said this before about other clauses—part of the uniform legislation. It is a central clause on competency and compellability of witnesses. As I said earlier, the default position is always to adopt the uniform legislation when we can. I will leave it at that, unless the member wants further explanation.

Hon Nick Goiran: Is clause 26, at page 27 in the bill presently before us, a mirror image of section 16 of the Commonwealth legislation?

Hon Dan Caddy: It is not identical, but the words are identical. It is just that under drafting practice here, we have split two paragraphs in the Commonwealth legislation into three paragraphs in our legislation.

Hon Nick Goiran: I thank the parliamentary secretary for that clarification. Can the same be said for clause 25, which we have just dealt with and relates to members of Parliament?

Hon Dan Caddy: The short answer is, no, it is not the same. In clause 25 of the bill that we are debating, the persons who are not compellable are a foreign sovereign and the head of state of a foreign country. Section 15 of the Commonwealth act lists the Governor-General, the Governor of a state and the administrator of a territory. The bill has a shorter list of persons who are not compellable to reflect the egalitarian principle in Australia that all are equal before the law and out of recognition that the Governor-General, the Governor and the administrator of a territory may still have relevant evidence to give in court proceedings.

Hon Nick Goiran: Does the Commonwealth provision in section 15 deal with an exemption for members of Parliament?

Hon Dan Caddy: Yes.

Clause put and passed.

Clauses 27 and 28 put and passed

Clause 29: Compellability: witnesses in public revenue cases

Hon Nick Goiran: This clause deals with the compellability of witnesses in public revenue cases. What is the necessity for this special rule of evidence in public revenue cases?

Hon Dan Caddy: This clause is drawn from the 1906 act, specifically section 12. It is in the original act, so it is a very longstanding provision. The clause's policy objectives are to ensure that schemes or arrangements for evading duty or defrauding the state of tax are exposed and that money payable to the state is recovered. On balance, this is a higher priority than successfully criminally prosecuting an individual who had involvement in the scheme. The ability to compel a person to give evidence is balanced by clause 191, which provides that a person who is compelled to give evidence may object on the grounds that it may incriminate them. If the court agrees that the evidence may incriminate the person, it may still require them to give evidence, but it must give them an immunity certificate.

Hon Nick Goiran: The justification for including this special rule of evidence in public revenue cases found here at clause 29 is that we are maintaining the status quo and that it is consistent with Western Australian law in the

Evidence Act 1906, in particular section 12. Are there changes in clause 29 compared with section 12 of the existing law?

Hon Dan Caddy: Yes, there have been changes. The bill is drafted very differently than the act, which was drafted almost 120 years ago. The drafting technique used in clause 29 is different, but it will essentially achieve the same outcome as section 12 of the act.

Hon Nick Goiran: I make this observation in passing. Our friends at the Parliamentary Counsel's Office will be well aware of this. There is, of course, a danger in changing language. The intent—it is good that the parliamentary secretary put it on the record—is that there is no change, notwithstanding the change of language and drafting technique. It is intended that the way section 12 is applied will continue. The experts in drafting will be well aware of that. They obviously feel that the risk is worth taking for the sake of the greater aspiration of the new modern drafting technique. That said, obviously the government decided that this special rule of evidence in public revenue cases is so important that it has been imported in this bill, notwithstanding that it is not contained in the uniform law. For whatever reason, the other jurisdictions do not feel the necessity to have this special rule of evidence in public revenue cases. We in Western Australia have had it for a substantial period and we wish to retain it, as is our right, which is precisely why, might I say, the applied method of legislation on uniform schemes is, generally speaking, preferred by this Parliament and this house to mirror legislation. We may have discussions about that at a later stage in respect of other bills. My question is: Given that the government has said that this special rule of evidence in public revenue cases is so important that we must retain it and insert it in clause 29, notwithstanding the fact that the other jurisdictions do not do so, does the government have any available data on the extent to which this particular provision, that is the existing law at section 12, has been relied upon?

Hon Dan Caddy: To answer the member's question, no data is available. We do not have that data. I want to go back to the previous question because I want to correct or clarify something that I said. The intent of this clause is to do exactly what section 12 of the 1906 act does. The public interest test has been added to provide guidance to the court. That is a small difference, but it is a difference, nonetheless.

Hon Nick Goiran: Who advocated for the addition of this public interest test?

Hon Dan Caddy: It was not the result of any particular application or advocacy. It came from PCO. It is more to do with consistency across the bill. Other clauses in the bill—I can name them if the member wants me to—include a public interest test. The best way to describe it is that it is an addition from PCO.

Hon Nick Goiran: It has not come about from advocacy from external groups and agencies within government. It has come about because Parliamentary Counsel evidently recommended to government that it should be included for the reason of consistency with other elements in the bill. Can the parliamentary secretary provide any information as to why Parliamentary Counsel has recommended it? Is it, for example, the result of a particular case that caused reason for concern? Why has this suddenly come about?

Hon Dan Caddy: Clause 29 links very closely with, for example, clause 191, which contains a public interest test. As I said before, it was put in the bill by PCO. The backwards and forwards conversations between the instructing officers and PCO resulted in what is believed to be the best way to draft this clause.

Hon Nick Goiran: I am not presently persuaded about the rationale of this. I am really looking for an explanation as to why the government decided to change the status quo. I will take us through the sequence of events. The primary purpose is to have one statute that everyone can refer to in Western Australia, which is the evidence law as it currently stands. We already had a discussion to accept that it does not impact upon case law being developed. It is otherwise intended to be a one-stop shop. Its primary basis is the uniform law that has been adopted by the Commonwealth and, I think yesterday the parliamentary secretary indicated, in New South Wales, Victoria and Tasmania. Once Western Australia comes on board, it will simply be a case of Queensland and South Australia having their own standalone evidence law.

Western Australia, as is our wont, also wants to retain certain elements that we say are important. At this juncture, at clause 29, the parliamentary secretary indicated to the house that the government would like to retain the existing law, this special rule of evidence in public revenue cases, which already exists and is found in section 12 of the 1906 act. To be clear, I am persuaded and satisfied with that explanation. I am not yet persuaded about the rationale for this new inclusion of public interest test. It is clear that the origin of it is Parliamentary Counsel's Office, except it is clear that it is not from an external provider, it is not from the Director of Public Prosecutions, it is not from police, it is not from the Law Society, it is not from anybody else. It is PCO that has said we should have this public interest test.

The parliamentary secretary has then drawn helpfully to my attention the fact that this particular provision ought to be read in conjunction with clause 191. Clause 191 is entitled "Self-incrimination: witnesses in public revenue proceedings" and it begins at subclause (1) to say:

> A person who is required by a court under section 29—

Which I might note is what we are dealing with at the moment—

> to give evidence in a proceeding to which that section applies may object to giving evidence, or evidence on a particular matter, on the ground that the evidence may incriminate the person.

Clause 191 continues all the way to subclause (7) and it ends with a note saying to compare it with section 13 of the *Evidence Act 1906*. I will take this matter further and, to be clear, the primary purpose of this line of questioning is to understand the rationale for the change, the inclusion of the public interest test in the existing rule of evidence for public revenue cases. That is ultimately what I would like to find out. In the absence of being able to provide that information now, is the parliamentary secretary able to indicate whether clause 191, which is the one that we are reading in conjunction, is a mirror image of section 13 of the *Evidence Act 1906*?

Hon Dan Caddy: I will answer the member's question as best I can. He is right. The primary purpose of this, as he said in his opening statement, is to have one statute that everyone can go to. Obviously, clause 29 marries up with clause 191 and clause 186, and those clauses are to do with immunity certificates that cannot be used in revenue cases like this, but in other cases. It was identified by the instructing officers that section 12 of the original act was deficient in that it did not give any guidance to the court. The instructing officers look for an appropriate test that would be there to give guidance to the court. That is for clause 29. If we go back to clauses 186 and 191, which is mirrored in the Commonwealth legislation, the Commonwealth legislation has these sorts of tests in it. It is about bringing things over from the Commonwealth legislation and applying, placing or inserting them into the bill where it is felt they are needed.

Hon Nick Goiran: At clause 191, the note at the bottom states:

> Compare:
>
> *Evidence Act 1906* s. 13

That is a reference to the WA act, not to the Commonwealth act. Is clause 191 a mirror image of section 13 in the 1906 act?

Hon Dan Caddy: No.

Hon Nick Goiran: We need to get to the bottom of that. Proposed section 191 is not the same as the existing law. We also know that clause 29, which is the one that we are on at the moment, is also not the same as the existing law. To the extent that the existing law has changed at clause 29, we have been told it is because of the inclusion of this public interest test. We have been referred to clause 191, and we also find out that it is not the same as the existing law. Again, the purpose of this line of questioning is to understand the rationale. Why has PCO said that it is desirable or necessary for this to take place?

As I said earlier, I can understand the desirability of retaining an existing special rule on public revenue cases in circumstances in which it has been in place for some time. Ideally, it would be great if there were some data to support the fact that this existing rule of evidence on the compellability of witnesses in public revenue cases is actually being used. Otherwise, we are having a whole discussion about something that has never been used in the time that it has been in the act, and we are now transporting it across to the new act in which it will probably never be used. It may well be the case that it is being used. The point the parliamentary secretary indicated earlier is that there is no data available on that, and I accept that and have no intention to take that further, other than to simply say that ideally it would be good if that data was available. Be that as it may, what is available is information that PCO has been driving this new public interest test.

Hon Dan Caddy: It has been conversations between the instructing officers and PCO. I used "PCO is driving it" to indicate that it was not an external agency or lobbying from any other external agency.

Hon Nick Goiran: I think that is a helpful interjection by the parliamentary secretary and I thank him for it. Is it fair then to say that the Department of Justice in consultation with Parliamentary Counsel's Office have together determined that it would be desirable that we have this public interest test?

Hon Dan Caddy: Yes, it would be fair and reasonable to say that. I go back to the two guiding principles. One is that it is uniform legislation. As we have said before, we try to keep as much of it either identical or as consistent with the uniform legislation as we can. For this other clause, it is about replicating the purpose and the outcome from the original clause, but in today's language, written the way we would write a bill today.

Hon Nick Goiran: I might tackle this another way. The parliamentary secretary indicated that this is an existing law; in other words, we have a special rule of evidence in these public revenue cases, and we wish to retain it in Western Australia. We have already determined that no data is necessarily available on its usage; at least, it is not available today. But is it the case that the existing law as it is applied on a case-by-case basis includes a public interest test? When we apply the existing section 12 law, does a public interest test already exist and we are therefore just codifying the way that the provision is currently being applied?

Hon Dan Caddy: As I said before, we have no data on this, but I can say the advice is that—this is based on anecdotal evidence, given we do not have the data—this is seldom used, and there may not be any case law on it that we can refer to.

Hon Nick Goiran: I appreciate the authenticity and the parliamentary secretary's transparency on this. It makes me more and more curious as to why we are bothering with it. I appreciate that the parliamentary secretary was careful in his choice of language to say that he is advised that it is most probably seldom used. That is not to say that it is never used. I accept that he does not have the data, and that is no criticism whatsoever. As I say, I am really just trying to get to the bottom of this. Individuals have made the conscious decision to deviate from the uniform law, and that deviation is to include this special rule of evidence for witnesses in public revenue cases. The case is made that we are simply maintaining the status quo. Okay—that is not necessarily a reason for it to be included, but it is a reason, and I am happy to move on from that.

It is more this new issue that has emerged that, in addition to that, the same group of individuals who have said that it is very important that we include this have also said, "While we're at it, we'd like to include this public interest test", yet it is not clear why that has now emerged as a reason. I have asked whether a case has occurred in the courts that has drawn this to members' attention. In the parliamentary secretary's earlier explanation, I think it was said that it was identified that the existing provision does not provide guidance to the court. It follows from that that the government feels that the courts would benefit from guidance in this respect, yet it does not seem like anybody has necessarily asked that the courts be provided with guidance or that there has been some form of appeal specifically on this point in which individuals have said, "This is a problem, the court has misapplied this particular rule in a public revenue case; the court has failed to apply a public interest test when applying this particular special rule." It is the lack of clarity on that that troubles me—modestly.

I want to move on. I appreciate we have a lot of clauses to get through, and I do not think I can necessarily take this any further than I have, but I would invite the parliamentary secretary, if there is any further information that he can provide to the house, to satisfy the question: Why have we decided that it is now necessary to provide this guidance to the court on a public interest test with respect to this special rule in public revenue cases?

Hon Dan Caddy: I can only go back to what I have already said and try to build on that. Notwithstanding the fact that the idea is to mirror the outcomes that we had before, we are going back and comparing this bill with an act and with wording that was drafted nearly 120 years ago. If we go to the Commonwealth legislation—in fact, not just the Commonwealth legislation that this is mirroring, but legislation across the board—we often find in modern legislation an interest of justice or public interest test. That is far more common than it was 120 years ago, if it existed at all. The member may well know about that better than I do.

Hon Nick Goiran: I wasn't around in those days!

Hon Dan Caddy: No, I think you are younger than me, member, but I am talking about the member's professional background. I would make another point, as well. We have sort of gone back and forth on whether this clause is used often and whether we have any data on it. It has been identified that this is likely to be a clause that is seldom used. It would not be deemed helpful, and, in fact, it may be deemed unhelpful, to leave the court clueless—I do not want to use the word "clueless", but that is probably the best way to put it—or to not give the court guidance for the one or two occasions in the next 50 years that this clause may be pertinent to something that is being heard.

Hon Nick Goiran: Clause 29(1) reads:

> This section applies to the following proceedings —
>
> (a) a proceeding for a contravention of a provision of the *Duties Act 2008*;

I appreciate that the parliamentary secretary indicated that he did not necessarily have any data on the utilisation of section 12 of the *Evidence Act 1906*. Is there any information available to the house on the number of proceedings for a contravention of a provision of the *Duties Act 2008*?

Hon Dan Caddy: We do not have it, and I do not think that will surprise the member, given the question he has asked. I am informed that it may be possible to get it, but no, we certainly do not have it at the table.

Clause put and passed.

Clauses 30 to 56 put and passed

Clause 57: No direct cross-examination of certain witnesses by unrepresented accused

Hon Nick Goiran: As we rapidly make progress into this bill and now move to clause 57, I draw the parliamentary secretary's attention to clause 57(1)(d) and ask: Which class of witness is intended to be prescribed under that provision?

Hon Dan Caddy: I am informed that there is currently no intention to prescribe any further classes.

Hon Nick Goiran: Clause 57 is said to be comparable to section 106G of the 1906 act. Does a similar provision exist in the current act to prescribe certain witnesses as not able to be cross-examined by an unrepresented accused?

Hon Dan Caddy: The answer is no.

Hon Nick Goiran: All right, so help us here now, parliamentary secretary. The existing law does not have a provision to prescribe other witnesses who are not to be cross-examined. It does not have that at the moment. The proposal at clause 57(1)(d) is to now insert this provision for the first time. When asked, the parliamentary secretary indicated that there is no intention at present to prescribe such individuals or classes of witnesses, so why are we doing this? Is there an objection to deleting lines 7, 8 and 9 at page 50?

Hon Dan Caddy: This provision has been included to futureproof the bill should a class that would be picked up by subclause(1)(d) be identified in the future.

Hon Nick Goiran: The parliamentary secretary indicated, or perhaps I did, that this clause is based on section 106G of the *Evidence Act 1906*. The very fact that it is section 106G may be indicative of the fact that it is a provision that was inserted into the Evidence Act sometime after 1906. It may not be a provision that has been in there since 1906. Can the parliamentary secretary indicate to us for how long has Western Australia had a provision of this sort?

Hon Dan Caddy: By way of interjection, member, that was inserted in 1992.

