



The Protected Entertainment Precincts Scheme Aboriginal Engagement Summary Findings Report

...it feels like such a narrow definition of whose safety. Safety to who. And it can't be safety if it's not everybody's safety. It's just a complete illusion (of safety).¹

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¹ Interview 2, p.19.

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Introduction

In 2022, the Protected Entertainment Precincts Scheme (PEP scheme) was established in Part 5AA of the *Liquor Control Act 1988* (WA) (the Act) in Western Australia (WA). Its object is to reduce harm and disturbance in areas with a high concentration of licensed venues. It aims to

- minimise harm to individuals and groups within designated entertainment areas
- Enhance the safety and welfare of people in these precincts
- Maintain the atmosphere and character of entertainment districts
- Address public disturbance and disorder, regardless of whether it is alcohol related.

It created three categories of exclusions that can apply to people who have behaved in a particular way, banning them from entering all 5 prescribed PEP areas: Short term exclusion orders; Extended exclusion orders; Excluded offenders.

The Ombudsman's report on the PEP scheme

The Ombudsman is required to report to Parliament after the PEP scheme has been operating for 3 years (after 23 December 2025) and may report at any other time.

In section 152NZV of the Act, Parliament has asked the Ombudsman to report on:

1. the operation of, and exercise of powers under the PEP scheme, and
2. if the Ombudsman identifies any community group particularly affected by the PEP scheme, to review the impact on that group.

The Ombudsman may also make recommendations for legislative amendments to the Act to address any of these matters.

In the lead up to the enactment of this legislation, several concerns were raised by community organisations regarding among other things, the disproportionate impact it could have on vulnerable groups.² The Aboriginal Legal Service of WA submission emphasised the disproportionate impact it could have on vulnerable Aboriginal people who live rough within PEPs and who also access community services within these areas. They indicated concerns that vulnerable Aboriginal people will have difficulty accessing review mechanisms because of the complexity and cost, and that the Government may intend to expand the PEP scheme to regional areas where there are proportionately larger Aboriginal populations. This in turn could disproportionately affect Aboriginal people.

Given the concerns raised at that time, the Ombudsman sought to engage with Aboriginal people and the community to understand:

² See Submissions to The Hon Dr Brad Pettitt MLC, by the Aboriginal Legal Service of WA dated 26 October 2022 and Social Reinvestment WA to dated 23 November 2022.

- (a) the impact of the PEP scheme on Aboriginal people from the lens of those who have received an order;
- (b) the impact of the PEP scheme on the Aboriginal communities' sense of community safety in the PEP areas; and
- (c) some of the complex underlying factors contributing to hardship and impact, from an Aboriginal perspective.

Background

In order to understand the impacts of the PEP scheme on Aboriginal people from an Aboriginal perspective, it is important to understand that this perspective is inextricably linked to Aboriginal experiences of colonisation and the structural violence and coercive control of ongoing colonialism. Understanding the impact of the PEP scheme also requires understanding the intergenerational trauma and personal traumas carried by Aboriginal people, and how this influences their ways of being in the world today; how they may present in society and in PEP areas. Some information is provided in the sections below to inform this understanding.

The context of colonisation

Colonisation can be understood as one group's domination over another group, through actions such as violent dispossession/occupying land, economic exploitation, political domination, and coercive cultural change.³ In Australia, Aboriginal and Torres Strait Islander people have experienced at least, two types of colonising processes: extermination (where total extermination of populations occurred, e.g. in parts of Australia); and assimilation (more common, involving "cultural transfer", Stolen Generations).⁴

Colonialism was reinforced by notions that Europeans were superior to Aboriginal people primarily because of their race, thereby firmly linking colonialism with racism.⁵ In addition to the displacement of Aboriginal people from their Country, colonialism undermined existing Aboriginal social, family, community and cultural structures, values and traditions, such as those emphasising the wellbeing of the collective, and different family structures and processes.

The term "Coloniality of power" is sometimes used to capture the relationship between colonisation and power. It refers to the attitudes, mindsets, beliefs, values and power structures that were embedded within colonialism, and which is part of its ongoing legacy today.⁶ It is critical that Non-Aboriginal people including politicians, not speak from outside their colonial relations with Aboriginal people; to theorise about and live

³ Horvath, R. J. (1972). A Definition of Colonialism. *Current Anthropology*, 13, 45-57.
<http://dx.doi.org/10.1086/201248>.

⁴ Ibid.

⁵ Fanon, F., 1963. *The Wretched of the Earth*. Grove Press, New York.

