

# Western Australia

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Western Australia (WA) is huge, rich, sparsely populated – and different. Occupying one-third of Australia’s landmass, but with just 10 per cent of its population, and geographically distant from the eastern seaboard, the state has always had a distinctive identity, partly due to the prominence of primary industries. Although much of WA’s area is desert, there are massive mineral resources, notably iron ore, petroleum and natural gas, but also including gold, diamonds, nickel and rare metals like lithium. Agriculture is important too, especially wheat and premium wines. With around 10 per cent of the national population, WA is responsible for over half of Australia’s goods exports.

The state was the last Australian colony to achieve self-government and the last to join the federation. To this day, WA often retains a separate, sometimes antagonistic, attitude towards the Commonwealth government and even to the rest of the country. State leaders and voters have long criticised the Commonwealth over a lack of federal funding, including in the past 20 years when WA’s massive mineral wealth provided it with hefty royalties, and it received less federal tax income under a programme to equalise state resources. Eventually, WA secured a deal on receiving more Goods and Services Tax (GST) revenues in 2018. During the COVID-19 crisis, the state also adopted stricter border controls on incomers than other states, and kept them in place for longer, with high levels of support for the Labor government’s stance from its population.

WA’s politics and governance have also been quite distinctive. Historically, the state’s rural areas were heavily over-represented, and full electoral equality was only finally achieved in late 2021, following a massive election win by Labor that gave them majority control of both houses of the state parliament for the first time.

## What does democracy require of Western Australia’s political system?

- ◆ An effective State constitution to secure and underpin liberal democracy in the State.
- ◆ Aboriginal and Torres Strait Islander peoples should be afforded full individual civil and human rights.

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- ◆ Electoral systems for the state's lower and upper houses should accurately translate parties' votes into seats in the state legislature, in different ways that are recognised as legitimate by most citizens. Ideally, the voting systems should foster the overall social representativeness of the two houses of the legislature. Elections and the regulation of political parties should be impartially conducted, with integrity.
- ◆ The political parties should sustain vigorous and effective electoral competition and citizen participation. Political parties should uphold the highest standards of conduct in public life.
- ◆ The parliament should normally maintain full public control of government services and state operations, ensuring public and parliamentary accountability.
- ◆ An effective bicameral (two chamber) system should ensure the legislative branch meets its representative and accountability functions.
- ◆ The WA government should govern responsively, prioritising the public interest and reflecting state public opinion. Its core executive (premier, cabinet, ministers and key central departments) should provide clear unification of public policies across government.
- ◆ The core executive and government should operate fully within the law, and ministers should be effectively scrutinised by and politically accountable to parliament.
- ◆ In the wider state public service officials should act with integrity, in accordance with well-enforced codes of conduct, and within the rule of law.
- ◆ The administration of public services should be controlled by democratically elected officials so far as possible.
- ◆ The WA government should effectively and transparently represent its citizens' interests at the Commonwealth level.

## Recent developments

The key recent developments affecting democratic processes in WA focused on the state's firm response to the COVID-19 pandemic. The political fall-out from this stance strengthened Labor's recent grip on power, which may be reinforced in future by the final completion of electoral reforms made in 2021.

### **COVID-19 policy: 'An island within an island'**

Politics and government in WA from March 2020 to mid-late 2022 were dominated by the COVID-19 pandemic. WA largely adopted an 'elimination' (as opposed to a minimisation) stance to the virus ([Government of Western Australia, 2023](#), p.8). Using the state's physical isolation to its advantage, Labor Premier Mark McGowan enforced a 'hard border' with the rest of the country. At the start of April 2020, he declared that 'we will be turning Western Australia into its own island within an island – our own country' ([West Australian, 2020](#)). Although the state's border controls came down at times, for much of the pandemic (697 days) they stayed in place, with travellers to WA needing pre-approval to come and then being required to quarantine for 14 days ([Guardian, 2022](#)). Initially, there were even intra-state restrictions on travel within WA.

Over time, the state government gradually opened up travel internally, with more generous arrangements than in other states for group gatherings and few requirements to wear masks (**Government of Western Australia, 2023**). The mining industry was strongly encouraged to domicile fly-in fly-out workers in WA (**Winter, 2020**), as well as instituting a tough testing regime for its workforce. These policies enabled the industry to continue operating throughout the pandemic, helping WA to take advantage of the high prices for iron ore.

Health-wise, the policy was effective, with barely any community transmission of the virus (**Government of Western Australia, 2023**). During 2020 and 2021, the few deaths that did occur were people either from passing cruise ships or freighters. The tough policy on interstate arrivals was extremely popular. The premier's approval rating rose astronomically, reaching 91 per cent (**Law and Ison, 2020**) by September 2020. For most of 2020 and 2021, WA had a very limited number of days in lockdown, and life was lived virtually 'as normal' for most of the period. For businesses not dependent on international travel, economic activity was strong and unemployment in WA went from being above the national average pre-pandemic to the lowest of all the states by December 2021 (3.4 per cent).

The tight borders were not universally popular. Protests occurred at various intervals. National media and senior federal ministers complained about the state's isolationism (**Ison, 2021**), while other commentators likened the state to North Korea's 'hermit kingdom' (**Loiacono, 2021**). Queensland businessman Clive Palmer mounted a legal challenge (**Karp, 2020**) to the WA government after being denied entry into the state, citing section 92 of the Constitution ('trade, commerce, and intercourse among the States ... shall be absolutely free'). Some factual questions in the case were addressed in the Federal Court in August 2020 and it was resolved in the High Court in November 2020, with the state winning. The Commonwealth Attorney-General, the WA politician Christian Porter, initially formally intervened on Palmer's side and called witnesses to support his case. But following outrage from the WA state government, public criticism, and opposition from *The West Australian* newspaper, the federal government withdrew from the case (**Carmody, 2020**).

For the Liberal Party in WA, this misjudgement by Commonwealth Liberal ministers compounded problems it was already experiencing after its state leader, Liza Harvey, called for the state's borders to be opened in May and June 2020 (**Zimmerman and Kruijff, 2020**), just before the number of cases exploded in Victoria. In November 2020, Liza Harvey resigned as Leader of the Opposition. Her successor was a first-time MP, Zac Kirkup, who took on the role very late in the electoral cycle and lost badly in March 2021.

WA's success in keeping COVID-19 out meant that it was slower in getting vaccination rates up to desired levels, because it was difficult to stress the urgency for high vaccination rates to enable a return to 'normal life', when life within the state's borders already appeared to be that way. After the more infectious Omicron variant gained hold elsewhere in the country, Premier McGowan made a 'backflip' announcement (**Carmody, 2022**) in January 2022 when he postponed the border opening from the previously announced 5 February. While still broadly supported by the community, the decision was strongly criticised by *The West Australian*, other media, and high-profile business leaders, who urged certainty to assist in planning and for the government to acknowledge there would never be a perfect time for WA to reopen (**Bennet, 2022**). *The West Australian's* position was influential because it has been the state's only newspaper, and its owners (Seven West Media) also own Channel 7, WA's most popular television network.

In terms of parliamentary processes, COVID-19 presented a number of challenges for maintaining parliamentary accountability. Under emergency legislative provisions, some delegated executive orders, such as directions (see, for example, *Emergency Management Act 2005* (WA), section 77(2A)) were not subject to standard scrutiny processes. Further, parliamentary participation was at times rendered difficult by lockdowns and social distancing requirements. One recommendation of a committee report into parliament's pandemic response was that the 1899 Constitution should be amended to ensure that, by parliamentary standing orders, remote participation and voting could be assured. The state's Auditor-General also played an important role in providing a series of reports that assessed the government's response to the pandemic, including the vaccine roll-out (OAG, 2021a), economic stimulus initiatives (OAG, 2021b), and hardship support provided to local governments (OAG, 2021c).