Hon Nick Goiran: It was in 1992, okay. Since 1992, we have had this provision in the Evidence Act of our state, which indicates that there are certain individuals who are not to be directly cross-examined by an accused who is not legally represented. I take it, then, parliamentary secretary, that the classes of such individuals who have not been able to be directly cross-examined by an accused since 1992 have been a child, as per proposed section 57(1)(a); and, in addition, the complainant in a proceeding for a sexual offence; and, in addition to that, the complainant or any witness for the prosecution in a proceeding for a criminal or identified organisation offence. Therefore, I am now seeking confirmation from the parliamentary secretary that since 1992 there have been what I would describe as three classes of witnesses who have not been able to be directly cross-examined by an accused who is not legally represented.

Hon Dan Caddy: We are just looking at that. Obviously, there have been subsequent amendments to the act, so we are just making sure that, as the member stipulated, since 1992, what is there and what has come in at what time.

Hon Nick Goiran: Thank you.

Hon Dan Caddy: I can say with confidence that the list the member read out has been in the act since 2012, possibly earlier. But without going through every iteration, which obviously would take some time, I hope that that answer satisfies the member's line of inquiry.

Hon Nick Goiran: It does because the point now is that these three classes of witnesses have been in the law of Western Australia for the last 13 years as a minimum. It might actually be 23 years, but I do not think it matters to the point that I am making whether it is 13 years or 23 years. The point is simply this: as a matter of law, there are certain classes of witnesses that cannot be, and quite rightly so, cross-examined by an accused who is unrepresented. There are three classes—a child. We do not want a child to be cross-examined by an accused who is not legally represented. We can understand the reasons for that, not the least of which are the duress, the undue influence and the power imbalance in that particular situation, and that is ameliorated somewhat by the fact that the accused is legally represented, because the legal representative is an officer of the court and is held to a higher standard in terms of their legal representative behaviour, including on the cross-examination. Therefore, it is an appropriate rule of law that has been in place in Western Australia for at least 13 years, and I suspect longer than that.

In addition to that, the second class of person who is immune from being cross-examined by an unrepresented accused is the complainant of a sexual offence, and for similar reasons to what I have just given with respect to a child, we can understand why that is an appropriate rule of law.

The third class that is immune from cross-examination by an accused who is not legally represented is the complainant or any witness for the prosecution in a matter that is described as a "criminal or identified organisation offence". The types of individuals who are usually involved in those types of matters are, as I recall, what might be described as outlaw motorcycle gang members and the like. Again, one can understand why, due to intimidation tactics and the like, we do not want an unrepresented accused to cross-examine a witness in those circumstances. My point is that that has been the state of the law for at least the last 13 years. For the duration of that time, there has been no power for the government to be able to add extra classes by way of regulation and executive signature. This will be the first time this special power will be granted by the Parliament to the executive to start including other witnesses and classes of witnesses. An explanation has been asked for why we are doing this for the first time ever, and the explanation was that there is not an intention to include any further classes of witnesses, and

that it is desirable to have that in there for futureproofing purposes. That troubles me. If the only explanation for lines 7 through to 9 on page 50 of the bill is that it is for futureproofing purposes, then on that logic, every single clause in this bill should have a regulation-making power so that the government can go and change it whenever it decides to, for futureproofing purposes. That, of course, would be an absurdity, so I invite any final submissions the parliamentary secretary might like to make as to why we should retain lines 7 through to 9, because in the absence of that, I am inclined to move to delete them.

Hon Dan Caddy: I will go back in history, to 2012. In 2012, we needed to add the gang crime category. There was no regulatory power within this, so that had to be done through an amendment to the act. That particular thing has influenced the thinking on this. It is not out of the ordinary to do that, but if we are futureproofing it—and I used that word maybe inadvisably, but that is what it is—and we are looking at categories of protected people, we ought to be able, as a government, regardless of who is in government, to add categories of protected people more easily than by having to go back to Parliament as a whole and move legislation, albeit amending legislation, to add something in. The member asked why this is not in every clause of the bill. This clause deals specifically with that issue, and that is why it is included at this juncture in the bill.

Hon Nick Goiran: I thank the parliamentary secretary for the explanation. With regard to the description of protected people, at the moment there are three such categories, as we have identified. The parliamentary secretary has indicated that the government does not intend to prescribe any further classes of protected people. There were 13 years during which the government could have provided changes to the evidence law of Western Australia and included other protected individuals; it has declined to do so. We have the bill that is before us at the moment. There have been no further additions. I note that this bill has already been through the other place; the Attorney General had carriage of it there. There has been no decision to include any other further classes of protected persons. If the government could provide some explanation as to who the protected people are that it is concerned about, I might be inclined to resist moving the deletion of the lines; but after 12 years, I think there has been more than enough time. This bill is largely the same as the package of bills that was presented in the last Parliament. To my knowledge, there was at that time no further explanation about other protected classes of persons. I think it is fair to say, in summation, that there has been more than enough time for the government to determine whether there are any persons who might have this special privilege. That has not happened in the last 13 years; the last time it happened was because there were new types of offences created with regard to outlaw motorcycle gangs. The other, more well-known ones—like the complainant in a sexual offence—have no doubt been around for a very long time, certainly with regard to children. I suspect that they have been around since at least 1992, but again, the argument is not necessarily needed to be had as to whether it was 1992 or 2012, so in light of that I move:

> Page 50, lines 7 to 9 — To delete the lines.

The Deputy Chair: Members, I am just going to have the amendment circulated to the chamber.

Hon Dan Caddy: This government will not be supporting the deletion of these lines. It will only take me a couple of minutes to outline why. The honourable member has made the case that nothing has happened in the 12 or 13 years since and, if that is the case, why have we not come with a list of protected persons, for want of a better term? The whole rationale behind clause 57(1)(d) is that we as a government and indeed the people who write the legislation cannot predict the future. By way of example, one of the last changes we made in recent times was to do with outlaw motorcycle gangs. There was no way when the original act was written that anyone could have foreseen 110 years later that we would need to include within the act a provision for outlaw motorcycle gangs. That shows exactly the issue; we cannot predict the future. If there is a category of person that needs to be protected, as we have done with children and sexual offence complainants, we are trying to ensure that that can be done quickly.

The second point I would make is that this legislation went to the Standing Committee on Uniform Legislation and Statutes Review and many clauses of the bill had something similar in it. The committee had findings and recommendations but asked why that was included in the bill. The committee did not raise this clause in any way whatsoever and did not question this provision within the bill. It has been to the Standing Committee on Uniform Legislation and Statutes Review, which has not identified any issue with this part of the bill. For those two reasons primarily, the government thinks this is an important part of the bill and will not be supporting the member's amendment.

Hon Nick Goiran: I thank the parliamentary secretary for his indication of the government's position in respect to this. I understand the government's argument. My argument to members is that the Parliament decides when executive government is granted the special privilege of determining law of its own volition. That is what regulation-making power is. It is us as a chamber saying to the government that we now second the government of the day, the executive, to write into the law of Western Australia law on a case-by-case basis, essentially, whenever it likes. Yes, the government has to present those regulations to the Governor and it then becomes law, unless, of course, a house of Parliament disallows a regulation. There are at least four members of this place, certainly four members who are on the Joint Standing Committee on Delegated Legislation in particular, who will

know that when matters go to that committee, their remit is to look at whether the regulation is being made within or outside of power. I think Hon Anthony Spagnolo, who is deputy chair of that committee, if I recall correctly, tabled a report earlier today. I think it is to do with a Bayswater by-law on cats or something to that effect. I will get my mind around that in readiness for next week or whenever it comes on for debate. To the best that I can recall, the contribution essentially was that this was outside of power and therefore the committee recommended that it be disallowed. The point is that it only gets to make that determination as I understand the terms of reference of that particular committee if it has been made within power or outside of power.

At page 50 of the bill at clause 57, we have before us a special provision that the government would like to prescribe any witness of a class that is not able to be cross-examined. The Joint Standing Committee on Delegated Legislation will only be able to make a decision in accordance with their terms of reference were the government to do that outside of power. Obviously, if it prescribes a particular class of witness, it is going to be within power. The Joint Standing Committee on Delegated Legislation might say that that is not appropriate and not even look at it in the first place. I provide an absurd example for the purpose of illustration only. Imagine that the government of the day stated by way of regulation that a class of witness not to be cross-examined is a member of the Australian Labor Party. Imagine the regulation stated that anyone who is a member of the Australian Labor Party has been given special protection as a witness and is not able to be cross-examined. As I said, that is an absurd example. I know that I have my points of difference with the members opposite from time to time, but there is no suggestion from me that they would make a regulation to that effect. This is for illustrative purposes only. Such a provision would be made within power and the Joint Standing Committee on Delegated Legislation would not be making a recommendation to us. We need to carefully consider what these classes of persons that are to be protected from any immunity are. At the moment, we know that there are three classes, and I suspect we are all in furious agreement about this because nobody is moving an amendment to remove any of those classes of individuals. One of those classes is children. We all agree, I suspect, and somebody can stand up and clarify to the contrary otherwise, that a child ought not to be cross-examined by an accused who is not legally represented. We all agree that a complainant in a sexual offence proceeding ought not to be cross-examined by an accused who is not legally represented. We all agree that if there is a complainant or a witness for the prosecution in a criminal proceeding with an identified organisation, in other words an outlaw motorcycle gang or something to that effect, that they ought not to be cross-examined. They are the three classes of people, and everybody is in agreement with that. That is the existing law in Western Australia. Now the government wants to add an extra provision to allow it to provide a class of persons whenever it wants. I realise that although members have been away on urgent parliamentary business this afternoon, they may be unaware of what has transpired over the last half an hour or so—the parliamentary secretary has been asked to indicate whether the government intends to use this regulation-making power. The answer was no; it does not intend to make use of it and does not foresee a scenario in which it would. I then asked why we are doing this and the reason provided was futureproofing. I put it to members that we have the opportunity here to explain to the government of Western Australia what the expectations of the house of review for this 42nd Parliament are. In this 42nd Parliament, we get to decide when the government of the day gets regulation-making powers or not. We in this house decide that. It is not up to the government. The government can request it. There are many instances when it is appropriate. It is appropriate when the government provides a justification for it. In this instance, there has been no justification provided for it other than the government wanting it for futureproofing purposes. My point to members is that if that is a satisfactory explanation, for the duration of this 42nd Parliament, every time Hon Dan Caddy or a minister or another parliamentary secretary gets up for any other bill and says to us that the government would like this included for futureproofing purposes, we would have to agree. If we agree with it now, then we agree with it for the whole of the 42nd Parliament.

I end on this point. There is nothing wrong with regulation-making powers. There are circumstances in which it is appropriate. Anytime that it is appropriate, it is incumbent on the government of the day that wants those special powers to justify why it needs it. What is the necessity for the provision? The only explanation that has been provided by the parliamentary secretary was when he referred us to 2012, which is when we included this new class of person because of the criminal or identified organisation offence. What happened in 2012? A bill was presented to Parliament, it went through the other place, it came to this place and we got to consider whether that was an appropriate class of person. That is how laws are made in this place. Laws are not ordinarily made in Western Australia just by giving the government a pen and paper and saying, "You make the law. We abdicate our responsibility as lawmakers in the house of review; we give it over to you."

Members, let us be clear here. The amendment standing in my name has come about only by virtue of the discussion with the parliamentary secretary. The government has not explained why this is necessary. The explanation that has been provided is one of desirability not necessity, and the desirability by the government for this is for futureproofing purposes. I put it to members that if that is a satisfactory explanation today—for futureproofing purposes—it has to follow that it is a satisfactory explanation for the duration of the 42nd Parliament. Every time the government says that it would like it—it does not need it—for futureproofing purposes, we have to say yes. The alternative, of course, is that the government can bring in a bill any day that it wants. Let me remind members who were not here in the last Parliament that this government was expert—I have never seen

anything like it in 17 years—at ramming bills through both houses of Parliament at lightning speed. Let me tell members that if there is a special class of witness who needs to be protected, this government will not hesitate to put a bill through both houses of Parliament and we will have a discussion at that point.

Hon Dan Caddy: I thank the honourable member. He has identified two issues. One is about cross-examination and the other is about parliamentary sovereignty. I will take those two separately. In his opening statement—I hope I get the words right—he mentioned prescribed other classes who cannot be cross-examined. This clause will not prevent people from being cross-examined. The clause refers to direct cross-examination. There are other ways that cross-examination can be done when it is required. A person can be cross-examined by the judge. I will read clause 57:

> (2) Instead, the accused must put any questions to the witness by stating the question to the judge or another person approved by the court.
>
> (3) The judge or approved person must repeat each question accurately to the witness (other than a question that is disallowed).

This clause will not stop people from being cross-examined. This is all to do with the method of cross-examination. The thrust of the member's 10-minute contribution, and certainly the way it would have been understood by members, was to imply—I am not saying that it was deliberate—that once we create a new class of person, they cannot be cross-examined. That is simply not the case. It is not the case that it is written in that way and it is not the case that it is designed to act in that way.

The second issue the member raised was parliamentary sovereignty. He said that, through regulation, any future government may be able to add any class of person to this list. That is something that can come to this chamber. It can be disallowed. A disallowance motion can be put forward. A disallowance motion can go all the way through this chamber, as we saw a couple of weeks ago, to be voted on by the house in its entirety. The intent of the member's statement that it undermines parliamentary sovereignty is guarded by the way disallowance motions work their way through this chamber.

I just wanted to clarify that, especially the first point, because many members may well have thought that this will stop someone from being cross-examined in any way whatsoever, and that is absolutely not the case. It is simply one avenue of cross-examination. This will protect people who are deemed to need protection from being directly cross-examined by someone who may, in many cases, be the perpetrator.

Hon Nick Goiran: I accept what the parliamentary secretary has said—that the purpose of this clause is to restrict the categories of individuals who will be subject to direct cross-examination. If we do nothing today and the clause passes as it is, under the current state of the law today, a child cannot be directly cross-examined by an unrepresented accused. That is the current state of the law. When this bill passes, irrespective of my amendment, which would make no change to that, it will remain the case that a child cannot be cross-examined directly by an unrepresented accused. Nothing will change that, and I accept that.

The question that I think the parliamentary secretary is really raising is: What will happen in those circumstances? What will happen to a child? Is it the case that a child will not be able to be cross-examined? No; that is right. As he said, a different method will be applied; for example, the question will be posed via the judge. The parliamentary secretary probably knows that in Family Court proceedings in these circumstances, there is a Legal Aid Western Australia scheme whereby a Legal Aid lawyer is appointed and funded by the government, with, I think, some federal funding, to enable the lawyer to be cross-examined. I agree with the parliamentary secretary. I would not want anyone to be under any illusion that there is a special class of individuals who can never be cross-examined. They cannot be directly cross-examined. We are all in agreement. There are three categories of people who should not be able to be directly cross-examined: children, a complainant in a sexual offence proceeding, and a complainant or a witness for the prosecution in a criminal or identified organisation case. We are all in agreement on that. That is not in dispute here. The dispute is that the government has inserted into this bill a regulation-making power. Is that strange? Not at all. It happens on many occasions; indeed, I think the parliamentary secretary will agree with me that there are many other instances of a regulation-making power in this bill. But the point is that if the house of review is to do its job properly, it has to ask the government why it needs this regulation-making power and what its justification for it is. As I understand it, the justification is to futureproof the bill—in other words, "Just in case we need it." That is not a satisfactory explanation, with the greatest respect.