⁶ Quijano, A., 2000. Coloniality of power and eurocentrism in Latin America. *International Sociology*, 15, 215–232. <https://doi.org/10.1177/026858090001500200>.

colonisation as something to which they do not have a relationship.⁷ Nor should they enact a ‘postcolonising amnesia’ or “willed forgetting and silence” in the face of the well documented fact of colonial violence.⁸ To do so would be to deny they have a role in undoing the harms of colonisation, the invisibilising of the violence of colonisation, and the wholesale displacement of Aboriginal people and their replacement with a completely different population (e.g., Anglo people) and their cultures.

At a local level in WA, in addition to the violent colonisation of Nyoongar country and dispossession that occurred, the impact of the PEP scheme must be understood in the context of the profound impact of one of the tools of colonialism in WA, the Aborigines Act 1905 (the 1905 Act) and the acts of its administrator, the Chief Protector AO Neville. This included among other things, the breaking up of families through the forced removal of children from their families, and the exclusion of Nyoongar/Aboriginal people from their Country. The 1905 Act was repealed by the Native Welfare Act 1963 which came into force in 1964. That is only 62 years ago, and the impact of the 1905 Act remains in the lived experiences and living memories of many Nyoongar and other Aboriginal people.

With regard to the control of where Nyoongar people could enter and be present, the impact of the PEP must understand how implementing legislation like the PEP scheme echoes the original dispossession of Nyoongar people of their Country, and the dispersal of, and prohibitions on Nyoongar people from being within city boundaries without a permit or ‘Aboriginal Pass’.⁹ At the time of implementing the exclusion of Nyoongar people, it is reported that

after a particularly heated piece of correspondence with the Commissioner of Police in March 1928, Neville revealed what could have been his true motivations for supporting the prohibited area, where he stated his “desire that neither half-caste or Aboriginals be permitted to frequent the ‘White City’ [or similar such establishments]...[as] it simply debases the natives and lowers the status of the whites in their eyes...and will invariably lead to the ruin of blacks.”¹⁰

The impact of the PEP scheme on Nyoongar people, must also take into account that some of the existing PEPs may be located on their traditional meeting places. For example, as noted by the WA museum

The Perth area is a storied landscape, populated by dreaming narratives and spirit beings...it contained many grounds of ceremonial importance, and many were centred on what has become the CBD. (C)eremonies took place at Kings Park, one of many Nyitting (cold times), or dreaming places, where ritual and

⁷ Riggs, D.W. (2008). White mothers, Indigenous voices and the politics of voice. *Australian Critical Race and Whiteness Studies Association e-journal*, 4(1)

⁸ Luker, T. (2005). ‘Postcolonising’ Amnesia in the Discourse of Reconciliation: The Void in the Law’s Response to the Stolen Generations. *Australian Feminist Law Journal*, 22(1). doi: [10.1080/13200968.2005.10854339](https://doi.org/10.1080/13200968.2005.10854339).

⁹ WA Government. [Perth’s Prohibited Area | Culture WA](#) Retrieved 6 February 2026.

Noongar Culture. [ProhibitedMAP-final-new.pdf](#) Retrieved 6 February 2026.

¹⁰ WA Government. [Perth’s Prohibited Area | Culture WA](#) Retrieved 6 February 2026.

*story intersected and the land and culture was maintained, such as at Gooninup, where Kennedy's Fountain and the Swan Brewery later operated, and where the serpent creator spirit known as the Wagyl rose up the limestone cliff and onto the 'women's place' near what is now the Pioneer Women's Memorial in Kings Park. At the base of the cliff, stones of significance left by the Wagyl were maintained by the Whadjuk people, and sacred objects were hidden in different places around the foot of the bluff.*¹¹

These significant areas were not constrained by hard boundaries such as roads and railway lines as those in the present PEP area boundaries.

The politics of voice

As a minority group in their country, Aboriginal people have to fight to have a voice in the matters that concern them and their lives. They are all too aware of the racialised politics of voice wherein "...racial power differentials...dictate which particular voices will be given space within public discourse" and which voices will decide solutions, such as the PEP scheme (Riggs, 2008, p.1).¹² The prioritising of non-Aboriginal voices and solutions in the design and implementation of the PEP scheme demonstrates racial privilege and emphasises the investment that WA has made in maintaining unequal distributions of racialised power that continues to permeate all forms of legislation, research, policy, practice, responses and law reform (e.g., Hovane, 2007). Underpinning much of this are inherent assumptions associated with formal equality, where sameness of treatment is equated with fairness of treatment on the basis that it's the same for everyone. Such practices can erase diversity and make it invisible (Richie, 2000), while often paying lip service to intersectionality. Those practices constitute examples of structural violence towards Nyoongar and Aboriginal people.