There were also significant developments in the public services during the pandemic. A State of Emergency and a Public Health Emergency were declared, and other aspects of the state bureaucracy were directed to act in support of the state's efforts to control the pandemic and guide the government's broader response. The Police Commissioner became the State Emergency Coordinator while the Chief Health Officer also played a crucial role. The premier appointed the Public Sector Commissioner as State Recovery Controller, and that officer advised the premier during National Cabinet meetings in the pandemic period. Interestingly, the Director-General of the Department of the Premier and Cabinet (DP&C) – nominally the head of the central 'core executive' agency – did not undertake this role. This follows WA's tradition of not having a particularly strong DP&C within the core executive, unlike in other states or the Commonwealth. In September 2022, the premier announced that the state of emergency was finally to end (Spagnolo, 2022).

## Political dominance by Labor under Mark McGowan

For almost 50 years, political power at the state level in WA alternated regularly between the Labor and Liberal parties, with each holding government for multiple terms. The most recent change of government occurred in March 2017, when the Labor Party led by Mark McGowan won a convincing victory (Wahlquist, 2017), ending Liberal Party Premier Colin Barnett's eight years in office. Labor won nearly 70 per cent of seats (41 out of 59) in the Legislative Assembly (LA), a record for it at the time and a highly unusual outcome under the Alternative Vote (AV). Given WA's previous history, it was widely expected that the 2021 election might see a tighter contest, before a tougher fight (and possible change in government) in 2025.

Instead, the onset of COVID-19 gave McGowan an opportunity to demonstrate the politics of 'them and us', isolating WA from the rest of the country. Helped by missteps from both the state Liberal Party and the federal Coalition government (see earlier), McGowan dominated the state political landscape and achieved the largest victory in Australian electoral history at the March 2021 state election (Green, 2021). This time Labor won nearly 90 per cent of seats (53 out of 59), with a first-preference vote of almost 60 per cent (a swing towards it of 18 per cent) and almost 70 per cent of the two-party preferred vote. The Liberals were reduced to a humiliating two seats in the LA. The National Party leader, whose party won just four seats, became the Leader of the Opposition, the first time the role fell to a National Party leader in WA since 1947.

Labor's political dominance was also replicated in the 2021 Legislative Council (LC) elections for WA's upper house. It won a majority there for the first time ever, with 22 of the 36 seats (61 per cent). This result gave the party an opportunity, which it quickly grasped, to change the electoral

system for the LC by removing regional vote weighting favouring rural areas, along with other reforms (see later). Labor's overwhelming numbers in both houses of the parliament, combined with McGowan's personal dominance of the political scene, raised fears for some observers (Drum, 2021) about the prospects of Labor wielding 'total control', with few checks and balances to prevent government ministers doing as they wish. Were the imbalance of representation to continue, the state could become a 'dominant party system', where the same party wins power continuously, and alternation with the opposition parties ceases to operate (Dunleavy, 2010).

These concerns were reinforced in 2022 when the Liberals lost five WA seats at the federal election, and WA recorded the strongest Labor vote of all the states, helping deliver federal government to Anthony Albanese. However, McGowan's cautious and conservative manner and approach, and the operations of the WA parliament, suggest that lack of accountability concerns have so far been unfounded (Phillimore, 2022a). Still, there are undoubtedly challenges to be faced in terms of ensuring a proper level of accountability and scrutiny of government actions. If a 'dominant party system' does develop, then democratic responsiveness will depend on the media, integrity institutions and civil society more generally being vigilant, as well as the non-Labor parties in parliament.

## Post-McGowan: politics as usual?

The shock retirement of Premier Mark McGowan in May 2023 (Ho and Sturmer, 2023), arguably the most popular political figure in WA history, opened the possibility of politics returning to a more traditional, competitive environment. His successor, Premier Roger Cook, while serving as Deputy Premier to McGowan for the duration of his government, has not commanded the same authority or popularity as his predecessor. Furthermore, the new premier had to face the usual array of government challenges, decisions and performance emanating from a government six years old, with controversies in health, housing, juvenile justice and cultural heritage among others (Drum, 2023).

In 2023 there also were significant changes to the leadership of the opposition parties. Mia Davies, the first Nationals leader of the opposition in WA since 1947, resigned as leader to make way for Shane Love. Of greater consequence for the 2025 election, Libby Mettam replaced David Honey as Liberal Party leader. As health spokesperson, Mettam was a visible figure in the WA media, and promised a stronger critique of government performance. In 2024 new figures also emerged, seeking to stand for the Liberals and take back their traditional strongholds in Perth, which had been won by Labor in 2021. The most notable of these was Basil Zempilas, the Lord Mayor of Perth, who announced his intention to run for the seat of Churchlands. With the departure of McGowan and the spectre of COVID-19 removed from the political scene, the next state election (in 2025) may prove to be a much closer affair than 2021.

## Electoral reform for the upper house

Like most Australian states Western Australia has a bicameral legislature. For many decades both the lower house (the LA elected in 59 single member districts using AV), and the upper house (the LC elected via the Single Transferable Vote (STV)) were 'malapportioned', with rural and regional districts being dramatically over-represented in terms of seats compared with the dominant population centres around the Perth metropolitan area. In 2006 this problem was changed for the LA, with a broadly proportional allocation of seats according to population, but with some considerable advantage for the largest single member (rural) districts (see later).

However, the 2006 reforms retained WA's long-standing division of the Council seats between six districts (each with six seats) of widely varying numbers of voters, with members elected using STV. Some were very large geographically but had relatively small numbers of voters compared to the Perth metropolitan regions. Demographic trends made it ever more apparent that without reform, the already excessive 'malapportionment' of seats in the LC would only increase in future. By 2021, voters in the Mining and Pastoral Region had six times, and those in the Agricultural Region four times, the LC representation of voters in metropolitan Perth.

During the 2021 state election campaign, the Labor leader Mark McGowan repeatedly asserted that reform of the upper house was 'not on the agenda'. However, Labor's unprecedented victory at that election meant that the party could finally address what it saw as its long-running disadvantage in the districting system for the LC. (Regional vote weighting had a long history in WA and because of it, Labor had never previously won a majority of seats in the LC.) In addition, a number of anomalous results occurred in the allocation of seats to so-called 'micro parties' under the proportional representation STV system.

Labor thus quickly pursued the party's long-heralded reforms to bring about 'one vote, one value' in LC elections. In September 2021, a Ministerial Expert Committee on Electoral Reform (McCusker et al., 2021) headed by an eminent former WA governor Malcolm McCusker (and including three authors of this chapter) tabled a proposal for achieving 'electoral equality' in the LC. The resulting *Constitutional and Electoral Legislation Amendment (Electoral Equality) Act 2021* scrapped the system of electoral districts for the upper house and replaced them with a 'whole-of-state' electorate (also called 'at large' elections) (LAWA, 2021). The number of LC members also rose from 36 to 37. These changes mirrored electoral reforms adopted previously by New South Wales (NSW) and South Australia (SA), although those states elect only half their upper house members every four years, whereas WA chooses all 37 at the same time.