As I say, if that is the explanation, why do we not do it in every part of the bill? I think the next bill that is coming up for debate is the Charitable Collections Amendment Bill 2025. Why do we not adjourn proceedings on this bill and go to the charitable collections bill and look at how many times we can insert a regulation-making power for the government? Why? It is just to futureproof the bill—just in case. We also have debate on the Liquor Control Amendment Bill 2025 coming up. Why do we not do it in that bill? In fact, why do we not do it in every single bill in the 42nd Parliament? Any time the government says, "Let's include it just in case", let us do that. No, that is not how we make laws. That is not how laws ought to be made. I accept that some members opposite who were here in the 41st Parliament have become so used to that that it is the norm. For members who were not here in the

last Parliament, that was the norm. These same arguments were made in the last Parliament. The problem was that every time a member made an argument on anything, the government simply said no, and so amendments were generally not agreed to. But that has not been the history of the Legislative Council. The Legislative Council has had a strong history of making sure that it oversights regulation-making powers.

I will finish on this point. I think the parliamentary secretary mentioned in passing that this is something that has not been picked up by the Standing Committee on Uniform Legislation and Statutes Review. Be that as it may. The Standing Committee on Uniform Legislation and Statutes Review has not expressly brought this to our attention, but does that prevent us from doing our job of examining each clause and part of the bill? I accept that it was not raised by the standing committee. I am not on the committee so I cannot explain the reasons for that. But I can say this much. This has been brought to our attention this afternoon. The explanation that has been provided is that it is for futureproofing purposes. I end on this point: If that is the standard that we are going to agree to today, surely that is the standard we will agree to for the 42nd Parliament every time the government comes along and says that it would like this provision for futureproofing. I make a plea to crossbench MPs, for what it is worth; I suspect I know where this is headed, but nevertheless. In fairness to my crossbench colleagues, if they feel that this amendment has come at no notice, rest assured my colleagues feel the same and I am sure they will give me a stern talking to after today's proceedings. But we have a job to do here and, as members can see, that includes scrutinising the bill, clause by clause if necessary. The government has had an opportunity today to provide an explanation for this provision. The best explanation it could provide was that it is for futureproofing purposes. I say this to members who might be inclined to support the government in opposing this provision to be careful what they do because, from time to time, they might ask the opposition to support them in opposing a regulation-making power in a different bill. They should not be too surprised if I remind them about this particular episode and say, "Hang on a second. I raised this point at length on 11 September 2025 and on that day you seemed to think that it was okay for the government to have a futureproofing power just because it says so." There might be a bill before the house on, let us say, an environmental matter or something like that, and crossbench members might have a strong view about it. Why would I suddenly change my tune on that? Let us see how we go. I put it to members that it is an amendment to delete lines 7 through to 9 on page 50.

Hon Dan Caddy: I will not take much more time of the chamber on this, but I want to address a couple of things. The first is that we will not be adjourning proceedings and moving to the Charitable Collections Amendment Bill. More importantly, Hon Nick Goiran asked why this provision is not in every clause. I outlined this earlier, but I will say it again. This part of the bill deals with protecting victims. This sort of clause is in some elements of this bill and other bills and it is not in other bills, as the member rightly said—sometimes you see it, sometimes you do not. This part of the bill is about protecting victims, oftentimes the people who would be directly cross-examined. If this provision was not there, victims could be cross-examined by the perpetrator. This expressly deals with the protection of victims. We want this included because if in the future a protected category of person is identified because they are victims, this will allow this government and future governments to move quickly.

Hon Nick Goiran: Which victim not included in the bill needs protection?

Hon Dan Caddy: That is the whole point. We talked about this half an hour ago. This provision is in the bill because that future victim that the member is talking about has not been identified. This provision may never be used. A future class of victim may not be identified, but at least if one is identified, this allows future governments to move swiftly to protect those victims.

Hon Nick Goiran: The parliamentary secretary indicated that no future class of victim has been identified by the government. If a future class of victim needs protection, would it be open to the government to pass a bill through both houses?

Hon Dan Caddy: The short answer is yes, but as the member knows, that does not happen as quickly as changes that can happen through regulation.

Hon Nick Goiran: Is there a provision of this sort in the uniform law?

Hon Dan Caddy: This is a non-uniform provision. All the provisions similar to this across the jurisdictions in Australia are non-uniform.

Hon Nick Goiran: It is a non-uniform provision. In other words, it is a Western Australian provision. Does the Western Australian provision include a regulation-making power?

Hon Dan Caddy: The answer has not changed since the member asked a question about section 106G about half an hour ago. No.

Division

Amendment put and a division taken, the Deputy Chair (Hon Andrew O'Donnell) casting his vote with the noes, with the following result:

Ayes (14)

Boylan, Hon Michelle	Goiran, Hon Nick	Sibma, Hon Tjorn
Caddies, Hon Rod	Groenewald, Hon Maryka	Thomas, Hon Dr Steve
Dorn, Hon Amanda	Hofmann, Hon Michelle	Twiss, Hon Phil
Ehrenfeld, Hon Simon	Horstman, Hon Rob	Thomson, Hon Neil (Teller)
Freeman, Hon Julie	Scott, Hon Philip	

Noes (18)

Andric, Hon Klara	Hirst, Hon Klasey	Rowe, Hon Samantha
Beckerling, Hon Jess	Jarvis, Hon Jackie	Stratton, Hon Dr Katrina
Caddy, Hon Dan	Kaur, Hon Dr Parwinder	Swinbourn, Hon Matthew
Clifford, Hon Tim	McNeill, Hon Sophie	Walker, Hon Dr Brian
Dawson, Hon Stephen	O'Donnell, Hon Andrew	Yang, Hon Pierre
Doust, Hon Kate	Pettitt, Hon Dr Brad	Cayoun, Hon Lauren (Teller)

Amendment thus negatived.

Clause put and passed.

Clauses 58 to 60 put and passed

Clause 61: Original document rule abolished

Hon Nick Goiran: We move to clause 61, which says, briefly:

> The principles and rules of common law that relate to the means of proving the contents of documents are abolished.

What is the rationale behind abolishing the common-law rules regarding the means of proving the contents of documents?

Hon Dan Caddy: I thank the member for the question. In times when copies were made by hand, it was generally not efficient in a court of law to hand up a copy of a document as evidence. The rule was that a party had to produce the original document. This was the only way the court could be certain that there were no errors in the copy. This rule was known as the best evidence rule. By the time of the Australian Law Reform Commission's evidence review in the 1980s, it was increasingly rare that copies produced by photocopiers or transcribed to microfiche were not available. However, the law had not entirely kept up. Although, as a matter of practicality, parties could agree to hand up copies, the technical rules of the court allowed a party to insist on the production of the original document whether it was important or in dispute or not. The rule was increasingly criticised. For example, in 1990, the English Court of Appeal stated:

> … more than happy to say goodbye to the best evidence rule. We accept that it served an important purpose in the days of parchment and quill pens. But since the invention of carbon paper and, still more, the photocopier and the telefacsimile machine, that purpose has largely gone.

The model evidence laws advanced by the Australian Law Reform Commission in 1987 abolished the best evidence rule. This is reflected in section 51 of the Commonwealth act, which is titled "Original document rule abolished".

In Western Australia, the current law on original documents and copies is found in section 73A of the current act. Section 73A modified rather than abolished the best evidence rule. It allows the admission of an accurate reproduction of a document even when the original exists and, in certain circumstances, establishes a rebuttable resumption of accuracy. However, echoes of the rule still exist in the determination of the weight to be given to a document if a party does not give best evidence in circumstances in which it might be expected, and in the court sometimes not accepting copies as evidence if a failure to produce the original document is not explained.

The bill adopts the Commonwealth's position by abolishing the rule. The abolition of the rule does not prevent an original document being required in situations in which it is necessary and relevant—for example, when it is in dispute that a document was signed. However, it does mean that a party cannot stymie or taint a case by insisting on an original document when it is either unimportant or undisputed and it is clear that sufficient evidence is before the court.

Clause put and passed.

Clauses 62 to 113 put and passed

Clause 114: Admissibility of tendency evidence in proceeding involving child sexual offence

Hon Nick Goiran: Why has clause 114 been included when there is no equivalent provision in the Commonwealth act?

Hon Dan Caddy: The clause the member is referring to mirrors the clause in the New South Wales Evidence Act. This is one area of uniform evidence law in which the provisions in place in different uniform jurisdictions vary somewhat. All uniform evidence jurisdictions contain a version of sections 97 and 98 of the Commonwealth act.

Section 97 is the central tendency rule provision and section 98 is the central coincidence rule provision. However, the uniform acts of New South Wales, the Australian Capital Territory and the Northern Territory also contain section 97A, which expands upon the operation of the tendency rule in child sexual offence prosecutions. It creates a rebuttable presumption that a tendency to have a sexual interest in a child or children or to act on such an interest is, without more, a tendency that has significant probative value in child sexual offence charges.

The WA Government accepted the Law Reform Commission's recommendation that Western Australia's Evidence Bill should contain a version of sections 97 and 98 of the Commonwealth act, as well as a version of section 97A, which is in the New South Wales act. Although the provisions of the bill that are based on uniform law provisions are generally based on the Commonwealth versions of those provisions, there are a few clauses in the bill that are based on the New South Wales provisions. Of all the uniform jurisdictions, the New South Wales version of the uniform law is most like the Commonwealth's, except for areas in which New South Wales made minor changes to reflect the fact that it was drafting evidence legislation for use in a state rather than a nation. In this WA bill, where it was necessary to have uniform provisions that were suitable for use in a state rather than federal jurisdiction, those provisions are based on the New South Wales provisions.

As well as including section 97A, the New South Wales Evidence Act also contains a few other provisions that contribute to the general structure of the tendency and coincidence division. For example, at the same time that New South Wales added section 97A to its act, it also added subsections (4) and (5) to section 94 and subsection (1A) to section 98. These additions were based on recommendations made by the Australian Law Reform Commission, the New South Wales Law Reform Commission and the Victorian Law Reform Commission when they reviewed the uniform evidence laws in 2005 and 2006.

Having made the general determination to adopt the New South Wales provisions in several other parts of the bill, and having made the decision to include a version of New South Wales' section 97A in the bill, it was decided that it would be preferable to draft the tendency and coincidence provisions of the bill in a way that wholly reflected the New South Wales rather than the Commonwealth process.

Other reasons for adopting section 97A include the following. It is appropriate to introduce a version of section 97A because it will assist to admit tendency evidence in child sexual offence proceedings. It will communicate to the parties, the court and the public that this type of tendency evidence will generally have significant probative value; however, the court will retain an appropriate discretion to determine in the particular circumstances of a case that the evidence does not in fact meet the test.

The effect of section 97A is consistent with findings that were made by the royal commission, which found that there was a need for reform in this area in relation to child sex abuse cases, and that need arose in part from deficiencies in the operation of the relevant provisions of the uniform law. Given that the Law Reform Commission recommended the adoption of those uniform law provisions, it was appropriate for the commission to also recommend the adoption of section 97A in order to meet the deficiency identified by the royal commission.

The model provisions include a non-exhaustive list of factors that were not necessary for tendency evidence to have significant probative value in child sexual offence proceedings. Those factors were sourced from the findings of the royal commission. The commission accepts that the royal commission inquired into these issues in some depth and received expert and lay evidence in support of them.

Hon Nick Goiran: Clause 114(1)(a) sets out the definition of "child sexual offence" when read in conjunction with clause 114(1)(b). Is a list available of the offences that are captured by this provision?

Hon Dan Caddy: Member, there is no list and that is deliberate because we do not want to confine the courts' consideration of what may constitute a sexual offence.

Hon Nick Goiran: The suggestion from me is not that the government wants to confine that, but there are certain offences that are captured by this provision. I do not think that is a controversial observation. My question is: Does the government presently have a list of offences that would be captured by this provision?

Hon Dan Caddy: There are lists of child sexual offences in the Criminal Code, but with respect to this bill, clause 3 has a definition of "sexual offence". Clause 114, the clause we were debating at the moment, is about child sexual offences. The definition in clause 3 informs clause 114, and obviously that is an offence against a child.

Clause put and passed.

Clauses 115 to 177 put and passed

Clause 178: Application of Division

Hon Nick Goiran: Has this clause changed from the package of bills in 2024?

Hon Dan Caddy: Yes, it has, to give effect to the recommendations from the Uniform Legislation and Statute Committee's report from 2024. If the member would like, I can read the words that were struck out. I note the member is nodding. Clause 178(1) states:

This division extends to a proceeding before a person acting judicially.

Those words are in, and the words that previously immediately followed have been struck out. Those words are:

(ii) a member of a House of Parliament or a Committee of a House, or both Houses, of Parliament who, by law, has authority to hear, receive, and examine evidence;

Hon Nick Goiran: The parliamentary secretary indicates that that was brought about by the committee in the previous Parliament, that being the 150th report on the Evidence Bill 2024, which was tabled by Hon Donna Faragher in October 2024. Can the parliamentary secretary draw to the house's attention which recommendation he is referring to?

Hon Dan Caddy: Member, I refer to recommendation 2, which reads:

The Evidence Bill 2024 be amended as follows:

Clause 178

Page 135, lines 7 to 10 — To delete the lines and insert:

judicially

Clause put and passed.

Clauses 179 to 199 put and passed

Clause 200: No confessional privilege in proceedings relating to child sexual offences or sexual abuse

Hon Nick Goiran: This is one of what I might say is a limited number of provisions in the bill that does not have one of those comparative notes at the bottom. What is the genesis of clause 200?

Hon Dan Caddy: Member, this is a new clause. It is not drawn from either the former bill, the current act, or the Commonwealth act.

Hon Nick Goiran: That being so, what is the genesis of its inclusion?

Hon Dan Caddy: Clause 200 abrogates religious confession privilege in child sexual offence proceedings and civil child sexual abuse proceedings consistent with the current mandatory reporting regime, which was introduced several years ago in the *Children and Community Services Act 2004*. This clarifies the law in this respect as it was unclear whether religious privilege could apply.

Hon Nick Goiran: Was this a provision in the 2024 package of bills?

Hon Dan Caddy: Yes.

Hon Nick Goiran: What was the extent of the consultation undertaken in respect to this provision?

Hon Dan Caddy: Thanks for your time, member. We were just working through the timelines; there was lots of consultation at different times. As I said previously, this was in the 2024 bill. It was added to the bill post the consultative period. Initially, this was going to be left to common law and then there was advice that it ought to be inserted to take away any ambiguity, and it is entirely consistent with the mandatory reporting act.

Hon Nick Goiran: Thank you for that clarification, parliamentary secretary. But to be clear, was no express consultation undertaken in respect of this provision then?

Hon Dan Caddy: That is correct, member.

Hon Nick Goiran: Was it inserted at the request of the DPP or some agency that is responsible for prosecuting child sexual offences?

Hon Dan Caddy: I am informed that the instructing officers sought advice on whether there was certainty around this with respect to leaving it to common law, and once again I go back to my previous answer that that advice led to the inclusion of this clause so that nobody was uncertain what the requirements were.

Hon Nick Goiran: Parliamentary secretary, who provided that advice?

Hon Dan Caddy: That advice was provided by the State Solicitor's Office.

Hon Nick Goiran: Why does this provision at clause 200 not apply to all sexual offences?

Hon Dan Caddy: It is because the mandatory reporting requirements apply only to child sexual offences.

Hon Nick Goiran: Therefore, I take it that other violent offences are not included?

Hon Dan Caddy: No, they are not included in this provision.

Hon Nick Goiran: What has been the frequency of the use of this confessional privilege?

Hon Dan Caddy: We are not aware of any recent cases in which a priest has tried to argue confessional privilege. There are no Australian cases that I am aware of that directly address this topic. There are some brief, vague and conflicting comments in a handful of Australian High Court and Court of Appeal cases.

Hon Nick Goiran: Clause 200(3) indicates:

> This section does not affect the operation of any privilege conferred by this Part.

I take it that one of those privileges, amongst other things, is the privilege against self-incrimination?

