

27 September 2022

Hon Peter Foster MLC  
Chair, Standing Committee on Environment and Public Affairs  
Parliament House, 4 Harvest Terrace  
WEST PERTH 6005

Dear Committee Members,

**PETITION NO. 57 – NO FURTHER STATE OF EMERGENCY DECLARATIONS TO BE MADE (“PETITION”)**

I refer to your letter dated 12 August 2022 in which you request a written submission regarding the Petition.

Rebranded State of Emergency

I note the McGowan Government currently claims it will be ending our State of Emergency by rushing the *Emergency Management Amendment (Temporary COVID-19 Provisions) Bill 2022* through Parliament. Western Australians are not fools. This bill is clearly an attempt to re-brand our State of Emergency and will continue to allow the exercise of draconian powers by executive decree. Indeed, the Premier himself has previously described these powers as being “extreme” and “draconian”.

It is unclear why the McGowan Government believed it was appropriate to give less than 24 hours’ notice to debate this bill in the Legislative Assembly. The ordinary course of business is to allow for a 3-week consultation period so Members can consider and scrutinise it in more detail. This subversion of usual democratic processes is highly concerning and disrespectful to Western Australians.

The Premier claims that this bill is a “modest approach to this law” given that it will not allow for the closure of state borders. He described it as being a “step down” when in reality it is merely a side-step. The following concerns remain:

1. a large proportion of currently available draconian directions may still be issued – being ones which restrict people’s freedom of movement, freedom of association, freedom of enterprise, and right to bodily autonomy;
2. these draconian directions can be issued by unelected and unaccountable officials; and
3. there is no requirement to publish justification for any directions made. The lack of transparency regarding decision making is particularly concerning, and I refer the Committee to my confidential submission regarding Petition No. 49 dated 15 June 2022 which elaborates on this issue.

Presently, extending the State of Emergency declarations is a decision to be made by a Minister of the Crown on a fortnightly basis. Under this new rebranded State of Emergency scheme, it will be the unelected and unaccountable Commissioner of Police who will be making such extensions at 3-month intervals. It is entirely inappropriate and a clear abuse of power to have the person granting draconian powers being the same person who is tasked with enforcing those powers.

The new scheme is more radical than the current arrangement. Therefore, it is appropriate to view the scope of this Petition as incorporating the COVID-19 Declarations, as these will undoubtedly be made under the new rebranded State of Emergency scheme.

## State of Emergency no longer appropriate

Leaders in other jurisdictions have made public statements and decisions which indicate that COVID-19 no longer poses a serious threat. For instance:

1. on 18 September 2022, U.S. President Biden appeared on CBS channel's 60-minutes programme and stated that "the pandemic is over"<sup>1</sup>;
2. on 24 May 2022, the South Australian Government ended its major emergency declaration. While this was done alongside the passage of legislation to amend the *Public Health Act 2011* (SA), these amendments only permit the easing of restrictions and not the imposition of new restrictions such as lockdowns<sup>2</sup>;
3. on 30 June 2022, Tasmania ended its public health emergency;<sup>3</sup>
4. Victoria ended its state of emergency on 15 December 2021 and introduced a new framework for managing pandemics which includes more safeguards and oversight of decision making.<sup>4</sup>

It is a matter of public record that the Premier, former Health Minister, and current Minister for Emergency Services embarked on various overseas trips "promoting WA as a safe place" during our State of Emergency. This represents the most notorious example as to why Western Australians should no longer be burdened by the potential exercise of draconian emergency powers.

I urge the Committee to consider the above and to determine whether:

1. the State of Emergency (including its rebranded version) continues to be reasonable and proportionate; and
2. alternative measures could be put in place which are less draconian, require greater transparency and respect the principle of accountability – as has been done in other jurisdictions.

## Conclusion

While the McGowan Government claims it will be ending WA's State of Emergency, it will effectively be maintaining the State of Emergency under a rebranded scheme. Extending the ability to grant and enforce draconian powers outside of a formally declared state of emergency does not negate this fact.

I thank the Committee for once again considering my submission.

Yours sincerely,

Bianca Cobby

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<sup>1</sup> Scott Pelley, 'President Joe Biden: The 2022 60 Minutes Interview' *CBS News* (online, 18 September 2022) <<https://www.cbsnews.com/news/president-joe-biden-60-minutes-interview-transcript-2022-09-18/>>.

<sup>2</sup> Government of South Australia, 'COVID Major Emergency Declaration ends' (Media Statement, 24 May 2022) <<https://www.premier.sa.gov.au/media-releases/news-items-2022/covid-major-emergency-declaration-ends>>.

<sup>3</sup> Government of Tasmania, 'Tasmania's Public Health Emergency ends' (Media Statement, 30 June 2022) <<https://www.coronavirus.tas.gov.au/media-releases/tasmanias-public-health-emergency-ends>>.

<sup>4</sup> Department of Health Victoria, *Victoria's pandemic management framework* (2 September 2022) <<https://www.health.vic.gov.au/covid-19/victorias-pandemic-management-framework>>.