To tackle the micro-parties' problem, the reform followed moves already made in NSW, SA and federally, by abolishing Group Voting Tickets (GVT). This move aimed to prevent complex 'preference harvesting' deals between political parties that had sometimes enabled micro-parties to win representation via the vagaries of STV's ticket voting preference flows, despite the candidates eventually elected having almost no voter support on first preferences. WA voters will now be able to vote preferentially 'above the line', rather than having to accept the whole of their favoured party's preference list (usually set only by party leadership – see Chapter 5).

However, by electing so many members at large, a much lower threshold for winning upper house seats now applies, meaning that smaller parties of both the left and the right will have an increased potential to win seats regularly. Mathematically, 2.6 per cent of the vote will now *guarantee* that a party will win a seat under STV, compared with a notional 16 per cent under the old districts system. (In practice, under the previous system the vote share needed to win a seat in a region was often far less than 16 per cent. For example, in 2021 the Daylight Saving Party secured a seat with just 0.2 per cent of the first-preference vote in one region.) So, the Greens, One Nation and other small parties were potential beneficiaries of the change, and most of them supported the committee's proposal, while only the Liberals and Nationals publicly opposed it. The legislation also introduced new thresholds for parties to receive group recognition on the ballot paper, thereby preferencing those parties who could demonstrate significant public support. The system will have its first test in the 2025 state election and will likely deliver seats more directly in proportion with the statewide primary votes received by the different political parties. By 2024, early indications were that there would not be a proliferation of new parties contesting the WA ballot in 2025 (WAEC, 2024).

The longer-term effects of WA's shift away from 'malapportioning' seats that favour its 'hinterland' areas may also be significant. Past over-representation of agriculture and mining both reflected and helped shape the regional dominance of those interests. Over time, more equitable representation of citizens may help to rebalance and diversify WA's economic, social and cultural profile.

## Strengths, weaknesses, opportunities and threats (SWOT) analysis

Current strengths	Current weaknesses
<p>Historically there has been regular alternation of the top two parties (Liberal-National and Labor) in power in WA's state government (see below). Close competition between them (and to attract smaller parties' votes via preference transfers) tends to encourage responsiveness to voters' concerns.</p>	<p>Labor's overwhelming 2021 support (building on its 2017 victory), together with the striking weakness of the Liberal Party, raised fears that the accountability of the Labor state premier and ministers might weaken, especially with ALP majorities in both houses of parliament in place until 2025 at least. Especially in the LA, very few opposition or non-Labor MPs remain to maintain committees and other scrutiny processes.</p>
<p>The LC reform to remove rural seats' advantages has been defended in terms of ensuring electoral equality. The diversity of representation in the LC has remained greater (until 2021) and will certainly be reinforced by newly state-wide elections under STV in 2025.</p>	<p>Labor has taken the opportunity to rectify previous disadvantages imposed on it by the LC's malapportioned electoral system. Minor parties and independents are more likely to hold the balance of power in the LC in future as a result of the changes, thereby increasing the potential for them to 'hold the government hostage' on legislation, despite representing a small share of the electorate as a whole.</p>
<p>The final scrapping of WA's historic malapportionment of seats to rural areas and against urban population centres made a major improvement in the integrity of WA's previously defective election systems. The LA's districting system still incorporates a moderate advantage for voters in rural areas, on a par with that found in other liberal democracies and federally.</p>	<p>Government, politicians and their advisors in both major parties often have close connections to business, and in particular to the resources sector, which can cast doubt on the ability of government to act in the public interest.</p>
<p>Legislation passed in late 2023 strengthens election donation laws and improves transparency and accountability. The laws moved WA from being one of the weakest to one of the strongest jurisdictions in terms of real-time disclosure of donations, expenditure caps, and banning foreign donations, and it removes parties from direct involvement in postal voting.</p>	

<p>McGowan was an unusual Labor leader nationally in not being formally aligned with any particular faction in the party room or state organisation. McGowan's successor Roger Cook was selected as leader by the WA Labor caucus despite not getting endorsement from his own faction.</p> <p>The Nationals in WA largely pursue their own agenda, separate to the Liberal party.</p>	<p>Major party factional politics created some turbulence and adverse publicity for the top three parties. Labor faction fights in 2017 and 2019 went public. An internal Liberal party report found evidence of 'entryism' by groups with relatively extreme religious views. The Nationals' detachment from the Liberal Party since 2006 has made conservative politics somewhat fractious.</p>
<p>Gender equality in both the lower and upper houses has improved considerably in the last decade.</p>	<p>Most improvement in gender diversity in 2021 was due to changes made by Labor to get more women candidates in winnable seats. The Liberal and National parties have not matched such measures.</p>
<p>WA has had its share of political scandals in the past, most notably a series of dubious business–government relations that resulted in massive financial losses for the state in the late 1980s and early 1990s — an episode commonly referred to as 'WA Inc' (<a href="#">Wikipedia, 2023a</a>). Since 2006, however, WA has strengthened anti-corruption and transparency institutions, mostly with bipartisan agreement. Integrity agencies and wider internal public service safeguards against wrongdoing have also been strengthened.</p>	<p>Clean state governance still suffers from occasional but important relapses — well demonstrated by the 2019–2021 conflicts between the Corruption and Crime Commission and majorities in the LC, along with isolated new corruption cases inside public service agencies.</p>
<p>The state has a well-developed media system, with a single major newspaper <i>The West Australian</i> (<a href="#">Wikipedia, 2024</a>) enjoying large majority readership, and the most popular TV channel (Seven), both being owned by a locally based business (Seven West Media). Both outlets give a great deal of coverage to state politics and regional or local developments. Regionally dominant media have some incentives to be inclusive in their political coverage.</p>	<p>The lack of media diversity creates something of a local media monopoly for Seven West Media corporation. <i>The West Australian's</i> strongly set-out political and editorial stances hence have enjoyed an exaggerated and unhealthy political importance. A strong bonding of a successful political leader and party with state-dominant media may accentuate the risks of a dominant party system becoming established.</p>

Future opportunities	Future threats
<p>The ‘effective number of parties’ in WA in terms of votes has remained stable for both the LA and LC until very recently. In terms of seats, it fell sharply in the LA in 2021 (which became almost a one-party chamber) and somewhat in the LC. This remained a single anomalous election outcome, and one that reflected the unusual political conditions in the COVID-19 pandemic.</p> <p>Most political scientists argue that dominance requires continuous electoral victories over a long period (Bogaards and Boucek, 2010). Fears of a Labor ‘dominant party system’ becoming established are hence premature. Labor ministers have also taken pains to bring other parties along with their electoral reforms (although not the main opposition), and to act moderately in other constitutional legislation.</p>	<p>Some political scientists argue that a ‘dominant party system’ can be recognised after just one or two election victories where a single party is so advantaged over competitors in terms of leadership or ideological position that they cannot credibly compete with it (Dunleavy, 2010). What matters is whether its opponents are fragmented ideologically into small groupings that cannot cooperate, and if the top party can change political institutions in its own long-run favour. Free and fair elections still occur, but the same party ‘always’ wins; or wins for many elections in a row; or if it loses temporarily, it is quickly restored to power (as in modern Japan). Unless the WA Labor government suffers a very dramatic loss of support by the next state-wide elections in 2025, it could hold power for at least 12 years continuously through to a 2029 election, and possibly longer.</p>
<p>In the LC a more pluralistic party system is likely to result when the first state-wide STV elections are held in 2025.</p>	<p>The infiltration of religious groups into the Liberal party, and their increased salience in its internal politics, may both work to increase political polarisation. So too may a potential reinvigoration of far-right populist parties, because LC voting reforms will improve their chances of representation.</p>
<p>The state’s strong economy and favourable budget position provides the state government with potential scope for undertaking policies to improve economic diversity.</p>	<p>WA’s economy has been heavily reliant on exports to China, which may lead to a potential for foreign interference, or alternatively expose the state to external political shocks.</p>

Several aspects of WA’s state politics and governance raise issues that need exploring in detail. This chapter considers first long-run issues around the Constitution, Aboriginal people and relations with the Commonwealth. Then the dramatic recent changes in elections and party competition are considered, set against the longer history of state politics. Finally, the chapter examines the accountability of government, especially in the light of persistent corruption problems in state public services.