Hon Dan Caddy: Yes, the member is correct.

Hon Nick Goiran: Would it be open to an individual to not provide evidence, not by claiming confessional privilege but by claiming a privilege against self-incrimination?

Hon Dan Caddy: It is open to any witness to claim any privilege they want; it is up to the court to decide.

Clause put and passed.

Clauses 201 to 205 put and passed

Clause 206: Exclusion of certain evidence relating to complainant or witness

Hon Nick Goiran: Has clause 206 changed from the package of bills in 2024 and, if so, to what extent and why?

Hon Dan Caddy: The answer is yes. Clause 206 restricts the circumstances in which evidence about the complainant's sexual history may be introduced. Evidence of the complainant's sexual reputation or disposition in sexual matters must not be adduced, and evidence of their sexual experiences may only be introduced with leave of the court. Historically, evidence of a complainant's sexual reputation, disposition, history or experience were used to attack the complainant's credibility or to invite reasoning that the complainant was more likely to have consented because they were the "type of person" who would do so. The evidence evoked myths and stereotypes about promiscuity and appropriate sexual behaviour. In some cases, such as those involving reputation evidence, the evidence led may not have involved any information about the complainant's actual experience or behaviour. That kind of reasoning is no longer considered permissible, in the same way that it is generally considered impermissible to utilise an accused's criminal record to suggest that they are the "type of person" who would commit a crime.

Clause 206 was based on provisions from the current act that have been in place for more than 20 years. However, the version of clause 206 that was included in the 2024 bill protected complainants only in a criminal proceeding for a sexual offence. The Australian Law Reform Commission recently released report 143, *Safe, Informed, Supported: Reforming Justice Responses to Sexual Violence*, which I will refer to as "the report". It recommended that the tests that are applied in criminal proceedings should also be applied in civil proceedings when there is an allegation that sexual violence has taken place. This recommendation is broadly consistent with the policy already in use in the 2025 bill of extending certain protections to witnesses in civil proceedings when sexual abuse or harassment is in issue—currently, in clause 56 and clause 380. It is also logically consistent with the current understanding of the irrelevance of this type of evidence to the facts in issue. Amendments have therefore been made to extend clause 206 to apply in both criminal proceedings and civil proceedings when sexual violence is in issue.

Hon Nick Goiran: Is the provision at clause 206 something that the other jurisdictions have included?

Hon Dan Caddy: I am unaware of whether other jurisdictions have it, but I make the point that it was added to this bill as a result of a recommendation in the Australian Law Review Commission's report that came out in January this year. It may be that if it is not in other acts, it is because this report came out subsequent to those acts being gazetted.

Hon Nick Goiran: In this clause we use or insert phrases such as "sexual reputation" and "disposition of the complainant in sexual matters". How is it intended that these phrases will be defined?

Hon Dan Caddy: The short answer is: in the same way in which they have been defined for the last 20 years. The intent of clause 206 and what it addresses has been brought, obviously not directly, from the former act, or the current act, as it may be.

Clause put and passed.

Clauses 207 to 239 put and passed

Clause 240: Recorded statement admissible as evidence in chief

Hon Dr Brad Pettitt: I have a few questions and comments on this clause. This is within the context of the Greens welcoming the intent of the bill to update our state's evidence laws and support victim-survivors of family violence, but that is actually part of the reason we want to raise some concerns regarding this clause. Clause 240 permits the admission of a recorded statement made by a person to a police officer in criminal settings for family violence

offences and other offences to be added by regulation. The Greens support greater accessibility to protection for family violence complainants who participate in criminal proceedings, but hold concerns that this provision could ultimately criminalise the complainant and put undue pressure on the complainant to participate in legal proceedings on the back of statements made in circumstances of extreme distress. We raised this issue throughout the briefings, as the parliamentary secretary will be aware, and we certainly got a response on Tuesday from the Attorney General in relation to a letter we had written on this matter. But I am hoping that the parliamentary secretary can respond to our specific concerns about clause 240 and give us some comfort in relation to issues that have been raised with us.

Hon Dan Caddy: Sorry, member. Can you clarify your question?

Hon Dr Brad Pettitt: There is a concern that the way in which the provision is currently worded could ultimately criminalise the complainant or put undue pressure on the complainant to participate in legal proceedings on the back of statements made in circumstances of extreme distress. That is our concern. If the parliamentary secretary is able to respond to that, it would be useful.

Hon Dan Caddy: I will start with some general comments, and then I will move to specifics. As I understand it, the member's question is around the rationale for allowing recorded statements to be used as evidence-in-chief, specifically in family violence proceedings. Recording a victim's account of evidence at the scene or shortly after allows the victim to describe what happened while their memory is still fresh. It reduces the opportunity the perpetrator might have when a traditional written statement is prepared and the victim does not give evidence until the trial to persuade or coerce that victim to change their account of events or, in some cases, to withdraw their complaint entirely. Recorded statements will allow victims to give their evidence-in-chief in an out-of-court environment, which, especially with family and domestic violence, can be less stressful than describing what occurred to them in a court setting. Recorded statements will replace traditional written statements in family violence cases. The recorded statement will serve as disclosure of what the complainant says occurred as well as their evidence-in-chief. This will also reduce the re-traumatisation that can occur when a victim is required to tell their story on more than one occasion, repeatedly having to go through the traumatic experience. Using recorded statements in place of written statements is also likely to be more efficient. Often, a written statement will require multiple drafts as well as multiple visits and communications between police and the victim before it is finalised and signed. When a recorded statement is used, police will be able to ask any clarifying questions necessary as part of the one interview. The words "more efficient" sounds callous, but it is in the interests of the complainant; efficiency means sitting down and giving their statement only once if that is what they want and not having to revisit it. I did not mean for it to have a callous meaning. Written statements are more efficient as far as lessening the trauma goes. Playing a recorded statement as evidence-in-chief is also likely to be more efficient than a complainant giving their evidence live in court. For those very reasons, I attach that meaning of the word efficiency; it is something that helps. Breaks may also be required while lawyers and judges debate the admissibility of various questions and answers in a courtroom setting.

To get to something more specific, I do not know whether this is where the member was heading, but I understand the member's question was heading down the path of whether recorded statements help if a complainant changes their mind about wanting to proceed with the case. I think that was one of the member's concerns. Once a recorded statement has been created, it can be used as a complainant's evidence-in-chief if certain requirements are complied with. However, the complainant will still have to participate in cross-examination or re-examination. Prosecutors currently face cases in which a complainant is reluctant or refuses to give evidence. The existence of a recorded statement may assist the prosecutor when speaking to a reluctant complainant. A prosecutor will be able to explain to that complainant that they have already given their evidence-in-chief. This goes to what I was talking to before about the efficiency of giving evidence once and not having to repeat it. The prosecutor will also be able to explain that other witness assistance measures are available to assist a complainant when giving the remainder of their evidence. However, prosecutors must make very difficult decisions when faced with a reluctant complainant. Despite the existence of a recorded statement and the availability of other support measures, the complainant may still not want to participate in cross-examination. Whilst the prosecutor can insist upon the complainant attending court and giving evidence, there is a very real risk and real-world scenarios in which such a complainant will give evidence unfavourable to the prosecution in their cross-examination in any case. Whilst the availability of recorded statements may assist in a prosecutors' discussions with future complainants, they will not resolve the issue of a complainant who no longer wants to give evidence in every case. I will sit down in case the member has a more specific question as we discuss coercive control or something like that.

Hon Dr Brad Pettitt: I have a few questions on this theme that we can unpack. The purpose of this is not to vote against this in anyway. It is more to make sure that we are clear and get on the record the intent of some of these clauses. This question is about competence and consent. Clause 240(1) lays out the criteria the court must be satisfied with to admit the recorded statement. Clause 240(1)(c)(ii)&(iii) states:

> (ii) was competent to give sworn or unsworn evidence; and
>
> (iii) was capable of giving consent to the creation of the recorded statement;

An issue that has been raised with us is that there is no definition of "competent". Clause 23(1) states:

> (1) A person is not competent to give evidence about a fact if —
>
> … the person does not have capacity —
>
> (i) to understand a question about the fact; or
>
> (ii) to give an answer that can be understood to a question about the fact;

There is no indication whether a person who appears intoxicated or suffering from mental health concerns would be considered competent and or capable of giving consent. We are concerned that a complainant may agree to provide a recorded statement without fully grasping the consequences of doing so, especially if the statement is taken a short period after the incident. Furthermore, if a complainant provides a recorded statement while distressed, intoxicated or unwell, their recollection of events in a recording that can be admitted as evidence-in-chief may differ from the evidence they provide in cross-examination in court, and there is a danger that the complainant could appear to be lying or not credible if the information they provide at trial differs from the evidence recorded at the time when they were distressed, intoxicated or unwell. We are interested in understanding how these concerns might be dealt with.

Hon Dan Caddy: Courts are well placed to determine questions of competency and capacity. This is common. In fact, it is frequent; it happens in court all the time. This bill will not rely on the assessment of a person at the time of the statement to determine whether the complainant was in fact competent and consenting. Under clause 240, the court must be satisfied that the complainant consented and that they were competent to give sworn or unsworn evidence at the time the statement was created. The start of that answer is critical. The courts determine this. The bill assumes that every person is competent to give evidence. However, clause 23 provides:

> (1) A person is not competent … if —
>
> (a) for any reason (including a disability), the person does not have capacity —
>
> (i) to understand a question … or
>
> (ii) to give an answer that can be understood to a question about the fact; and
>
> (b) that incapacity cannot be overcome.

That lack of capacity does not have to be permanent. It may be just at the time and in the circumstances, they were not competent either because of a mental illness or because they were intoxicated. If doubt is raised about a person's competence or it is clear to the court that it may be an issue, then the court will conduct a preliminary examination to assess the witness's competence. A court will typically ask the witness a series of questions. The questions are tailored to the witnesses' circumstances. Courts also regularly decide questions relating to consent, for example, in criminal trials and proceedings relating to medical treatment.

The bill consequentially amends the *Criminal Procedure Act 2004* to provide for the matters that a police officer must tell a complainant before taking a recorded statement from them. These are that the statement may be used in evidence at a hearing, that the person may be required to give evidence in cross-examination or in further examination, and about the access that the accused will have to the statement if a proceeding is commenced. When considering whether a complainant consented to providing a statement, the court will consider a range of factors including whether the police officer told the complainant all these things. It is intended that the training for police officers will include training on trauma awareness and in determining whether the complainant is competent and consenting. In saying that, the final decision rests with the court.

Hon Dr Brad Pettitt: My next question is seeking some clarification around when a complainant does not wish to proceed. A statement recorded when a person is distressed or potentially intoxicated could require the complainant to appear at court as a witness. Our reading of it is that this provides no leeway for a complainant to decide later that they do not wish to proceed with a criminal complaint. The current practice is that a witness provides a written statement to police after the fact. It permits that a witness can decline to provide a statement. It also provides for police to follow up and explain the legal requirements for complainants and/or witnesses who provide statements, including that they are required to attend court and may be arrested for failing to do so. By recording a statement at the time of attendance, complainants may provide a statement of matters that ultimately they do not wish to proceed with in court. If the matter proceeds in court and the complainant fails to appear and fails to obey a witness summons, the court has powers to issue an arrest warrant under section 165, and even imprison a witness under schedule 4, of the Criminal Procedure Act. This serves to further traumatise family violence victim-survivors who may not wish to proceed under a criminal law system for a range of reasons. Can we have a response to those concerns, please?

Hon Dan Caddy: I guess the first thing to say, critically, is that this will not change the process; it is purely the method of recording the original statement that will change. A complainant will still have a conversation with an officer, and that process will be the same. It may happen immediately after the incident, as opposed to two weeks

later at a police station, but the means of recording it will be the same. The prosecutor will consider the complainant's wishes, once it gets past that stage, when deciding whether to apply the user-recorded statement as evidence-in-chief. In every case involving a vulnerable complainant, a prosecutor consults the complainant about whether they wish the case to proceed and what arrangements or assistance measures might make it possible for them to proceed. Complainants have a high degree of control over whether a case will proceed, which is appropriate given the complainant's central role and interest in the proceedings and the often intimate subject matter of the complaint.

Hon Dr Brad Pettitt: The parliamentary secretary said quite clearly that there is leeway for a complainant to decide later that they do not wish to proceed with a criminal complaint.

Hon Dan Caddy: If I am correct, the flip side of what the member is asking is whether the prosecutor can decide that they are going to go with the recording regardless. That has not changed. If someone gives a written statement at a police station and then decides they do not want to do it, prosecutors can still go with that written statement as well. It is the method of the initial statement being given that is in question here. As I said in my previous answer, if there is a reluctant complainant, it is highly unlikely that it is going to proceed. Although no case is guaranteed, it is almost guaranteed it is not going to work and not give the desired result if they go down that path.

Hon Dr Brad Pettitt: Obviously, the concern is that often people make a statement in a very distressed state very early on and that that is quite a different process from making a statement further down the track when things are calmer. I think the way that would trigger the potential for there to be no capacity for a complainant to decide not to proceed raises some concerns. It could be triggered right at the point when something has happened, and someone is intoxicated and under distress and they have not thought it through. That then leads through to a process. I just have some reservations in that space.

Hon Dan Caddy: I am just going explain the process here. Let us go back to written statements before we talk about this. If someone makes a written statement and they are not happy with it, they can review that written statement, amend it and make another written statement that then takes precedence. This also happens with a video recording. I think the heart of the member's question is that he is worried about a recording that happens five minutes after an act. If someone says something they then think is inaccurate or they do not want to have recorded, there is the opportunity to go down other paths to create the evidence-in-chief to take to court. Prosecutors—to put it in better language—already make these decisions in respect of complainants who have provided traditional written statements, allowing police officers to create recorded statements and for those statements to be admissible as the complainant's evidence-in-chief in certain circumstances. It is simply an additional measure that may assist prosecutors and, more importantly, may assist complainants because it is a one off, "I've said it; I've done it. I don't need to revisit my evidence-in-chief ever again."

Hon Dr Brad Pettitt: Great. I much appreciate that. I will push on. I am on the same clause. This question is around coercive control and false statements. If a complainant knowingly provides a statement that contains information that is false or that person does not believe is true, should they be guilty of a crime of up to seven years imprisonment? That is at clause 240(3). Complainants can be fearful that their partners may provide a false statement to police, especially in circumstances in which police record the statement immediately after an incident has occurred. This provision appears contrary to the government's commitment to support victim-survivors of family violence and coercive control. Hon Dan Caddy talked about that in the second reading speech. Considering that part 7, division 4, of the bill is directed at provisions for family violence complainants, has the government considered removing this provision and disallowing any powers of the court to issue arrest warrants for complainants in criminal proceedings in relation to family violence?

Hon Dan Caddy: No, is the short answer. The first part of the member's question was about coercive control to create false statements. It is already a case that when making a written statement, a complainant must sign to the effect that the statement is true to the best of their knowledge and belief, and there are significant consequences if they knowingly provide false information. Recorded statements change the mechanism by which this occurs, but they do not interfere with the usual requirements for evidence, including that it occurs under a form of oath. The risk exists for written statements, recorded statements and all evidence that is on the stand in court, and all of which have legal penalties for giving false details. All the mechanisms that are already in place will also apply to recorded statements.

Committee interrupted, pursuant to standing orders.

(Continued at a later stage of the sitting.)

QUESTIONS WITHOUT NOTICE

The President: Members, are there any questions?

CHILDREN IN CARE—*CHILD PROTECTION GUIDE*

689. Hon Nick Goiran to the minister representing the Minister for Child Protection:

I note that it is National Child Protection Week and refer to the *Child Protection Guide*, specifically section E.17, "Missing and unaccounted for children in care".