Intergenerational trauma

Intergenerational trauma refers to the impact of the trauma experienced by Aboriginal people as a result of the brutality of colonial and state violence and not having the opportunity to heal from these impacts. As a result, they it can unknowingly be passed on to others through parental behaviour. The children may experience difficulties with attachment, disconnection from their families and culture, and high levels of stress from family and community members who themselves are dealing with the impacts of trauma. This can create developmental issues for children, who are particularly susceptible to distress at a young age. The impacts of state violence can resonate across generations, creating a cycle of trauma, where the impact is passed from one generation to the next.

Research indicates that unresolved trauma does not diminish with time, instead - where there is no opportunity for healing – the trauma passed down the generations, can sometimes reveal itself in relationship problems and difficulty in expressing love and

¹¹ Museum of Perth. [Aboriginal Places & Life \(Prior to 1829\) — Museum of Perth](#) Retrieved 6 February 2026.

¹² Riggs, D.W. (2008). White mothers, Indigenous voices and the politics of voice. *Australian Critical Race and Whiteness Studies Association e-journal*, 4(1).

affection for children, self-medication with alcohol and other drugs, mental health issues, and suicide and self-harm.¹³ To compound the trauma, the deliberate fracturing of sophisticated social relationships, through the separation of families, the prohibitions on speaking language, practicing culture and ceremony, and the constant undermining of Aboriginal Law – have severely stressed the structures which regulated behaviour and maintained family safety and wellbeing for the past 60,000 years.¹⁴

Personal trauma

Trauma occurs when our ability to cope is overwhelmed. Responses to trauma can manifest in symptoms which are typically adaptive, survival-based responses to adverse experiences.¹⁵ Trauma can have a significant effect on physical, emotional and psychological wellbeing and may surface at any time, particularly when survivors tell or repeat their experiences, or when they encounter similar experiences shared by others. Trauma looks different for people depending on their experiences and other factors such as exposure to previous traumatic events, access to support and mental health status.¹⁶

Widely accepted trauma research evidence suggests that trauma has neurological, physiological and genetic impacts that influence the development of neurological pathways in the brain, how genes are expressed, how trauma can be stored in the body, and how the nervous system responds to stress and safety.¹⁷ Generations of Aboriginal and Torres Strait Islander peoples have experienced such trauma, with little or no support to process and heal from that trauma. For many Aboriginal and Torres Strait Islanders, they are often born into environments of intergenerational trauma, racism and the structural violence of poverty and disadvantage within the broader dominant Anglo Australian society. In these circumstances, from a trauma perspective, Aboriginal and Torres Strait Islanders will be familiar with feelings of mistrust, hypervigilance, anxiety and stress, and feeling unsafe when they interact with mainstream western systems.

¹³ Atkinson, J. (2002). Trauma trails, recreating song lines: The transgenerational effects of trauma in Indigenous Australia. North Melbourne: Spinifex Press. Milroy, H. (2005). Preface: Restoring Life and Spirit: Recovery from Trauma. In J. A. De Maio, S. R. Zubrick, S. R. Silburn, D. M. Lawrence, F. G. Mitrou & R. B. Dalby (Eds.) *Western Australian Aboriginal Child Health Survey: The Social and Emotional Wellbeing of Aboriginal Children and Young People* (Vol. 2, pp. xiii–xxvii). Perth: Curtin University of Technology and Telethon Institute of Child Health Research.

¹⁴ Blagg, H., Tulich, T., Hovane, V., Raye, D., Worrigal, T., & May, S. (2020). Understanding the role of Law and Culture in Aboriginal and/or Torres Strait Islander communities in responding to and preventing family violence, Ngarluma/Jaru/Gooniyandi (Hovane), Kimberley and Pilbara region, WA, Jabirr Jabirr/Bardi (Raye), Dampier Peninsula and Kimberley region, WA, Gooniyandi/Gija (Worrigal), Kimberley region, WA (Research report, 19/2020). Sydney: ANROWS.

¹⁵ Chamberlain, C., Clark, Y., Hokke, S., Hampton, A., Atkinson, C., Andrews, S., (2021) Healing the Past by Nurturing the Future: Aboriginal parents' views of what helps support recovery from complex trauma. *Primary Health Care Research & Development* 22(e47).