# The state constitution and its lasting effects

After British settlement began in 1829, WA achieved self-government relatively late, in 1890. While the rest of the continent was abandoning its convict foundations, WA still encouraged convict transportation from 1850–1868, to assist in building its population. However, substantive economic development was only really achieved with the gold rush based around Kalgoorlie in the late 1880s and 1890s. The massive influx of people from the eastern colonies in turn was a key factor in WA finally voting for federation, although this occurred so late (in July 1900) that Western Australia was not even mentioned in the preamble to the *Commonwealth of Australia Constitution Act*, where the five other colonies ‘agreed to unite in one indissoluble Federal Commonwealth’. The sense of being distinctive and different to other places has proved enduring in WA. In 1933, two-thirds of WA electors voted at a referendum to secede from the Commonwealth, although this never eventuated. WA’s more isolationist attitude toward border protections during the COVID-19 pandemic have reinforced this sense of ‘them and us’.

Government structures and institutions in WA are similar to those in most mainland States, with a bicameral parliamentary government, two-party politics and a strong executive based on the British model (see Miragliotta, Murray and Harbord, 2024). Despite using AV elections in line with the rest of Australia, for decades the electoral system in WA was distinctively weighted towards rural interests, which was only fully removed in late 2021.

In terms of its founding documents, Western Australia maintains a twin constitutional structure. The *Constitution Act 1889* (WA) (sometimes termed the ‘1889 Constitution’), which was based on imperial legislation first enacted in the UK House of Commons, established responsible government in the then-colony of WA. The *Constitution Acts Amendment Act 1899* (WA) (the ‘1899 Constitution’), contains many of the amendments subsequently made to the original constitution. Provisions in section 73 of the 1889 Constitution have meant that making any further constitutional consolidation has often been seen as being in ‘the too hard basket’. The constitutional provisions relating to the core governmental branches (the legislature, the executive and the judiciary) are thus still spread across both Acts.

In 1978, amendments were made by the then Liberal-National government (led by Sir Charles Court). They specified that a successful referendum would now be needed to amend certain provisions of the Constitution, as well as absolute majorities in both houses of parliament. These changes related to attempts to abolish the position of Governor, to remove the LC, to reduce the number of MPs in either house of parliament, or to move away from the ‘direct election’ of members of parliament. (This likely referred to the then prospect of WA moving to a party list voting system.) In effect, these so-called ‘entrenchment provisions’ targeted Labor Party policies of the time. Notably, the 1978 provisions insisting upon future referenda, were themselves passed without a referendum. However, not all constitutional change activates these procedural provisions. As noted above, the *Constitutional and Electoral Legislation Amendment (Electoral Equality) Act 2021* ([Western Australia Legislation, 2021](#)), passed in late 2021, changed both the 1889 Constitution and 1899 Constitution so as to introduce a ‘whole of state’ electorate for the now 37 members of the LC. But because this involved an increase in the number of MPs (not a decrease), it was not covered by the entrenchment provisions and hence did not require a referendum.

## The position of Aboriginal peoples

As a result of its colonialist record, WA has had, and indeed continues to have, a difficult and sometimes fraught history of relationships between Aboriginal peoples and the state government and other interests (Curthoys and Martens, 2013; Curthoys and Lydon, 2016; Kwaymullina, 2020). According to the 2021 census, Aboriginal peoples in WA comprise 3.3 per cent of the population. They have faced many years of struggle, displacement, racist policies and ongoing intergenerational trauma – manifesting in their radical over-representation in the criminal justice system, as well as disproportionate levels of homelessness and poor health. In 1995 the Liberal-National WA government of the time opposed the Commonwealth Native Title laws in the wake of the *Mabo* decision but lost in the High Court.

Historically, relations between the state's economically dominant mining sector and Aboriginal peoples have often been antagonistic, although there had been improvements in the years since the *Native Title Act* was passed. In 2015 the state's 1889 Constitution was amended to provide in its preamble that:

*And whereas the Parliament resolves to acknowledge the Aboriginal people as the First People of Western Australia and traditional custodians of the land, the said Parliament seeks to effect a reconciliation with the Aboriginal people of Western Australia. (Western Australia Legislation, 2015)*

Unlike most other state constitutional equivalents this wording did not contain a clause providing that the acknowledgement was to have 'no legal effect'. However, it has seemed unlikely that such a preambular statement would have such an effect in any event. As Josie Farrer MLA stated in the 2015 Bill's Second Reading speech, (LAWA, 2015) '[r]ecognition, acknowledgement and acceptance are necessary steps to true and lasting reconciliation, and this bill is just one of those steps'.

Another notable positive development was the South West Native Title Settlement (DP&C, 2022). Originally legislated for in 2016 by the Liberal government, the Settlement commenced in February 2021. It was then the most comprehensive native title agreement negotiated in Australia, involving around 30,000 Noongar people and covers approximately 200,000 square kilometres of the south-west region of the state. Six Indigenous land use agreements were negotiated between the Noongar people and the WA government, the Noongar Land Estate has been established, and annual payments of A\$50 million and A\$10 million are being made into a Future Fund and Operation Fund respectively.

However, improvements in relations were fundamentally shaken in 2020 by mining giant Rio Tinto's complete destruction of the supposedly protected 46,000 year old caves at Juukan Gorge (Wikipedia, 2023b) belonging to the Puutu Kuntji Kurrama and Pinikura people (PKKP People). The company acted under the terms of a ministerial permission given in 2013, creating a huge controversy that later led to the resignation of Rio's chief executive and two other board members. A subsequent Commonwealth parliamentary inquiry (JSCNA, 2020) by a joint standing committee of both houses made a number of recommendations calling for restitution by Rio Tinto and several legislative and policy reforms. The PKKP Aboriginal Corporation's submission (2020, p.7, [2]) to the Inquiry Stated:

*The PKKP People are deeply hurt and traumatised by the desecration of a site which is profoundly significant to us and future generations. The Juukan Gorge disaster is a tragedy not only for the PKKP People. It is also a tragedy for the*

*heritage of all Australians and indeed humanity as a whole. The rarity of this site demonstrates its value as a record of human development through massive environmental change which has also been recorded over a period of at least 46,000 years – a record which has now been put at grave risk.*

The Juukan Gorge calamity also highlighted the inadequacies of WA's Aboriginal cultural heritage legislation, which allowed the destruction to take place. New legislation (**McGowan and Dawson, 2021**) was passed in late 2021 to increase the protections for Aboriginal cultural heritage. However, many Aboriginal groups and other observers were critical (**Knowles, 2021**), arguing that it did not go far enough. The minister retained the ultimate decision-making power, rather than allowing relevant Aboriginal owners a right of veto over proposed developments affecting Aboriginal heritage.