(1) Is the minister aware that under the subheading "When the child is located" it states that caseworkers should "Establish if the child was a victim of any crime while they were missing"?

(2) Noting that the guide was last updated on 18 June 2025, when was this specific requirement included?

(3) Further to (2), what was the genesis of its inclusion?

(4) What steps does the department take to confirm that caseworkers apply this requirement when children are located?

Hon Jackie Jarvis replied:

I thank the honourable member for some notice of the question. The following response has been provided by the Minister for Child Protection. The Department of Communities advises the following.

(1) Yes. This is longstanding practice guidance that has been in place to ensure that when children in care are located following a period of being uncontactable, child safety practitioners are consciously seeking to ensure they are safe and to provide relevant information to the WA Police Force to ensure their ongoing safety.

(2)–(3) This has been in practice guidance since early 2023 following the new memorandum of understanding with the WA Police Force, which led to a new procedure for assessing if children in care are missing or unaccounted for and taking the appropriate actions to ensure their safety.

(4) Any allegation of serious harm to a child in care is treated as a priority by the Department of Communities and investigated accordingly. When Communities is made aware of concerns raised while a child in care has been listed as "missing" or "unaccounted for, not in contact", appropriate services and supports are provided to the young person. Communities also engages regularly with WA Police Force regarding missing children. When children re-engage with Communities, the young person's caseworker will work with them to confirm their safety and wellbeing.

CHILDREN IN CARE—WHEREABOUTS UNKNOWN

690. Hon Nick Goiran to the minister representing the Minister for Child Protection:

I note that this is National Child Protection Week and refer to the information provided during the budget estimates hearing on 26 August 2025.

(1) Have the three children that the department reported to WA police as missing persons been found?

(2) Have the three children recorded as "unaccounted for, not in contact" been found?

(3) Are the whereabouts of the seven children recorded as "unaccounted for, in contact" now known?

(4) For how many days were the whereabouts of the 13 children unknown and have any reports been received of the children being victims of crime during this period?

(5) How many children who are in the care of the CEO have their whereabouts currently recorded as:

(a) unaccounted for, in contact;

(b) unaccounted for, not in contact; and

(c) missing?

Hon Jackie Jarvis replied:

I thank the Leader of the Opposition for some notice of the question. The following response has been provided by the Minister for Child Protection. The Department of Communities advises the following, as at 9 September 2025, the date the question was asked.

(1) The whereabouts of one young person is now known. One young person was located and is currently missing. One young person was located and is currently unaccounted for, not in contact.

(2) The whereabouts of one young person is now known. One young person was located and is currently unaccounted for, not in contact. One young person was located and is currently unaccounted for, in contact.

(3) The whereabouts of five of the seven young people are now known. Two of the young people remain unaccounted for, in contact.

(4) The period the 13 young people's whereabouts were unknown ranges between one day and 25 days. All reported or disclosed allegations or incidents relating to a child in care being a victim of crime are treated

as a priority and investigated accordingly. These matters are reported to the Department of Communities' senior leadership and the WA Police Force as appropriate. Communities will actively engage with the young person to ensure they have access to any counselling, services and supports they need for their safety and wellbeing.

(5) There are:

(a) five;

(b) seven; and

(c) four.

EDUCATION—HOMESCHOOLING

691. Hon Tjorn Sibma to the Leader of the House representing the Minister for Education:

I refer to homeschooling in Western Australia.

(1) How many homeschooling moderators are currently employed by the Department of Education?

(2) What was the ratio of homeschooling moderators to homeschooled students in WA as at the last time that ratio was calculated?

Hon Stephen Dawson replied:

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

(1) As at 27 August 2025, there are 35.60 FTE.

(2) The department does not allocate resourcing for home education on a ratio basis. However, as at 27 August 2025, there was a ratio of 211 students to one FTE. Upon registering to be a home educator, a parent assumes full responsibility for the planning and delivery of an appropriate learning program. The Department of Education performs a regulatory function only and is responsible for registering home educators and evaluating home education programs and student progress.

WESTERN POWER—BACKUP POWER—KALGOORLIE

692. Hon Dr Steve Thomas to the Leader of the House representing the Minister for Energy and Decarbonisation:

I refer to the former Minister for Energy's statement of 20 March 2024 on securing more backup energy for Kalgoorlie that procurement of more energy under non-co-optimised essential system services will be online to provide additional generation only by 2026.

(1) As at 1 September 2025, what is Western Power's procurement or construction deliverable status for up to 150 megawatts of reliable services and additional system strength services for the Goldfields?

(2) Specifically, when will the NCESS procured energy be available or online for the Goldfields and Kalgoorlie?

(3) What detailed and specific maintenance regimes has Western Power undertaken between November 2023 and September 2025 on Kalgoorlie's backup generators and will the minister table the maintenance schedule for that period and associated costs?

Hon Stephen Dawson replied:

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

(1)–(2) The NCESS is currently subject to commercial negotiations.

(3) Western Power does not undertake maintenance on Kalgoorlie's backup generators.

DATA CENTRES

693. Hon Steve Martin to the Minister for Science and Innovation:

I refer to the *Western Australia: The southern hemisphere's global hub for data centre operations* prospectus launched by the Minister for State Development and the Minister for Innovation and ICT in 2022.

(1) Since the launch of the prospectus, how many data centres have been constructed in WA?

(2) How many of those are currently operational?

Hon Stephen Dawson replied:

I thank the honourable member for some notice of the question. This answer is current as at 9 September, noting that some decisions have been announced since that time.

(1) Two have been constructed and one is under construction.

(2) Two are currently operational.

PERTH ENTERTAINMENT AND SPORTING PRECINCT

694. Hon Neil Thomson to the Leader of the House representing the Premier:

I refer to the so-called Perth entertainment and sporting precinct (PESP), often referred to by the people of Western Australia as "Rita's racetrack".

(1) Has the Premier or anyone in his office provided advice to any ministerial offices or government departments not to refer to any part of the PESP as a racetrack?

(2) If yes to (1), please provide the written advice.

(3) Is the Premier aware of any briefings or advice from departments that have been sent back to government agencies with the direction to censor the word "racetrack" from those documents?

(4) Has the Premier or his office contacted the federal member for Perth or his office to seek advice on his internal polling regarding the racetrack?

(5) Did the polling refer to any part of the project as a racetrack?

(6) Has the Premier or his office sought advice on the implications of the government reversing the decision on the racetrack?

Hon Stephen Dawson replied:

I note it was a very long question, but it is not a long answer. I thank the honourable member for some notice of the question. The following answer is provided on behalf of the Premier.

(1)–(6) The Perth entertainment and sporting precinct was a Cook Labor government election commitment and will deliver a dynamic multipurpose destination designed to enhance community engagement through sport, culture and entertainment.

POLICE—OPERATION REGIONAL INFLUENCE WA

695. Hon Julie Freeman to the minister representing the Minister for Police:

I refer to Operation Regional Influence WA and note that there is no budget allocation for the program this year or in the out years.

(1) Is it the case that the program has concluded or will conclude this year?

(2) Of the resourcing required for the additional 140 regional patrols, where has this resourcing been allocated or will be allocated?

(3) If the program has ended, what measures are in place to ensure that its road safety objectives, particularly in relation to regional coverage, are maintained going forward?

Hon Samantha Rowe replied:

On behalf of the Minister for the Environment, I thank the honourable member for some notice of the question and provide the following answer on behalf of the Minister for Police.

(1)–(3) After the 2024 road safety summit, $32.5 million was committed to fund several road policing initiatives, including Operation Regional Influence. ORI is focused on enhancing road safety through increased road policing enforcement efforts, including the deployment of high-visibility highway patrols across regional roads. Deployments are ongoing.

SCOTT RIVER WIND FARM

696. Hon Rod Caddies to the Leader of the House representing the Minister for Energy and Decarbonisation:

I refer to community concerns about Synergy's Scott River wind farm feasibility assessment.

(1) How many bore holes have been drilled for acid sulphate soils exploration?

(2) Will the industrial nature of the wind farm risk organic certification for nearby cattle farms and, if so, will affected WA farmers be compensated if they are no longer able to be organically certified?

(3) Can the minister confirm the project noise levels from the proposed 250-metre-tall turbines will result in constant and audible sound to be heard by Augusta residents?

Hon Stephen Dawson replied:

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

(1) It is three.

(2)–(3) No.

HMAS *STIRLING*—AUKUS INFRASTRUCTURE

697. Hon Dr Brian Walker to the parliamentary secretary representing the Minister for Transport:

I refer the Deputy Premier in her role as Minister for Transport to the announcement made in December 2024 that the Albanese and Cook Labor governments would undertake a series of infrastructure and transport studies to inform future access to HMAS *Stirling* in light of AUKUS. As we approach the 10-month mark, I ask:

(1) Has the promised study into roads, infrastructure and local transport commenced?

(2) If no to (1), what, if any, hold-ups have delayed it and when is the study expected to commence?

(3) When can we expect to see a report outlining the government's commitments and plans in this space?

Hon Samantha Rowe replied:

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

(1)–(3) Work has commenced and is ongoing.

STATE DEVELOPMENT BILL—JURISDICTIONAL MODELLING

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

I refer to the government's upcoming bill, the State Development Bill 2025, which the Premier announced yesterday.

(1) Is it modelled on the Northern Territory's Territory Coordinator Bill 2025 in any way and, if so, in what way?

(2) Is it modelled on South Australia's State Development Coordination and Facilitation Bill 2025 in any way and, if so, in what way?

(3) Has there been correspondence with the Northern Territory or South Australian governments about the content of the bill and, if so, can the correspondence please be tabled?

Hon Stephen Dawson replied:

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

(1) No. There are elements similar to the *Territory Coordinator Act 2025* but it has been designed to complement WA's unique regulatory framework.

(2) No. There are elements similar to the *State Development Coordination and Facilitation Act 2025* but it has been designed to complement WA's unique regulatory framework.

(3) No.

STATE DEVELOPMENT BILL—ENERGY TRANSITION PROJECTS

699. Hon Sophie McNeill to the Leader of the House representing the Premier:

I refer to the State Development Bill 2025 introduced into the other place yesterday. I note that the bill does not define "green" or "clean" energy projects. I note that the Premier claimed in the media that this bill is needed to fast-track the green transition.

(1) How will the State Development Coordinator General determine what is a "green'" or a "clean" energy project?

(2) If a project includes building new gas infrastructure or it is powered by fossil gas, will it be eligible to be fast-tracked under this bill?

(3) Does the government classify the Kwinana neo-smelt project, which is powered by fossil gas and uses fossil gas in the initial production phase, as a green energy project?

(4) Can the government rule out fast-tracking the approval of new LNG projects or extensions under this bill?

The President: Before I give the call to the Leader of the House, honourable member, that question is very long and contravenes our standing orders. It is within my capacity to rule the question out of order. I will this time, however, seek to clarify whether the Leader of the House has an answer, but remind you to consider your questions lengths as you submit them.

Hon Stephen Dawson replied:

Thanks, President. Thank you for your guidance, and I promise it is a short answer. This answer is provided on behalf of the Premier.

(1)–(4) The criteria for designating a priority project are set out in clause 30(2) of the bill. The Coordinator General will assess each project on a case-by-case basis as to whether it will be recommended for designation.

TREEBATE PROGRAM

700. Hon Dr Brad Pettitt to the Minister for the Environment:

I refer to the WA government's Treebate program. Please provide the following information up to the 31 August 2025 and to date if available.

(1) How may applications for tree rebates have been received?

(2) How many applications for tree rebates have been rejected?

(3) How many applications for tree rebates are waiting to be processed?

(4) How many tree rebates have been paid?

Hon Samantha Rowe replied:

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

(1) As of 31 August 2025, there had been 2,620 applications for tree rebates received. As of 10 September 2025, there have been 3,143 applications for tree rebates received.

(2) As of 31 August 2025, 260 applications for tree rebates were declined. As of 10 September 2025, 305 applications for tree rebates were declined.

(3) As of 31 August 2025, 62 applications for tree rebates were waiting to be processed. As of 10 September, 50 applications for tree rebates were waiting to be processed.

(4) As of 31 August 2025, 1,894 tree rebates had been paid. A further 404 applications had been approved and were paid on Tuesday 2 September 2025. As of 10 September 2025, 2,288 tree rebates had been paid. A further 500 applications had been approved and will be paid on Tuesday 16 September 2025. I note that payments are processed on a weekly payment cycle.

STATE DEVELOPMENT BILL 2025

701. Hon Jess Beckerling to the Leader of the House representing the Premier:

I refer to the State Development Bill 2025, which was introduced into the other place yesterday.

(1) What process will be in place to determine who is appointed to the role of Coordinator General and will there be any precluding factors?

(2) How will the government determine the most significant precincts and opportunities to which the Coordinator General's role will apply?

(3) Will any limits be placed on the type or number of priority projects?

(4) Which decision-making authorities can joint decision notices be issued to?

(5) Can the government provide a list of consulted stakeholders for this bill?

Hon Stephen Dawson replied:

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

(1) The Coordinator General will be appointed the Governor. No precluding factors are set out in the bill.

(2) Any designation will be guided by the objects of the bill and the criteria set out in clause 30(2)(b).

(3) There are no limits specified in the bill.

(4) Any decision-making authority related to a designated act is set out in schedule 1. The Environmental Protection Authority, Western Australian Planning Commission and Heritage Council of Western Australia cannot be issued with a joint decision notice.

(5) This government has consulted extensively with industry and communities following the initial Vogel–McFerran review. Consultation on the first draft was internal to government due to the time-sensitive nature of the opportunities on which it seeks to capitalise.

GREYHOUNDS—REHOMING

702. Hon Amanda Dorn to the minister representing the Minister for Racing and Gaming:

I refer the minister to the WESTCHASE incentive scheme and his previous answer that "There are no current plans to review" the scheme.

(1) What safeguards exist to ensure that all greyhounds bred under the scheme are rehomed given that 220 pups were whelped and only 126 rehomed by Greyhounds as Pets Western Australia in the same period?

(2) Is it ethical for a wagering-funded scheme to reward breeding when rehoming capacity is clearly limited?

(3) Will the minister table any welfare impact assessments or risk analysis used to justify the scheme's continuation?

Hon Samantha Rowe replied:

I thank the honourable member for some notice of the question and provide the following answer on behalf of the minister representing the Minister for Racing and Gaming.

(1)–(2) The Department of Local Government, Industry Regulation and Safety advises that the breeding of greyhounds is regulated under the rules of greyhound racing, which include the education and licensing of breeders, limits to the number of litters that can be whelped, mandatory veterinary health assessments and an approval process for intended matings. These regulatory measures are designed to ensure that all breeding activities are responsible and sustainable.

(3) No.

DEPARTMENT OF PRIMARY INDUSTRIES AND REGIONAL DEVELOPMENT AND GROWER GROUP ALLIANCE

703. Hon Rob Horstman to the Minister for Agriculture and Food:

I refer to comments made by the minister's spokesperson to the media last week that the requested report into the Grower Group Alliance and Department of Primary Industry and Regional Development collaboration would be tabled once Parliament returned. Where is the report?

Hon Jackie Jarvis replied:

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

I refer to my answer to question without notice 568 on 19 August 2025 in which I asked the honourable member to place the question on notice to allow time to seek permission from the Grower Group Alliance, noting that the review document was marked confidential and contained commercially sensitive information. That permission has now been received, and I table the document.

(See paper 494.)

HOUSING—FRASER SUITES

704. Hon Simon Ehrenfeld to the parliamentary secretary representing the Minister for Housing and Works:

I refer to the government's acquisition of the Fraser Suites tower in East Perth.

What is the expected timing—pardon me, Madam President. Do you want me to read the number to each—

The President: You need to read out the question as you have submitted it. Honourable member, would you like me to come back to you while you sort it out?

Hon Simon Ehrenfeld: Is that possible? Something has happened with the printer, I am sorry.

The President: I can absolutely do that.

SIR CHARLES GAIRDNER HOSPITAL—RADIOACTIVE LEAKAGE

705. Hon Phil Twiss to the parliamentary secretary representing the Minister for Health Infrastructure:

I refer to the memorandum tabled providing an additional response to question without notice 507, asked by Hon Nick Goiran.

Work orders included reported radioactive leak in the Sir Charles Gairdner Hospital G-block sub-basement, which the memorandum advised was later found to be non-hazardous. I thank the member for the documents.

(1) What testing was done to confirm the radiation levels were non-hazardous and below notifiable incident levels?

(2) Were records of the above testing kept and reported as part of routine compliance reporting, as required under the Australian Radiation Protection and Nuclear Safety Agency guidelines?

(3) If they were not, does Sir Charles Gairdner have special licence conditions that exempt it from reporting any other incident as per the ARPNSA-GDE-1741 regulatory reporting compliance guide?

(4) If yes to (2), can the minister table the radiation test reports?

Hon Dr Katrina Stratton replied:

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

(1) Radiation safety in WA is governed by the Radiation Safety Act 1975 and its regulations. As previously advised, a nuclear physicist in medicine confirmed there was no issue before remedial works were undertaken.

(2) The Department of Health advises that the event was not reportable under the Australian Radiation Protection and Nuclear Safety Agency guidelines.

(3)–(4) Not applicable.

The President: Before I give the call to Hon Anthony Spagnolo, I understand you are going to ask a question on behalf of a member who is present. Standing order 57 allows other members to ask questions on behalf of their colleague. Usually the member is not in the chamber. On this occasion there is a previous ruling that allows, if the member is unable to ask that question for health reasons, they may ask another member to do so. In light of that, I give the call to Hon Anthony Spagnolo.

SECONDARY FAMILY SUPPORT SERVICES

706. Hon Anthony Spagnolo to the Minister for Community Services:

I ask this question on behalf of Hon Michelle Boylan, although I cannot promise to ask it as eloquently as she would have done it.

I refer to the Department of Communities' redesign and commissioning of secondary family support services across Western Australia, specifically services to prevent children and young people from being in need of care and protection.

(1) How many service providers are currently funded under this program?

(2) What is the annual funding allocation?

(3) Why have the outcomes of the 2023 review of services receiving this funding not been released, and when will they be?

Hon Samantha Rowe replied:

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

(1) Secondary family support services are to provide families and children with a range of support services and do not require a child protection concern for referral. Eleven service providers are contracted to deliver secondary family support services, which include support to families and children through a range of services such as counselling, case management, information, parenting programs and other supports.

(2) The total funding for secondary family support services in the 2025–26 financial year is $4,185,076.39.

(3) As the review is informing a current process, this information will not be publicly released at this stage.

PERTH CHILDREN'S HOSPITAL—WATER TESTING

707. Hon Anthony Spagnolo to the parliamentary secretary representing the Minister for Health:

I refer to the 16 positive lead test results at Perth Children's Hospital identified in 2023, 2024 and, more recently, in 2025.

(1) On what dates were the tests undertaken that revealed these results?

(2) Who was advised of the findings and when were they advised?

(3) For each of the 16 results, what were the lead levels detected and in which locations were they detected?

(4) Which locations have been decommissioned as a result?

Hon Pierre Yang replied:

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

(1)–(4) The Chief Health Officer has reviewed the most recent results and has advised that there is no risk to the safety of patients or staff. The Chief Health Officer has advised that he has confidence in the testing regime at Perth Children's Hospital and that exceedances are typically isolated to specific outlets or fixtures and do not impact the broader water system. As per the PCH facility water safety plan and other operational matters, when an exceedance is detected, notifications are made within the Child and Adolescent Health Service to the relevant areas and escalated as required. CAHS notified the Department of Health as a result. Remediation work was taken immediately by CAHS where issues were identified.

I seek leave to table the rest of the answer, which is in tabular form.

The President: Can I just be clear: Are you tabling the document or are you seeking leave to have the table included in *Hansard*?

Hon Pierre Yang: I table the document.

(Leave granted.)

(See paper 495.)

HOUSING—FRASER SUITES TOWER

708. Hon Simon Ehrenfeld to the parliamentary secretary representing the Minister for Housing and Works:

I apologise for the printer error earlier.

I refer to the government's acquisition of the Fraser Suites tower in East Perth.

(1) What is the expected timing and cost of the planned refit to convert the building into individual apartment dwellings?

(2) Will any emphasis or consideration be placed on river or city views when determining which apartments are allocated for social housing and which apartments are offered to the rental market as affordable housing?

(3) Has the government assessed the effect on property values that this project will have on existing properties in the immediate area?

(4) What strategies will the government implement to avoid replicating the antisocial behaviour that has taken place in its social housing investment at 157 Ninth Avenue, Inglewood?

Hon Dr Katrina Stratton replied:

I thank the member for some notice of the question. The following has been provided to me by the Minister for Housing and Works.

(1) Subject to development application approval, works to progress the transition of Queens Riverside QIV into long-term housing will be tendered in packages and are expected to be completed by mid-2026.

(2) The community housing provider will be responsible for tenant allocation.

(3) According to realestate.com, over the past 12 months, East Perth has seen an annual compound growth rate of 9.8% for houses and 10.9% for units.

(4) The community housing provider will provide both onsite property and tenancy management services for the complex.

INFORMATION COMMISSIONER—FREEDOM OF INFORMATION APPLICATIONS

709. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the Office of the Information Commissioner.

(1) Is the Attorney General aware of the number of freedom of information external review applications that are presently backlogged in the office?

(2) If yes to (1):

(a) what is the current number of applications yet to be finalised;

(b) what is the age of the oldest application; and

(c) what is the median age of the applications?

(3) If no to (1), will the minister undertake to ascertain this information and provide it to Parliament during the September sittings?

Hon Dan Caddy replied:

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

(1) Yes.

(2) As at 31 August 2025, it was:

(a) 214;

(b) 1,539 days; and

(c) 274 days.

(3) Not applicable.

VOCATIONAL EDUCATION AND TRAINING

710. Hon Tjorn Sibma to the Leader of the House representing the Minister for Skills and TAFE:

I refer to the minister's decision to designate 185 TAFE courses as so-called low-fee courses.

(1) What specific advice has the Department of Training and Workforce Development provided to the minister and/or her predecessor that supports this decision?

(2) Does this advice include information on the appropriate price point for each course?

(3) Will the minister please table this advice?

Hon Stephen Dawson replied:

I thank the honourable member for some notice of the question. The following answer is provided on behalf of the Minister for Skills and TAFE. An answer cannot be provided in the time available. I request the honourable member place this question on notice.

WATER CORPORATION—PINE PLANTATIONS

711. Hon Dr Steve Thomas to the Leader of the House representing the Minister for Water:

I refer to the purchase and lease of property by the Water Corporation for the purpose of growing pine plantations.

(1) Does the Water Corporation pay local government rates for the land that it:

(a) purchases for the growing of pine trees; or

(b) leases for the growing of pine trees?

(2) If yes to (1), why does the Water Corporation pay shire rates if the Forest Products Commission does not?

(3) Is the Water Corporation paying shire rates voluntarily or because it does not have an escape clause like the Forest Products Commission has under the *Forest Products Act 2000*?

Hon Stephen Dawson replied:

I thank the honourable member for some notice of the question. This is the Thursday I have been waiting for!

(1)–(a) Water Corporation pays amounts equal to local government rates and charges in lieu of local government rates on the properties it owns. This payment is made directly to RevenueWA. It was previously the State Treasury.

(1)–(b) Water Corporation does not lease land for the purpose of growing pine trees.

(2) Water Corporation obligations for payments in lieu of local government rates falls within section 151 of the Government Trading Enterprises Act 2023.

(3) Under section 151 of the *Government Trading Enterprises Act 2023*, Water Corporation is obligated to provide payments in lieu of local government rates.

FREMANTLE TRAFFIC BRIDGE—CLOSURE

712. Hon Steve Martin to the parliamentary secretary representing the Minister for Transport:

I refer to the minister's answer in relation to the Fremantle Traffic Bridge provided on 10 September.

(1) In what years were the figures of 23,000 average weekday vehicle crossings for Fremantle Traffic Bridge and 38,000 for Stirling Bridge captured?

(2) What is Main Roads Western Australia's assessment of the functional weekday crossing capacity of the Stirling traffic bridge?

(3) Has Main Roads set a target or goal for reducing the current combined 61,000 vehicle crossings by diverting to train services, and, if so, what is it?

(4) Has Main Roads investigated local willingness to divert to train services and if so, what are the results so far?

Hon Samantha Rowe replied:

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

(1)–(4) The project team is working with transport portfolio partners to finalise a range of measures to reduce demand on the road network, particularly during morning and afternoon peak hours. A community survey undertaken by the Department of Transport and Major Infrastructure earlier this year indicated that approximately one-third of respondents would be interested in changing their mode of transport to train or bus during the bridge closure period.

LANDGATE OFFICES—SALE

713. Hon Neil Thomson to the parliamentary secretary representing the Minister for Planning and Lands:

I refer to the problem and opportunity statement for the Landgate building, MLPP0515, as part of the market-led proposal process in March 2022.

(1) Has there been a financial evaluation of the outcomes now the project is completed?

(2) If yes, can that be tabled?

(3) What date was the government tenancy fully occupied?

(4) What rents have been paid by the state so far?

(5) What is the current government rental rate per square metre?

(6) What was the value of the owner's renovations attributable to the government tenancy?

Hon Dr Katrina Stratton replied:

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

(1)–(2) This should be referred to the relevant agency.

(3) On 4 August 2025.

(4) The centre node lease commenced from 11 August 2024 and north node commenced from 12 June 2025. The current rent is $414.49 per square metre.

(5) It is $414.49 per square metre.

(6) Over $80 million has been invested in the building by the owner Georgiou.

DRIVER RESTRICTIONS—P-PLATE—"TOM'S LAW"

714. Hon Julie Freeman to the minister representing the Minister Assisting the Minister for Transport:

I refer to my question without notice 667 asked on 10 September and the answer indicating that the Department of Transport and Major Infrastructure is conducting a review of the graduated licensing system.

(1) On what date did the review commence?

(2) What is the expected timeline for the completion of the review?

(3) Will the findings of the review be made public?

(4) Which stakeholders are being consulted as part of the review?

Hon Jackie Jarvis replied:

I thank the honourable member for some notice of the question. The following response has been provided by the Minister Assisting the Minister for Transport.

(1)–(4) On 31 January 2025, the Cook government announced that the then Department of Transport would lead a review of Western Australia's graduated licensing system responding to a recommendation from the Road Safety Roundtable held in late 2024.

As part of this work, the Department of Transport established a reference panel comprising members from the Department of Education, the University of Western Australia Western Australian Centre for Road Safety Research, the Road Safety Commission, the Western Australian Local Government Association, the Western Australia Police Force and RAC WA. A discussion paper will be released for public consultation this year.

QUESTIONS WITHOUT NOTICE

Statement

The President (Hon Alanna Clohesy) (5:04 pm): Before we return to orders of the day, I have a statement about question time. To progress towards more proportional equality of opportunities to ask questions without notice, starting from next Tuesday, I will change where I look for members seeking the call during questions without notice. I will make my way around the chamber in the usual manner in the first instance. Following that, I will look to the following groups for questions in the following order: the opposition for three questions, followed by a question for the Greens and then the crossbench. After that, I will start that cycle again. I will keep a record of these opportunities to ensure an equitable distribution over time.

This is also an opportunity for me to give all members a timely reminder of standing orders 105 and 106. Concise questions and answers will provide more opportunities for questions during the time allocated to questions without notice each day.

EVIDENCE BILL 2025

Committee of the whole

Resumed from an earlier stage of the sitting. The Chair of Committees (Hon Steve Martin) in the chair; Hon Dan Caddy (Parliamentary Secretary) in charge of the bill.

Clause 240: Recorded statement admissible as evidence in chief

Committee was interrupted after the clause had been partly considered.

Hon Dan Caddy: The member asked a question just before we suspended for question time. I will seek to answer that, and I hope it is the right question. The member was asking about disallowing the court from issuing arrest warrants, I think, for complaints in criminal proceedings in relation to family and domestic violence, and the answer is short. All I will say is this is a much broader issue of criminal procedure that was not canvassed during the creation of the bill. Changes to these mechanisms would require very broad consultation.

Hon Dr Brad Pettitt: I have a couple of other follow-up questions on this. Before the break, we were also talking about coercive control and false statements under proposed section 240(3). Given that a complainant who knowingly provides a false statement to police is liable to seven years imprisonment, a concern has been raised with us that this does not seem to take into account any pressures that the complainant may be under to provide a false statement due to coercive control or the like. Why is that the case, and how can that be managed?

Hon Dan Caddy: I am not sure I have an answer that is going to satisfy the member. We are here talking about the Evidence Bill. The scenario the member is talking about falls under criminal law. I say this by way of example: there may be a defence there—the defence of duress, for example—but, essentially, we are here today interrogating the Evidence Bill. That is a criminal law matter.

Hon Dr Brad Pettitt: I will read from page 193 of the bill. This is my point: it is in this bill. It is not a criminal law matter. I will read it out:

> (3) A person who, in a recorded statement that is tendered in evidence, makes a declaration to the effect of subsection (2) and includes anything in the statement that the person knows is false or that the person does not believe is true, commits a crime.
>
> Penalty for this subsection: imprisonment for 7 years.

So it is explicitly in this bill.

Hon Dan Caddy: The member is going to the case where someone gives a false statement and then, despite the fact that they were coerced into giving that statement, they get charged and convicted. The short answer is it is basically a matter for the prosecutorial team. If the person later says that they were coerced into giving their statement—and I say this not being a prosecutor—it is unlikely that they will then be prosecuted. If they are prosecuted and charged, it would be for the sentencing judge to decide what happens. The member is starting to go down a path. Yes, that is in here, but it is highly unlikely that anyone will get to that final stage.

Hon Dr Brad Pettitt: The reason I raise it is that it sits explicitly in this clause 240, "Recorded statement admissible as evidence in chief". Again, these are concerns that have been raised with us. Tell me whether I have got this right. We have a system, which I appreciate the parliamentary secretary described as efficient, of people giving evidence immediately after an incident, which is recorded. The issue that arises is that when evidence is

given in that way, do there need to be more checks and balances? As we have said before, the person may be intoxicated, feeling under duress in some way or be at the height of anxiety at that moment. We were looking for some comfort and explanation about why clause 240 specifically talks about a prison sentence but does not talk about acknowledging that coercive control may come into play. I am trying to understand why that has not been dealt with directly.

Hon Dan Caddy: Sorry, I was not very clear last time. This aspect of the law is unchanged. Even without this bill happening, if someone goes to a police station and gives a statement that they are coerced into giving and it is a false statement, they can be charged under the current law. Here we are changing the method through which evidence in chief may be recorded. What flows from that is that what happens if they give a false statement, regardless of whether there is coercive control at play or not, is completely unchanged.

Hon Dr Brad Pettitt: Just for clarity, is the parliamentary secretary saying that the penalty written in clause 240(3) for seven years imprisonment exists in law in another place?