When the new Act finally came into effect in July 2023, it was subject to further fierce criticism, especially from agricultural groups and landowners, supported by local media. The new rules required anyone with property bigger than 1,100 square metres to perform potentially costly cultural heritage checks with local Aboriginal groups and apply for permits before development. After just five weeks, the new Premier, Roger Cook, abruptly announced the government would repeal the Act, leaving the discredited 1972 legislation (under which the Juukan Gorge destruction had occurred) in place, albeit with some amendments. Many of the flaws in the new Act were blamed on the haste with which they were introduced into parliament and the lack of considered debate there, which was made possible by the Labor government's large majority in both houses (**Towie, 2023**).

## Commonwealth–State relations

Playing the WA card, and hitting back at 'eastern states' critics along the way, has been a tried and tested tactic of successive WA governments, as Labor and McGowan's successful and popular handling of the COVID-19 demonstrated. In adopting this stance, the government was greatly assisted by its strong fiscal position. This has in turn been helped by the outcome of a previous clash with the Commonwealth and the other states over the distribution of receipts from the GST paid within WA. The distribution of GST revenues to the states and territories is determined by a formula overseen by the Commonwealth Grants Commission designed to achieve 'fiscal equalisation' between jurisdictions. Because of its strong state finances, for many years WA received well under 50 per cent of the GST revenues generated in WA under this formula. Many years of bipartisan complaints from WA eventually resulted in the Commonwealth in late 2018 passing legislation that ensured that its GST revenues would be 'topped up' to reach a floor of 70 per cent of the GST generated in the state (increasing to 75 per cent from 2024–2025). This equated to a top-up of A\$1.5 billion in 2020–2021. By 2023–2024, the 'top up' to 70 per cent increased WA's GST receipts by A\$5.6 billion compared to what it would have received under the old formula – helping to underwrite the state's strong financial position.

The changed GST formula has come in for severe criticism from other states, in particular NSW (**Scarr, Law and Zimmerman, 2021**), who are unimpressed at WA's massive budget surpluses (A\$5.6 billion in 2020–2021; A\$3.3 billion in 2023–2024) while all other governments have gone heavily into deficit. However, in the lead up to the 2022 federal election, both the then prime minister (PM) and federal leader of the opposition ruled out any change to the formula. This approach was surely influenced by the fact that WA had several marginal seats in the federal parliament. The new Labor PM, Anthony Albanese, has said he will wait for a

planned review of the new system by the Productivity Commission (not due until 2026) before considering any changes. The ‘McGowan factor’ was assumed to have contributed to Labor’s success by winning four additional federal seats in WA in 2022 (Parker, 2022), thereby making WA an important state politically for the Albanese Government.

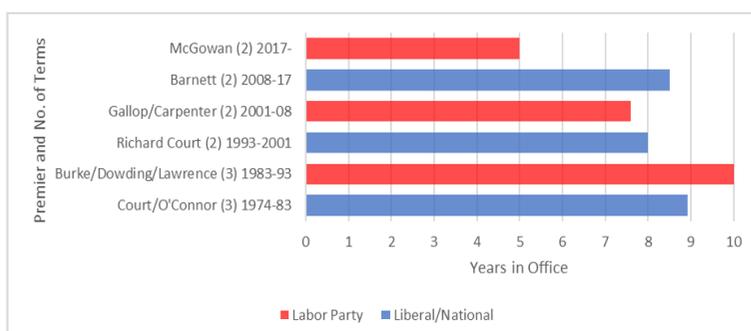
## Party competition, elections and representation

Like most states in Australia, Western Australians elect representatives to two chambers. The LA is the lower house and the chamber where government is formed, with most ministers and the premier drawn from its ranks. Members are elected from 59 single seat electorates. Currently (in 2024), almost three quarters (73 per cent) of these districts are located within the Perth Metropolitan Region, and the remaining 16 outside. Voting for members uses full preferential voting under AV: each elector must number all boxes on the ballot in order to lodge a formal vote. Under the *WA Electoral Act*, there must be a redistribution of the 59 LA districts every four years, which ensures that the boundaries of electorates always vary between each electoral cycle.

After over a century during which regional vote weighting was maintained for the LA, in 2005 a system of ‘one vote one value’ was finally achieved for the lower house. Most of the LA’s districts now contain relatively even numbers of electors, under the Act’s requirement that the districts must be no more than 10 per cent above or below the Average District Enrolment (ADE). However, there was still an exception made for very large districts. Here alone ‘notional’ electors are added at a rate of 1.5 per cent of the overall geographic size. In addition to this, the redistribution commissioners are permitted a tolerance of 20 per cent below the ADE in these districts, after the notional electors are added. This has had a marked impact on a small number of remote electorates, most notably North West Central, which is extremely large geographically (almost 820,600 square kilometres): in 2021 this district had just 10,990 electors, when the average district enrolment for the state as a whole was 29,100. The latest redistribution in 2023 abolished this seat and replaced it with an extra Perth-based electorate, reflecting population trends.

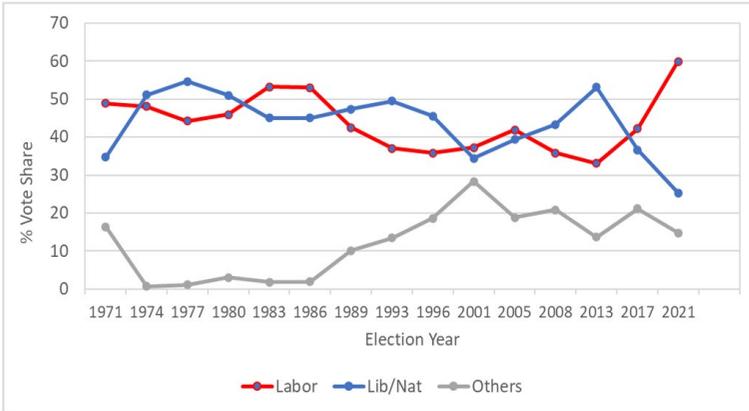
The Labor and Liberal parties have been the dominant actors in the Western Australian party system. Since 1974, they have largely alternated in office, with each occupying office on a total of seven occasions (Figure 21.1).

**Figure 21.1: The alternation of governments in Western Australia’s Legislative Assembly (LA) from 1974–2024**



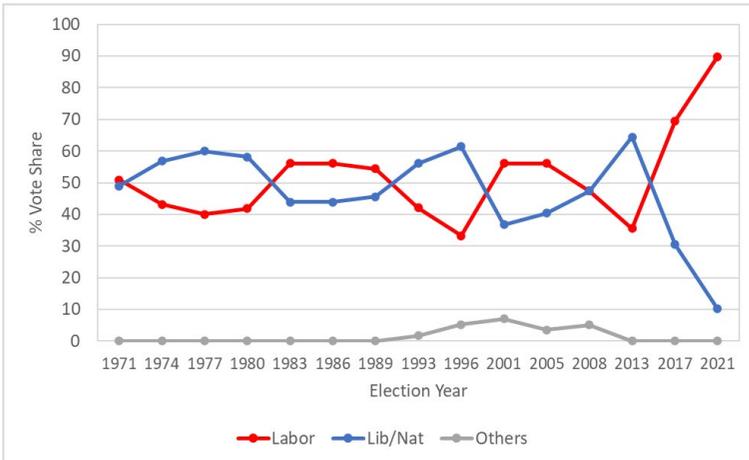
*Source: Compiled from data in Western Australian Electoral Commission (2023).*

**Figure 21.2: Parties' first-preference vote shares in Western Australia's lower house AV elections (1971–2021)**



Source: Compiled from data in Western Australian Electoral Commission (2023).

**Figure 21.3: The percentage of seats won by parties in the Western Australia's Legislative Assembly, 1971–2021**



Source: Compiled from data in Western Australian Electoral Commission (2023).

These regular changes in government reflect quite large swings in the share of LA first-preference votes secured by the major parties (Figure 21.2). In terms of LA seats, AV has tended to deliver ‘reinforced’ majorities of seats to the largest party, giving the Liberal-National Coalition clear mandates to govern in six elections since 1971, and Labor in seven cases, compared with only two cases of minority government (2008 and 1971) when the top two parties won similar seat numbers (Figure 21.3).

Since the mid-1990s though, a significant share of first-preference votes has also been won by smaller parties, especially the Greens and at times Pauline Hanson’s populist One Nation party, and independents. However, the top two parties’ nationwide dominance of the two-party preferred vote under AV (see Chapter 5) has also applied in WA. Figure 21.3 shows that smaller parties have found it very hard to win seats in the state lower house, with no representation before 1989, a peak of just 8 per cent of seats in 2001, and no representation again since 2013.

## Upper house elections

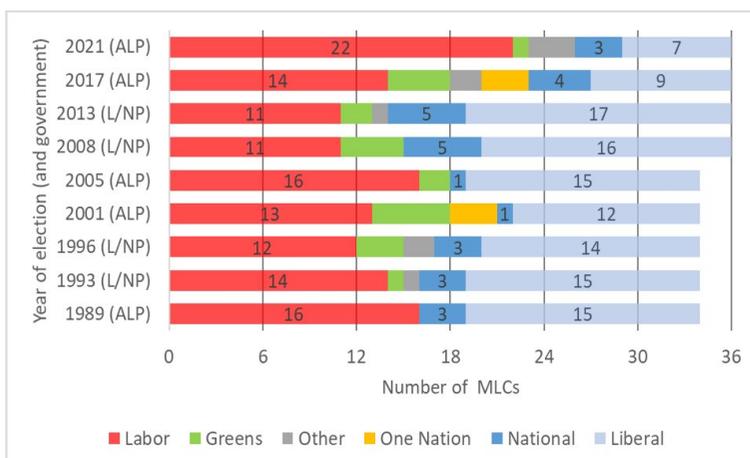
Turning to the LC, electoral reforms passed in 1986 abolished the former system of single member seats and instead introduced STV in six regions, beginning with the 1989 election. However, rural malapportionment remained. Figure 21.4 shows that ever since STV was adopted, the Liberal-National Coalition most often controlled the upper house – except in 2001–2005, and since 2017. Until the 2021 election, Labor had never held a majority in the upper chamber since self-government was achieved in 1890. Under STV, the number of members of the Council (MLCs) from non-major parties generally increased. But while several smaller parties have gained election to the LC, only the Greens have held a consistent presence in the chamber since 1993. In 2021 Labor’s historic strong dominance squeezed all other parties’ ability to win seats.

The Liberal-National Coalition held a Council majority in 1989–2001, there was a hung LC from 2001–2008, and the Coalition held a majority again in 2008–2017. From 2001–2008, the LC was ‘hung’, with Labor and Greens members effectively controlling it, but not having an absolute majority required to pass constitutional amendments (the presiding officer does not have a substantive vote). This configuration recurred in 2017–2021. The first Labor-only majority was from 2021 onwards.

Another factor involved in LC elections was exactly how electors had to vote on the STV ballot papers. From 2006–2021 it was the only upper house in the Australian states to retain full preferential voting. In order to lodge a ‘formal vote’ people either had to (i) cast their ballots ‘below the line’ (that is, numbering absolutely all the candidates in order, usually more than 40 per district); or more simply (ii) vote ‘above the line’ by numbering 1 in just one box for their preferred party or group.

Most voters opted for the simpler second option, which meant that votes for eliminated candidates and the surplus preferences of elected candidates could be re-allocated in accordance with GVT lodged by political parties – rather than following the voters’ own choices. As a result, various small or micro-parties were able to work together to exchange between them the preferences of those voters who initially supported them in complex sequences.

**Figure 21.4: Parties’ seats numbers in Western Australia’s Legislative Council (upper house), 1989–2021**



Source: Compiled from data in Western Australian Electoral Commission (2023).

Note: A majority required 18 seats from 1989 to 2005 (when there were 34 members), and 19 from 2008 (36 members in total). From 2025 there will be 37 members, and the majority will remain 19 seats.

The 2021 election of a candidate from the Daylight Saving Party in the Mining and Pastoral Region on just 98 first-preference votes (or 0.2 per cent of all formal votes in that region), was an extreme example of this ‘preference harvesting’ at work. The 2021 electoral reform should prevent similar events in future and give voters’ own choices more weight. State-wide elections may increase the numbers of candidates on voters’ ballot papers, although other changes to the legislation have been made to reduce this risk.

A final dimension of electoral competition has been the WA organisations’ roles in supporting their party’s national performance in the federal elections. While Labor regularly performed strongly at state elections, it tended to under-perform federally. Since the early 1990s, Labor’s share of the vote in WA at federal elections was consistently below 40 per cent, and it sank below 29 per cent in 2013. However, this pattern reversed spectacularly ([Phillimore, 2022b](#)) at the 2022 federal election. In WA federal seats, Labor secured 37 per cent of the primary vote and 55 per cent of the two-party preferred (TPP) vote, with a swing towards it on TPP of 10.5 per cent, three times the national average. Labor won nine of the 15 federal seats in WA, compared to just five out of 16 seats in 2019.

## Party organisations

In terms of internal organisation, Labor’s policy positions and leadership personnel have long been shaped by a faction system, similar to that operating at federal level (see [Chapter 6](#)). In 2017 a realignment of Labor’s faction system created internal discord, culminating in a public dispute between Mark McGowan (the ‘centrist’ Parliamentary leader since 2012, and one of only six Labor MPs unaligned with any of the factions) and a leading union boss, and the re-statement of the ‘democratic socialisation of industry’ in the party’s platform in 2019 ([Hondros, 2019](#)). In the same year, an acrimonious conference of the state Labor Party ([Guardian, 2019](#)) led to a ‘walk-out’. Subsequent election victories strengthened the premier’s authority within the party. Concerns about a toxic work culture within the party organisation ([Hastie, 2021](#)) also persist.

Much more dramatic organisational and electoral challenges have confronted the Liberal Party. An internal party review ([Bourke, 2021](#)) commissioned following the 2021 state election debacle documented the growing influence of evangelical groups, factional manipulation of local branches, membership decline, falling financial receipts and a fracture between the party’s organisational and parliamentary wings. The review found ‘corruption of the essential mechanisms that guide and are intended to preserve the integrity of the Party’ and warned that without significant reform the party’s future was ‘bleak’. The Liberals’ poor showing in WA at the 2022 federal election reinforced the severity of its internal problems.

Rural demographic changes continue to threaten the National Party’s electoral survival. In 2006, the Nationals sought to improve their electoral prospects by terminating their coalition arrangement with the Liberals in favour of a looser post-election ‘alliance’ that traded legislative support for ministries and funding commitments ([Phillimore and McMahon, 2015](#)). Although the Nationals emerged as the official opposition party in the LA following the 2021 State election, the end of advantageous electoral malapportionment for LC elections might induce a further reconsideration of its relationship with the Liberals if the Nationals’ seat share in that chamber declines.

## Regulating political parties

Political parties are regulated by the *Electoral Act 1907*, administered by the Western Australian Electoral Commission. To be eligible for registration (essential for contesting elections) a party must have a party secretary, a constitution and at least 500 members who are electors at the time that the party applied for registration. In 2021, a new law created a A\$2,000 non-refundable fee to register and a requirement to produce a declaration signed by party members in support of the party's application for registration.