Hon Dan Caddy: The short answer is yes. The *Criminal Procedure Act 2004*, schedule 3, clause 4(8), states:

> If the maker of a statement that is tendered in evidence under this clause wilfully includes anything in it that he or she knows is false or that he or she does not believe is true, he or she is guilty of a crime and is liable to imprisonment for 7 years

Hon Dr Brad Pettitt: I have a couple of quick questions on clause 240(1)(e)(i) about whether a police officer is qualified to create the recorded statement. What would the lowest rank be considered to be qualified? What training will police officers be required to undertake? How much of this training will specifically relate to family and domestic violence, especially in First Nations communities, and how much will relate to culturally safe communications with First Nations people, including historical and current negative experiences that they might have experienced with colonialism and/or policing? The context of this question is because I note the rise of incidents whereby First Nations women are misidentified as FDV perpetrators by police. What training will police receive in relation to that?

Hon Dan Caddy: Member, the details will be in the regulations, and they will be settled during the implementation period, but I will give the member some more information and advice that I have been given, which has come from the Western Australia Police Force. At this stage, it is likely that the regulations containing requirements for police officers who will be permitted to take recorded statements will be similar to the regulations for officers who are permitted to conduct recorded interviews with children; that is, they are likely to contain requirements that the interviewer is employed by the WA Police Force and has undergone approved training. The detail of the required training is likely to be different obviously due to the different skills and knowledge required to interview children compared with family and domestic violence victims, but it is at that same sort of level of training. For example, a person interviewing a child requires special knowledge on topics, such as child psychology, that are beyond the skills and knowledge that police officers would typically require to interview an adult witness. Officers who interview family violence victims will need to have specific knowledge about issues, such as the cycle of violence and trauma responses. It is likely that WA Police Force policies and procedures will stipulate training requirements that will need to be met for an officer to take recorded statements. I am advised that WAPOL has indicated that—to go to the start of the member's question about rank and everything else—

The Deputy Chair (Hon Steve Martin): Sorry, member. Noting the time I am required to report progress.

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

EXMOUTH GULF MARINE PARK

Statement

Hon Sophie McNeill (5:21 pm): I rise tonight to make a contribution about the Exmouth Gulf. The Greens welcome this long-awaited announcement from the Cook Labor government to establish a new marine park spanning the entire Exmouth Gulf, which is home to threatened species and unique fauna found nowhere else in the world, including threatened sawfish, dugongs, humpback whales, bottlenose dolphins and 11 species of sea snake. This marine park is a massive win for the community both in Perth and Exmouth, who have spent years campaigning to protect this precious marine ecosystem. In particular, I would like to recognise the years of tireless research and advocacy by the Australian Marine Conservation Society (AMCS), the Cape Conservation Group and marine ecologist Dr Ben Fitzpatrick. We are talking about countless reports, dozens of submissions and thousands of campaign meetings and gatherings. So much hard work has gone into achieving these results. I would also like to congratulate the Nganhurra Thanardi Garrbu Aboriginal Corporation and the traditional owners, the Bayungu, Thalanyjj and the Yinigugurura peoples as they celebrate this new marine park on their country. Thank you for your tireless advocacy.

This morning, Hon Matthew Swinbourn noted the extra $5 million that the government announced last week for the marine heatwave response. It is fantastic to see that the government has listened to the Greens and has now

allocated this extra $5 million to respond to this devastating marine heatwave. Previous questioning from the Greens in this place during question time and budget estimates revealed that so far only $65,000 and an extra 0.14 FTE had been allocated to the marine heatwave response. I heard firsthand from the department about how this lack of resourcing and funding was hindering its ability to respond to the full impacts of this devastating event and monitor it fully. Although this new funding is nowhere near enough, it is a good start to build on and it is welcomed.

The key point that I make this evening is that although we love marine parks here at the Greens and the critical protections that they provide, unfortunately, marine parks do not protect our beautiful oceans, stunning corals, or endangered marine life from the impacts of the climate emergency and our warming oceans. A marine park did not stop the coral at the beautiful World Heritage–listed Ningaloo Reef from bleaching and dying. A marine park did not stop 90% of the coral at the stunning Rowley Shoals from dying. This Exmouth Gulf Marine Park will happen in a place where 50% of the seagrass died earlier this year because of the marine heatwave. This is what dugongs in the Exmouth Gulf, in this new marine park, eat. But 50% of what they eat has now died and it is not clear to the scientists who I talked to what impact this will have on those magnificent creatures. I note that the honourable minister's statement this morning stated, "As the WA coral coast recovers", but the thing is, the coral coasts will not be able to recover if marine heatwaves keep happening at the rate that we have been having them.

The coral cannot recover if the ocean continues to keep warming, as predicted if we do not transition away from fossil fuels. It is very clear that we simply cannot afford any new gas projects and the warming ocean temperatures that come with them. The Exmouth Gulf and our stunning Coral Coast will continue to be at risk if the Cook Labor government does not urgently take climate action and stop pushing for massive new fossil fuel projects. The Coral Coast will continue to be at risk if this Labor government allows Western Australia to remain the only state in Australia with rising emissions, the only state without a 2030 emissions reduction target and the only state without a renewable energy target. Our oceans are in crisis and the only way we can protect them is with urgent climate action now. Thank you, President.

FINANCE WORKERS—JOB CUTS

Statement

Hon Klasey Hirst (5:25 pm): I rise today and also on behalf of my colleague in the other place the member for Maylands, Dan Bull, to speak about the tidal wave of job cuts sweeping through the banking sector and to stand in solidarity with our former colleagues at the ANZ and with finance workers right across the industry. I refer, of course, to the news this week that ANZ will cut 3,500 jobs plus 1,000 contractors by September next year. Let me say that again: it is 3,500 permanent roles, which works out to be over 8% of its workforce. Wendy Streets, president of the Finance Sector Union said:

> This is out of control—it's not strategy, it's unhinged …

When the union asked who will do the work of those 3,500 sacked staff, ANZ has no answer except to say that the work would simply stop. As the FSU put it, "That's not a plan; that's chaos", and that chaos is evident. Just two weeks ago, hundreds of ANZ staff were mistakenly sent an automated email telling them that they were being made redundant before they had been formally told. Psychologists had to be brought in to help deal with the fallout. The union called it a disgusting way for workers to learn about job cuts, blaming the chaotic pace of change being forced through, and we could not agree more. Earlier this year, ANZ staff were told to return to the office at least 50% of the time or risk losing up to half of their variable pay. We have also heard on the ground that apparently ANZ is actively tracking staff movements in and out of buildings through their passes. While this may sound minor, it creates unnecessary stress and anxiety. It is common for more than one person to enter at a time without swiping, and no professional wants to feel like Big Brother is watching them at work.

These are skilled and experienced employees and it is demeaning and corrosive to culture at a time when support and trust is what is needed most. Furthermore, ANZ has already initiated a McKinsey review of senior management reporting lines and risk, alongside a hiring freeze that has been in place since early July through to the end of this financial year. These job cuts have been announced before the review is completed, which could suggest that the intended outcome may have been determined in advance. It feels cynical and as though the review is less about assessing options and more about providing a veneer of process.

But the job cuts are happening at not just ANZ. The Bank of Queensland last week announced that it will cut 200 jobs and offshore half its contact centre. NAB announced yesterday that it will cut around 400 roles in its technology and enterprise operations, and just this morning, Bendigo Bank confirmed that nearly 160 jobs will go. Westpac has also foreshadowed more than 1,500 redundancies under its UNITE program in what could be the largest reduction in a decade. The FSU's national secretary Julia Angrisano said:

> Bendigo and BOQ like to market themselves as different, but they're following the same playbook as the big banks.
>
> Workers are being blindsided, jobs are being offshored and customers are left with poor service.

In less than two weeks, announcements have been made affecting over 5,700 banking jobs across Australia. This is happening while the banks are posting enormous profits. ANZ alone has recorded a $7 billion profit this year. NAB and Westpac have also reported multibillion dollar results. Yet it is the staff in the background—the people who maintain the systems, provide specialist support and make sure the front line can actually deliver the services customers expect, who sadly do not always receive—who are being cast aside. We know banking has changed. More people are banking online and on their phones.

In WA we saw Bankwest shut its doors earlier this year and become online only. I remember when Bankwest was a trusted local name with a strong branch network across our suburbs and regions. To see it disappear from our streets was sad. Other banks too have steadily withdrawn their presence, particularly in regional towns, but also in our suburbs. Good luck finding an ATM! During my time in Kalgoorlie I saw the impact when branches closed in places like Norseman, Southern Cross and Kambalda. My electorate now has customers ranging from Bruce Rock to Mukinbudin and Wiluna and even out to the state border who were suddenly forced to drive hundreds, and in some cases thousands, of kilometres on a round trip just to visit their bank. For the staff at those branches it meant the end of jobs and livelihoods in communities that could least afford to lose them. That is why it matters that we keep jobs in WA. Banking sector jobs are not just numbers on a spreadsheet; they are people who understand our local communities and our customers. Offshoring and centralisation strip away knowledge and leave customers worse off. Once those skills and roles leave WA, they are very hard to get back.

These branch closures are the most visible sign of change, but behind the scenes, there have also been steady job losses in support and technology roles for years. The scale of these losses is different now; it is unprecedented. Although digital services work for some, there are times when you simply cannot do without speaking to another person. As I outlined earlier today, anyone who has ever had to deal with a deceased estate will know how important it is to have a real in-person conversation and assistance with compassion. The same is true for complex lending or financial hardship. That is why financial literacy, which I have spoken about before, matters so much. The system itself is becoming harder to navigate just as the people who help navigate it are being cut away. We have seen this before with how the banks are trying to erode conditions. During my time at ANZ the bank put forward an enterprise agreement that would have stripped away hard-won rights. It tried to remove district allowances and an additional week of leave that recognised the extra costs and times faced by regional staff. It also pushed for flexi part-time arrangements, under which staff were guaranteed only 20 hours a fortnight but could be rostered for full-time hours at very short notice. Staff had no say. They had to be available at all times and were only told their hours in the immediately preceding week. We overwhelmingly said no. That collective strength, standing together with the Finance Sector Union (FSU), protected those entitlements and showed that when workers unite, they can stop even one of the Big Four banks from taking away our rights. I want to acknowledge the excellent work of the FSU today. Its advocacy, insistence on transparency and fairness, and the way it listens to affected workers, makes a difference. The finance workers need that voice now more than ever.

To our former colleagues at ANZ and the workers at NAB, the Bendigo Bank, the Bank of Queensland and Westpac and everyone working in the finance sector who is worried about their job, their future and their family: we see you, we remember you and we stand with you. This is a moment for the banks to show leadership by owning up to the consequences, by committing to real support, redeployment, retraining, recognition of years of service and skill, even if a qualification is not formal, and by treating people with dignity. At the end of the day, we should judge a banking institution not just by its profits or share price but by how it treats the people in times of change. Right now too many of those people are being treated as disposable. Thank you.

GERALDTON BUCCANEERS

Statement

Hon Rob Horstman (5:34 pm): I rise this evening to share some good news from the Mid West on the sporting front. On 23 August, the Geraldton Buccaneers were successful in claiming the NBL1 West championship. The NBL1 is one of Australia's semi-professional sporting leagues, with both men's and women's teams all over country and city metropolitan Australia, and they compete in five different leagues around the country. The Buccaneers took out the men's championship in a nailbiting 81–78 victory, playing against the Warwick Senators at the RAC Arena in front of 6,100 fans, with 700 of them making the 430 kilometre trip down to Perth to support their beloved Bucks. The victory gave their Buccaneers an opportunity to compete in the NBL1 national finals, and after a very gallant run which saw them beat teams from Adelaide and Victoria—it is always good to beat any sporting team from Victoria—they could not quite get it done in the national championship game, although it is an incredible achievement for a regionally based sporting team to finish second. I think that is something that the whole of Geraldton is very proud of.

The Geraldton Buccaneers, established in 1989, is far more than a sporting team. It is a bit of an iconic institution in the Mid West. The Bucks regularly get 900 fans to come and watch them play at the Active West Stadium, and these games are a great opportunity to bring family and friends together in a really positive sporting environment. In an age when our sporting heroes are more and more inaccessible, my favourite part of a night at a Buccaneers game is when the players get around the young children and the families there and are able to sign autographs,

have a chat and even have a few shots with them, although that is probably the last thing they feel like doing after a full game of basketball. Although they are a semi-professional basketball team, this organisation is run by a mountain of volunteers who do an incredible amount of work. I think it is really important that they are recognised as possibly the reason they have been propelled to now their fourth NBL1 championship, one in 2000, 2019, 2023 and of course, this year. Among these volunteers are the president and the general manager, who volunteer hundreds of hours for the smooth running of the Buccaneers at no financial renumeration to themselves.

Another WA sporting institution that relies heavily on volunteers is the West Australian Basketball League, or the WABL, as it is affectionately known, which is the premier junior basketball competition in Western Australia. Each week over 3,800 young athletes play on a Sunday to enjoy the sport they love. It has competitions from under-12s all the way up to under-21s. There are 13 WABL associations around WA. Most of them are in the metro area, but there is one in Bunbury and it goes from Joondalup to Bunbury and right out to Kalamunda, as well as being in Mandurah. I was fortunate to play WABL for the Warwick Senators, funnily enough, and although I enjoyed playing at my now geriatric athletic age, it is learnings about leadership, being part of a team and how to pick yourself up after a 40-point thrashing that have stayed with me. After more than 3,000 games in this season to date, this weekend we will see 84 teams battle it out in the grand finals of their respective divisions. One of those teams will be the Warwick Senators under-16 girls 3, who will take on the undefeated Willetton Tigers on Sunday. This is the team my daughter is a member of and, as any parent of a 14-year-old girl would know, I am not going to embarrass her by mentioning her name; otherwise, I will put myself in severe harm's way, so I will just stick with wishing her and her teammates the best of luck. Players are always a bit nervous going into a grand final undefeated and hopefully that is how that team's opposition feels and the Senators can get a win. Three names I will mention quickly are Jasmine, Sue and Scott, who are the team's coach, manager and videographer, and statistician respectively. These people are three of hundreds of volunteers, many of them parents, who make the WABL one of the best junior sports associations in Western Australia.

In closing, I would like to sincerely congratulate coach Dayle Joseph and the Geraldton Buccaneers on their incredible achievement this year, and a huge thankyou to all the volunteers who make WABL such a fantastic opportunity for young Western Australians to enjoy competitive basketball.

MARCH FOR AUSTRALIA

Statement

Hon Rod Caddies (5:38 pm): I rise today to address the unfair and misguided criticism levelled at me and thousands of other proud Australians who attended the March for Australia rally. This rally was not about division or hate. There was a call to hold successive governments accountable for decades of poor decisions contributing to our housing crisis, strained health system and erosion of our freedoms. The other day, a member on the other side claimed that the rally I spoke at targeted migrants of specific nationality, blaming them for housing, health and employment issues and using them as scapegoats. This is categorically false. My speech emphasised that the issue is unsustainable population growth driven by government policy, not the race or nationality of migrants. I defended migrants, stating clearly that the fault lies with the government's decisions, not individuals seeking a better life.

The member also suggested that rallies like this are illegitimate and divisive, calling parliamentarians who spoke there fools and comparing our actions to divisive political tactics in the US. I respectfully disagree. Peacefully rallying to demand government accountability is a legitimate exercise of free speech. It is not about hate. It is about seeking solutions for all Australians. The member said:

> Calling people out using the nationalistic tone of being Australian can rip the bandaid off very quickly.

In response, I asked, "Are you not a proud Australian?" The member responded:

> I am a very proud Australian of mixed heritage, as are many people in this place, but it does not mean that I will target a group and say they should not be here because of their nationality or their background.

I am happy to hear the member say that she would not target people based on their nationality, as neither would I, and I do not believe 99.9% of the people at the March for Australia would.