WA has until recently been a laggard on election campaign finance matters. Before new legislation was passed in November 2023, there were no expenditure caps, party disclosures of gifts and income were delayed by up to 15 months, and parties registered to contest federal elections benefited from a loophole that allowed them to disclose gifts at the much higher federally mandated threshold (currently A\$14,300, compared to A\$2,500 at state level). There were also no bans on foreign donations.

WA provides for some election expenditure to be reimbursed for candidates or parties that receive more than 4 per cent of the first-preference vote. At A\$2.26 per valid first-preference vote (in 2023), up to the amount of the election expenditure, this funding has been lower than most other Australian jurisdictions, and is not automatic. Parties must provide evidence of having incurred legitimate electoral expenditure. Administrative funding has not been available for parties (or candidates).

In 2020, Labor introduced legislation proposing changes to disclosure, the reporting of donations and the imposition of expenditure caps, which would have improved openness and transparency (although still not to the same extent as in Queensland or NSW). However, the bill lapsed when Parliament was dissolved for the 2021 election.

In 2023, Labor introduced much more ambitious legislation, which passed in November that year and will apply to the 2025 state election ([Cook and Quigley, 2023](#)). This legislation imposes expenditure caps on political parties, candidates and third-party campaigners in an effort to 'level the playing field' on campaign spending. The new legislation requires any donation to a political party or candidate over A\$2,600 to be disclosed by the end of the next business day during the official election campaign period (and within seven days outside the election period). The legislation also bans all foreign donations, increases penalties for non-compliance and largely removes parties from involvement in postal voting. In recognition of the increased obligations on parties, the rate of public reimbursement will increase from A\$2.26 to A\$4.40 per primary vote, although WA's rate remains the lowest of any Australian state or territory with public funding.

## The social representativeness of legislators

How far parliament represents the broader population has been an important democratic consideration. The parties' selection processes are key here. Important segments of society under-represented in WA's parliament have included women, migrants, and Aboriginal peoples. As in many jurisdictions, using STV for the LC has been accompanied by greater representation of women and minorities. However, this still depends on political party pre-selection processes, especially in the two major parties. WA's Labor has for many years instituted a policy that required virtually equal representation of women in 'winnable' seats. The Liberal Party has not gone down the same path. It continues to rely on an ostensibly merit-based system to influence the gender composition of its parliamentary membership.

**Figure 21.5: Members of Western Australia’s Legislative Assembly (lower house) and Legislative Council (upper house) by gender and party, 2017, 2021 and 2024**

Legislative Assembly	2017		2021		2024	
	Men	Women	Men	Women	Men	Women
Labor	26	15	27	26	26	27
Liberal	11	2	1	1	1	2
National	4	1	3	1	2	1
Total	41	18	31	28	29	30

Legislative Council	2017		2021		2024	
	Men	Women	Men	Women	Men	Women
Labor	7	7	9	13	9	12
Liberal	8	1	6	1	6	1
National	3	1	3	0	2	1
Other	7	2	3	1	4	1
Total	25	11	21	15	21	15

Source: Compiled from data in **Western Australian Government (2022)** and author’s calculations.

Note: The 2024 figures reflect the outcome of two by-elections in the LA, both of which saw retiring male MPs replaced by women. One of these, a female National MLA, later defected to the Liberal Party. The LC figures reflect a resignation by a National MLC (male) and replacement by a woman, and an ALP female MLC resigning whose male replacement now sits as an independent.

Labor’s advances in the last two elections meant that overall gender equity in representation has now been achieved in the LA (an extra 11 Labor women MLAs were elected in the 2021 landslide), but not in the LC (Figure 21.5). However, Labor moved to near gender-equity in LC representation in 2017, and by 2021 had more women MLCs than men.

Liberal representation in the legislature has fallen so much that trends for the party are now hard to assess, but they do not yet seem to have redressed their historic gender imbalance. In 2017, female representation in the Liberal party room (both LA and LC) was very low, with 19 men and only three women, or less than 10 per cent. After 2021 there was still only one female Liberal MLC, compared to 6 men. The Nationals were not much better. In 2017 their party room had 7 men and two women, and in 2021, 6 men and one woman. In the Council, the Greens had two men and two women in 2017, but smaller parties have generally had too few seats to discern any trend in this respect.

In terms of ethnic group diversity, Labor’s 2021 victory brought an Aboriginal MP into the LA, and three members that were born in India. In the LC, there was an Aboriginal member, as well as MLCs born in China, Ethiopia (a Sudanese refugee) and Serbia. Official profiles for the other parties do not indicate any notably non-Anglo/Celtic members.

Reducing the previous over-representation of regional interests might be thought to reduce the diversity of area interests represented in parliament. However, MPs representing regional seats do not actually need to be from regional WA. Traditionally, several members – including those representing rural regions in the Council – have lived in the metropolitan area, while others have had their electorate offices in Perth.

# Government accountability and public sector corruption issues

State governments were historically far more prone to corruption problems among politicians and top officials than was true of the federal administration, partly because state politicians exercise direct control over mineral exploration activities, and regulate property development and substantial public sector contracting. Western Australia had a massive political/corporate scandal in the 1980s known as WA Inc, as previously mentioned ([Wikipedia, 2023a](#)).

Subsequently, the public service in the state established a strong focus on integrity as an integral component of sound public management and leadership. A multi-faceted approach to oversight also resulted in far more public reporting.

The Public Sector Commission (PSC) has a leadership role including promoting and maintaining integrity, conduct and ethics across the whole WA government sector ([WAPSC, 2022a](#)). The PSC integrity strategy ([WAPSC, 2021](#)) has four key improvement areas: planning and acting; modelling and embodying a culture of integrity; learning and developing knowledge and skills; and being accountable – with extensive actions listed for public authorities and for individuals, along with measures of success for public authorities. In 2022 the PSC launched a capability review framework ([WAPSC, 2022b](#)) to address 21 capabilities to ensure that integrity and risk related to resources were ‘embedded in all aspects of the agency including governance and administration; systems and controls; culture and attitude; and accountabilities and responses’. Eight reviews are being trialled over two years and it will then be evaluated to determine if it has met its objectives.

In addition, oversight has been provided by a web of integrity agencies including the powerful Corruption and Crime Commission set up in 2004, the Auditor-General and the Ombudsman with reports provided to parliament and available to the public and the media. Notwithstanding these arrangements, the WA public sector has experienced several integrity failures that have posed questions about the efficacy of the current arrangements and whether the state has in fact been on a pathway to the highest standards of integrity. Three aspects are of note – some recent corruption cases in the administration; conflicts between ministers, the LC and the Corruption and Crime Commission; and court cases against WA brought by businessman Clive Palmer.

## Public services corruption cases

In 2019 and 2020 a number of cases of public sector corruption came to light. One involved three executives and several contractors for a large health service agency ([Clarke, 2020](#)) who were charged with corruption and fraud following many years of investigation by the Corruption and Crime Commission into the payment of kickbacks to the health officers in return for the awarding of contracts.

Most shocking was the case of Paul Whyte, former acting CEO of the Housing Authority who then became Assistant Director-General in the Department of Communities when the two agencies later merged. He was found to have stolen A\$27 million over 11 years through an elaborate system of fake invoicing by shell companies that he controlled, for housing work that was never undertaken. While the cases eventually came to light, the scale and nature of the corruption has raised questions about systemic public administration problems and the

effectiveness of WA's integrity agencies. Whyte's extravagant lifestyle (including spending on racehorses and gambling) eventually helped to bring him down and in 2021 he was sentenced to 12 years jail ([Menagh, 2021](#)). Several alleged accomplices from outside the public sector were also charged. As a result of these and other cases, ensuring the integrity of public sector procurement processes became an urgent issue, highlighting the central role of the Corruption and Crime Commission ([Corruption and Crime Commission, 2021a](#)) at the same time as it has been in the parliamentary spotlight.