My opening remarks at the rally were: "Australians, whether your roots go back 60,000 years or six years, we all call this land home. Let us stand united as one nation to protect the freedoms and mateship that make this country great." This was a call for unity, not division. I sent out a media release before the March for Australia in which I explained my reasons for attending. I wanted to make sure that legitimate concerns of everyday Australians about immigration levels were not hijacked by a tiny group of people. I wanted to make sure that our migrant communities understood that the majority of those marching that day were not their enemy. And I note that that is exactly what I did. I confronted the small group of those people whose views most attendees did not agree with and told them what I thought of them. There was no violence in WA. There was no disorder. The crowd did not welcome the Neo-Nazis. They were booed and ridiculed by the multiracial crowd of proud Australians. What the people who marched for Australia achieved was to force a conversation on immigration levels. Even the Prime

Minister has now been forced to concede that the people who protested on that day had legitimate concerns about immigration levels.

I now turn to deeply disappointing comments made by a member of this house that I feel compelled to address due to them being targeted at me and their public impact. After the rally, I was invited to speak on ABC radio, which I did. However, after I finished, the member called in to the radio station and stated:

> … really distressed to see those images on the streets of Perth yesterday … big, huge signs saying, "stop immigration" … And I'm really disappointed and just think it's disgraceful … for my Upper House colleague, Rod Caddies from the One Nation Party, to speak at that rally.
>
> I mean, Rod knew who was going to be there and for him to now try and distance themselves from those groups this morning and condemn the Neo-Nazis. Like, Rod knew exactly who was going to be there. He knew how inflammatory this rally was going to be and who it was going to attract and to now try and kind of mainstream these thoughts and say … "these are just ordinary Australians who have concerns", I think that's really disgraceful and I just think it needs to be called out. And … I just think there's no place for a parliamentarian to speak at a rally like that that is so obviously a racist rally.

Additionally, in an online post, the same member posted:

> Racism against migrants and people of colour in this country is not new, but it has been blatantly normalised and legitimised by politicians fanning the flames of hate for their political gain.
>
> It is shameful that WA Upper House MLC Rod Caddies is reportedly among the speakers on Sunday.
>
> It's completely inappropriate for a Western Australian parliamentarian to speak at what is a white-supremacist rally.
>
> What politicians use their platform for matters.
>
> Politicians across the country are guilty of racist scapegoating to divert attention away from the real drivers of the issues facing all of us.

These statements are baseless and misrepresent both my actions and the rally's purpose. I condemned any extremist elements and focused solely on policy failures and unsustainable immigration levels, not race. To suggest I knowingly associated with inflammatory groups is unfair and inaccurate. My speech was clear. The rally was about numbers, not prejudice, and government accountability, not division. I am aware that the member who made these statements attends and speaks at rallies. To be honest, I do not fully agree with those rallies; however, I commend that member for standing up for what they believe in, and I have huge respect for their commitment to supporting their cause. I am not angry. Rather, I am saddened by these remarks, which have fuelled online vitriol, including one post in which I was called a despicable human being. Such rhetoric deepens division and distracts from the real issues. Just this morning, we saw the devastating outcome of people feeding hatred against an individual with the horrific assassination of Charlie Kirk. He was a beacon of light who fostered open discussion and tirelessly championed the exchange of ideas with respect and clarity. He fought for freedom of speech and wanted to unite people through dialogue rather than division. It is a profound tragedy for humanity.

I stand by my participation in the rally because I called for unity and accountability. I am proud to stand up for my nation, its flag and our culture. Celebrating and protecting the values of mateship, freedom and fairness defines us. We must address the legitimate concerns of Australians about housing, health care and freedom through constructive dialogue, not misrepresentation. I invite my colleagues to join me in focusing on solutions for all Australians.

POLITICAL DISCOURSE—MENTAL HEALTH

Statement

Hon Simon Ehrenfeld (5:46 pm): I had originally planned to pay tribute to the late Dr Alan Eggleston this evening, but other events this week have overtaken his passing so I will save that tribute for next week. First, on Sunday, I met with and heard from a survivor held hostage by Hamas. Indeed, a large number of community members turned out to hear what was a harrowing story of deliberate cruelty and barbarity. Again, I will save that for next week, because today is the anniversary of the September 11 terrorist attacks. One of the victims of 9/11 was Patricia McAneney. My wife's mother is Nolene Patricia McAneney. We suspected there was a relationship, and we recently determined that she was indeed a cousin. It is a very important date in our memory. I wanted to acknowledge that on my first September 11 here in Parliament.

Then, of course, as my colleague mentioned, we have heard about the assassination of Charlie Kirk. I know that he was not everyone's cup of tea, as are many other people in high political life. They are usually on one side of politics or the other. That does not mean we mourn them any less. It was a savage attack on our democracy. As I said in my inaugural speech, people come to this place with passionate beliefs, which they fight for every day. It is the thing that gets them up in the morning, whether their political persuasion is left, right or centre. Despite being controversial, Charlie Kirk was a voice for many, many people who felt disempowered, be they men who

felt targeted by the system, people who decided to be homemakers, Jewish people or people who do not want to be denigrated for being patriots of their country.

He just gave voice to many people who otherwise felt disempowered. Whether or not you agreed with him, we live in a day and age when not everyone follows traditional media. Online media is now a very, very important space and he was a very important figure to millions of people. In America, congressmen on both sides of the aisle stood and paid respect. This is not the way our democracy can roll. All of us here are public figures and are becoming increasingly so as we get better known. I am on a committee dealing with a very controversial bill and we have women on our committee who do not always know whether they can walk safely to committee proceedings. That is just the nature of where we are at. I know that my wife worries about what might happen, and Hon Nick Goiran has said the same thing. When people offer themselves to be public figures for a cause, they expect to be afforded some degree of safety and security.

This week we have had National Child Protection Week and R U OK? Day. There were many good contributions from all sides today on child protection. I was sitting next to someone at a recent Governor's prayer breakfast who told me his own harrowing story and the abuse that he dealt with growing up, but he thought that was just what life was like growing up. He did not know any different. That is the case for many children. They just suffer in silence. Similarly, people with mental health issues suffer in silence, too. We all know that people get sore feet and eyes, and that is very visible to us, but the mental soreness is not as visible to people. Telling someone just to get a move on with it when they have mental challenges is no different from telling a person with a broken leg to run up the stairs. That is something we are all increasingly coming to understand right across the chamber. I just want to say to people that if today feels heavy, they are not alone.

I know it is not a political day, but one of the things I love about the Liberals is that we respect every individual, no matter who they are, where they come from or what their challenges, background or circumstances are. Everyone needs to know that they are not worthless or useless, and they should never, ever let anyone convince them of that. For those who carry the burden of mental health issues or a history of abuse when they were children, we need to understand that in the past there was a tradition whereby people were shamed by wearing the scarlet letter. To bring that into modern terms, the shame today is people who suffer from mental issues or have suffered abuse and domestic violence. They have become today's scarlet letter. I know that people in this house care deeply about those issues. As a new member, I think that 90% of the issues we discuss will not even be issues at the next election. Let us work together on fixing those. Obviously, the political ones that will be discussed at the election will be more contentious, but on all those things that we can agree on and that need to be dealt with, let us all work together and deal with them so that, regardless of whether we win or lose in four years, our time here will have been worthwhile.

CHARLIE KIRK—TRIBUTE

Statement

Hon Maryka Groenewald (5:54 pm): I rise today to honour the life of Charlie Kirk, a courageous Christian and leader who was yesterday assassinated at a university campus event in the United States. He transformed political debate across uni campuses in the US and, like his millions of followers, I, too, enjoyed his interviews, watching him interacting with young people and getting them thinking through their positions and debating them. Many might not know of him or about him, but I want to pay tribute to him for that reason.

At only 31 years old, Charlie passed away doing what he believed in most—debating openly and respectfully, and championing conservative values. Charlie Kirk founded Turning Point USA at the age of just 18 years, growing it into one of the most influential conservative organisations in the world. Through his efforts, thousands of students were given a voice on uni campuses. They were often hostile to each other's beliefs, but Charlie had this way of actually cutting through the noise and encouraging people to find a bridge forward.

He was also a Christian advocate, often speaking about the importance of biblical principles and the moral foundations of western civilisation. His work was pivotal in mobilising young conservatives, building what became one of the most effective grassroots organisations and movements in the US. But above all, he was a Christ follower, husband and father who was devoted to his family and guided by his faith, which is something I resonate with. On behalf of Australian Christians, I extend our condolences to his wife, his children and all who knew and loved him.

Political extremism and division are serious problems, and I condemn in the strongest possible terms the political violence that we have all witnessed. Most people of good faith were shocked by this event, regardless of their politics, which is why I want to mention this and why I was so shocked and disgusted to see a satirical article published by *The Chaser* this morning mocking the murder of this 31-year-old family man, which left a family grieving and two children without a father. The headline was "R U OK? Day not going well at Turning Point". I mean, it is utterly disgraceful. The author of this piece is John Delmenico. He is an editor at *The Chaser*. He woke up this morning, saw the news and thought what a great opportunity it was to laugh at his expense. I am not even going to share his abhorrent tweets and comments because it is not worth the oxygen or the time, but why do we

care about what this site says? It may surprise members to know that *The Chaser*, where John Delmenico published this piece, actually produces content in collaboration with the ABC, our national broadcaster. The most recent example is the show *Optics*, which *The Chaser* produced with Easy Tiger Productions. Of course, this is also available on streaming services. There is an impressive list of partners. I wonder whether ABC and Easy Tiger Productions will have anything to say about *The Chaser*'s dark article mocking a murder victim or whether they will ignore it. It will be interesting to see.

Charlie Kirk stands in stark contrast to the hostility and aggression of people like this. He did not mock, belittle or dehumanise; he debated and he persuaded. He was strong and spoke his mind, but always seasoned with truth and grace. I know that his legacy will continue to inspire millions across the world. I am deeply grateful for the way that Charlie championed faith, family, life and freedom, and he did so with courage and clarity. His unapologetic defence of biblical values in the public square encourages me to stand firm in my own convictions, even when it is unpopular. Charlie's sharp insight into our culture and politics and his willingness to mentor the next generation reminds us of not only the importance of bringing the next generation alongside and encouraging them, but also keeping the main things the main things.

We pray for comfort for his family, his colleagues and all those mourning his loss. His impact will continue. His courage will be carried forward by those he inspired. May his life be remembered for not only the battles he so courageously fought, but also the faith he lived, the family he loved and the freedoms he so passionately protected and defended. Members, may we all take a moment to reflect on how precious life is and how fleeting it can be, and may we all give our loved ones an extra-long hug tonight.

MINING AMENDMENT BILL 2025

Receipt and first reading

Bill received from the Assembly and, on motion by **Hon Jackie Jarvis (Minister for Agriculture and Food)** on behalf of **Hon Matthew Swinbourn (Minister for the Environment)**, read a first time.

Second reading speech

Hon Jackie Jarvis (Minister for Agriculture and Food) (5:59 pm): I move:

> That the bill be now read a second time.

I am pleased to introduce the Mining Amendment Bill 2025 to the house. The purpose of the bill is to modernise and clarify key procedural aspects of the *Mining Act 1978* (WA act) to provide greater certainty and efficiency for proponents and to strengthen the state's ability to administer its mineral resources framework in a fair, transparent and future-ready manner. This bill builds upon and complements reforms already enacted under the *Mining Amendment Act 2022* to ensure legislative consistency and operational clarity. This bill has its origins in the former Mining Amendment (Procedures and Validations) Bill 2018 and subsequent 2020 draft, which were developed in response to the High Court's decision in *Forrest & Forrest Pty Ltd v Wilson and Ors*. That decision highlighted risks in the application and grant process for mining tenements and the need to clarify certain procedural requirements under the act. This important bill will restore the integrity of the mining register and redress some of the issues arising from that decision; namely, that a failure to comply strictly with the technical application requirements of the act meant there was no jurisdiction to deal with applications for the grant of mining tenements. This had the effect of invalidating the grant of some tenements and undermined long-held practices within the industry. This reform restores jurisdiction to mining registrars, the wardens and the minister to deal with such applications, including the power to request further information as a practical measure to deal with applications that might not strictly comply with every technical application requirement. This will restore efficiency and practicality to the application process. It ensures applications can be progressed and assessed on their merits, without resorting to litigation or requiring unnecessary reapplication due to procedural technicalities.

The bill contains several measures that will enhance the efficiency of the procedures and processes in the Mining Act, especially as those procedures apply to people applying for mining tenements. I will briefly address each of them in turn.

First, the bill will introduce the ability for areas to be excised from applications for exploration licences. It also introduces the ability for entire graticular blocks to be dropped from such applications. These amendments became necessary following the 2022 WA Supreme Court decision in *Blue Ribbon Mines Pty Ltd v Roy Hill Infrastructure Pty Ltd*, which decided there was no general power in the act to excise areas from an application for an exploration licence. By introducing the ability to excise, the bill puts exploration licences on the same footing as other mining tenement types for which there is already an ability to grant a lesser area than applied for.

Second, the bill will simplify the procedures relating to an application for an exploration licence. Applicants will now be required to provide only one year's worth of forward planning information, including proposed work programs, expenditure and capability statements. The bill also removes the requirement to lodge this information

at the time of application, providing flexibility and enabling registrars and wardens to request additional information when necessary.

Third, the bill amends the provisions governing second renewals of mining leases. The amendments allow for clarity of process and timing for second renewal applications for mining leases, removing ambiguity and ensuring better alignment with industry and administrative needs.

Fourth, the bill enables digital execution and publication of section 19 instruments and clarifies when such instruments take effect, modernising longstanding administrative processes. Fifth, the act will be amended to allow conditions imposed on grant of mining tenements to be varied at a later time to enable responsive management when circumstances affecting tenements evolve.

Sixth, the bill will remove obsolete provisions, such as the JORC Code requirement for a resource report, and removes un-commenced provisions from the *Mining Legislation Amendment Act 2014* that have been superseded by the *Mining Amendment Act 2022*.

Seventh, to address *Forrest*-related risks for existing applicants for mining tenements, the reform provides for the validation of pending applications for the grant, amendment or renewal of a mining tenement that were lodged before the commencement of the bill. This includes allowing the minister, mining registrar or warden to deal with the applicant and request further information, including documents and statements, so that these applications can be dealt with and determined lawfully.

Eighth, the bill addresses any misconceptions that the term "unavailable" for exploration means a permanent exclusion of access by time bounding the relevant provisions. Ninth, applicants for exploration licences will be permitted to provide supporting information within a prescribed time rather than at the moment of application. This reflects the practical approach required post-*Forrest*.

Tenth, amendments have been made to section 96 and related provisions to transfer administrative decisions regarding enforcement from the jurisdiction of the warden to the minister. This will ensure a consistent enforcement framework across all tenure types. Finally, amendments have been made to section 102 regarding the procedural elements of the exemption from expenditure processes. They will clarify the processes and streamline tenement procedural requirements for tenement holders.

I note the amendments made at the Legislative Assembly stage, which were technical and procedural in nature. They did not alter the underlying policy intent of the bill but, rather, ensured that the final legislation is cohesive, accurate and legally sound. They were necessary to clarify transitional arrangements to ensure a smooth implementation of new processes and avoid unintended gaps in administration and align the bill with other legislative changes that have occurred since its drafting—namely, the *Mining Amendment Act 2022*, number 31 of 2022, and the *Mining Amendment (Transfer of Royalty Administration) Act 2025*. These reforms provide certainty in tenure and confidence in the integrity of our legal framework, which is essential for maintaining our global competitiveness and supporting our local industry. They enhance the operation of the act, improve regulatory certainty and strengthen Western Australia's position as a leading jurisdiction for resource development and investment.

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

I commend the bill to the house and I table a copy of the explanatory memorandum.

(See paper 496.)

Debate adjourned, pursuant to standing orders.

House adjourned at 6:06 pm

Questions on notice answered today are available on the Parliament of Western Australia's website