### **The Corruption and Crime Commission case**

The Corruption and Crime Commission was established in 2004 (replacing an earlier anti-corruption agency) and has been a strong but controversial body. Since 2019 two related contests between the parliament and the WA government around the Corruption and Crime Commission's powers took place around parliamentary privilege and the appointment of the Corruption and Crime Commission's Commissioner.

In mid-2019 it was revealed that the Corruption and Crime Commission was investigating potential misuse of parliamentary electoral allowances, notably by three former Liberal members of the LC. The Corruption and Crime Commission issued notices to secure the LC members' emails from the state's DP&C, but the LC objected ([Department of Justice WA, 2021](#)) that the Corruption and Crime Commission was interfering with parliamentary privilege, an important constitutional provision that protects legislators from being intimidated by law cases or having their speech in the chambers curtailed. Eventually, the Corruption and Crime Commission seized the laptop and two hard drives of former MLC Phil Edman. Subsequently, an interim report from the Corruption and Crime Commission revealed that he had spent A\$78,000 of his electoral allowance on speeding fines, visits to a strip club, travel to meet women for sex, and other illegitimate purposes. It also apparently contained potentially politically explosive communications between Edman and colleagues.

Labor ministers complained that the LC was attempting to protect its members (and former members) from scrutiny. In turn, the LC argued that it was protecting the freedom of speech and proceedings of parliament and its members. Citing the UK's historic 1688 Bill of Rights, the LC passed a motion ordering its chief officer (the Clerk) not to follow the directive from the Corruption and Crime Commission, because the two bodies had not reached agreement on the appropriate procedure for determining which emails were subject to parliamentary privilege. The Corruption and Crime Commission returned the laptop and hard drives while the LC President (a Labor member) defended the LC's actions and took legal action in the Supreme Court against the Labor government and the Corruption and Crime Commission to clarify the matter.

The Supreme Court decision ([Department of Justice WA, 2021](#)) provided support for both sides. The vast majority of documents sought by the Corruption and Crime Commission could not reasonably be blocked by a claim of parliamentary privilege and the laptop and hard drives were ordered to be released to the Corruption and Crime Commission for its investigation. However, the Court also decided that genuinely privileged material must remain with the parliament. The judgement noted that the absence of a protocol between parliament and the Corruption and Crime Commission for dealing with Corruption and Crime Commission investigations was a key source of the problem. In December 2021 such a protocol was signed ([Corruption and Crime Commission, 2021b](#)) which should avoid issues in future.

Another important clash between the parliament and the executive over the Corruption and Crime Commission ([Jenkins, 2020](#)) followed in 2020 when the government attempted to re-appoint John McKechnie QC as Commissioner of the Corruption and Crime Commission. As required by law the premier made a recommendation to parliament's Joint Standing Committee

on the Corruption and Crime Commission. Its four members (two Labor, one Green and one Liberal) needed to provide bipartisan support for the recommendation if it was to go ahead. But they did not do so, nor did they disclose their reasoning. There was much conjecture about which members had refused to support the appointment. The Liberal Party leader and most MPs publicly supported the re-appointment, but the Committee stood firm in its view, with even its Labor chair defending the integrity of its processes and members. A standoff ensued.

Labor ministers publicly suspected some Committee members of wishing to prevent or obstruct Mr McKechnie and the Corruption and Crime Commission's investigation into possible misuse of taxpayer allowances by LC members (as discussed). Accordingly, in 2020 they introduced legislation to enable the Commissioner to be re-appointed as a one-off, with majority and bipartisan support of the whole parliament. This legislation was rejected by the opposition-dominated LC in 2020. At the 2021 election, Labor promised to reintroduce the law and it eventually passed ([McGowan and Quigley, 2021](#)) after the party won an LC majority.

## Clive Palmer legislation

The McGowan government's battles with the Queensland businessman and would-be populist politician Clive Palmer were not confined to the issue of the state's hard borders during the pandemic. In August 2020 ministers took an unprecedented step by having the parliament pass legislation that sought to block a legal action brought by Palmer that reportedly could have cost the state up to A\$28 billion ([Perpitch and Laschon, 2020](#)). Mr Palmer challenged the legislation on constitutional grounds, claiming that legislation targeted at him alone breached the 'rule of law' requirement that laws be general in their effects. However, in October 2021 the High Court dismissed his case.

Palmer's original claim was for compensation that he said he was owed over a stalled iron ore project in the Pilbara region. The dispute stemmed from former WA Premier Colin Barnett's refusal in 2012 to formally assess a mine proposed by Palmer's company Mineralogy, which the businessman claims breached a state agreement inked in 2002. The state chose not to go to arbitration, a process provided for in the agreement, fearing the potential cost of losing the arbitration case would be too high. There is no constitutional provision at state level comparable to the 'on just terms' compensation section (section 51) included in the Commonwealth Constitution. With the rejection of several bases of challenge, WA was able to have the legislation upheld in the High Court.

While generally popular, there was unease in some quarters at the state's targeting of a particular company via legislation, and at the potential 'sovereign risk' it might present to current and prospective investors, which Palmer claimed could deter companies from investing in WA in the future. To date, this wider issue of loss of confidence in the state does not appear to have materialised. The uniquely conflictual nature of the relations between Palmer and the WA government has not apparently shaped investors' views and similar state interventions to block claims for compensation have been viewed as extremely unlikely.

In addition, Palmer took defamation action ([Raphael, 2022](#)) against Premier Mark McGowan (who in turn counter-sued Palmer) in the Federal Court of Australia. Very minor damages ([Clarke, 2022](#)) were awarded to both men, with strong criticisms from the judge that the case had ever come to court in the first place. In 2022–2023, Palmer's company, Zeph Investments, which is the parent company of Mineralogy and registered in Singapore, commenced an action via Australia's free trade agreement with Singapore ([Weber and Perpitch, 2023](#)).

## Conclusion

Once the COVID-19 pandemic eventually receded, WA's democratic politics faced several challenges, including how to handle pressures on its health system. Social issues, including housing shortages, high rents and homelessness, major problems in the youth justice system, and violence against women also increased in prominence. The cost of living rose sharply from 2022, increasing pressure on governments to provide relief. Longer-term economic issues included creating and sustaining a more diversified economy less dependent on mining, dealing with the energy transition away from fossil fuels in a state with abundant natural gas and prominent and powerful resource companies, and competing with other states for skilled labour. However, with buoyant public finances the WA state government had been in a position to do more than other states to combat these issues.

Politically, the WA Labor government has been contending with high expectations borne out of its landslide electoral victory in 2021, which included winning seats in areas that were traditionally conservative leaning. The end of emergency conditions plus dealing with the normal pressures of government were always likely to produce some political re-balancing in the run-up to the next state election. However, the resignation of popular Premier Mark McGowan in May 2023, and the announcement in February 2024 that media personality and Lord Mayor of Perth, Basil Zempilas, would be seeking Liberal Party preselection for a lower house seat, makes the 2025 election potentially much more competitive than the lopsided party numbers in the current parliament might suggest. In democratic terms, Labor's legislative hegemony might be regarded as a threat if the party were to be tempted to exploit its majority further to buttress its future electoral chances. But there are few signs of this and, if anything, caution continues to be the government's hallmark.

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