¹⁶ Australian Human Rights Commission (2021). Support and self-care guide: Trauma-informed guidance to accompany the release of the Set the Standard: Report on the Independent review into Commonwealth Parliamentary workplaces. Australian Human Rights Commission, Full Stop Australia.

¹⁷ Porges, S. (2011). *The Polyvagal Theory*. New York: W. W. Norton & Company. Siegel, D. (2012). *The Developing Mind*, 2nd Ed. New York: The Guildford Press. van der Kolk, B. (2014). *The Body Keeps the Score*. New York: Penguin Books.

Vulnerable people, including Nyoongar/Aboriginal people who frequent PEP areas, typically have experienced trauma and are living rough/homeless in public spaces which expose them to potential threat. Perceptions of threat and harm are exacerbated by schemes like the PEP wherein they are at risk of attracting the attention of the Police because of the public nature of their lives and that they are highly visible. They can feel like they are being monitored and surveilled. They typically live in a constant state of hypervigilance because they do not feel safe and their nervous system is in a constant state of fear and instability. From a trauma-based perspective, when there are states of ongoing instability, the body prioritises survival over learning, their perceptions of choices can narrow, reactivity increases, and reverting to using adaptive survival response (e.g., fight or flight) in order to cope makes sense.¹⁸

It is also important to note the reality for vulnerable people such as those living rough/homelessness and in impoverished conditions/poverty, who can “...spend their days navigating through a complex and often unsympathetic web of institutions they depend on for survival. For these people...it takes all day to be poor”.¹⁹ The phrase “it takes all day to be poor” reflects the complexity and effort involved in living in poverty. It emphasises that the realities of poverty extend beyond financial constraints, to requiring significant effort to navigate daily challenges to maintain a basic standard of living. It is stressful and exhausting.

There is a misunderstanding of how vulnerability as a result of trauma and associated issues interacts with schemes like PEP which seek to regulate behaviour. Environments of threat and harm experienced by vulnerable people means they can feel monitored and surveilled, and the ever-present threat of arrest and exclusion, tightens the rules around them to further heighten their feelings of vulnerability. It is difficult to expect behavioural compliance or change, that is to regulate nervous system dysregulation, to for example, avoid attention by the Police or others, or to avoid arrest, in bodies that remain on alert for signs of threat and harm and are poised for defence. Indeed, the neuroscience evidence-base has been clear that change follows safety, not the other way around.²⁰ So it is hard for vulnerable people to feel safe enough to regulate their behaviours in these circumstances. They also face the threat of exclusion from what they consider are their safest places. Pushing them out of these well monitored areas, exposes vulnerable people to further stress at the potential harm that may be inflicted on them in less monitored areas where there is no-one to see and intervene if they are being harmed.

Aboriginal engagement

Engagement was sought with the Noongar/Aboriginal community and organisations who provide services to individuals who have experiences with the PEP scheme. This was undertaken to better understand the impact of the PEP scheme on Noongar/Aboriginal people. There were some limitations with this engagement which affected participation:

¹⁸ Porges, S. (2011). *The Polyvagal Theory*. New York: W. W. Norton & Company.

¹⁹ Brody, J. & MacKinnon, S. (2009). It takes all day to be poor. Canadian Centre for Policy Alternatives- Manitoba, CA. [SIC 2009 report 120909.pdf](#) Retrieved. 17 January 2026.

²⁰ Porges, S. (2011). *The Polyvagal Theory*. New York: W. W. Norton & Company.

1. The short timeframe.
2. The Christmas holiday period which affected stakeholder availability.
3. In the lives of Aboriginal people who are generally contending with more pressing issues such as every-day survival concerns, making time to provide input into this review is not a priority.
4. In relative terms, overall, the PEP scheme impacts a small but highly vulnerable group of Aboriginal people, disproportionately.
5. The Australia Day terror attack on Noongar/Aboriginal people and their supporters on 26 January 2026, and the impact it had, was a more pressing issue (a potential participant was involved in the subsequent discussions with the Police and counter-terrorism services).

In this context the sections below outline the methods used and the outcomes of the Aboriginal community engagement.

Methods

Approach

1. The engagement used qualitative methods. It offered the following opportunities for engagement.
2. Yarning circles: Two yarning circles were offered, one online and one in person face to face.
3. Individual interviews: Individual interviews were offered for those who could not attend the yarning circles or preferred to engage individually.
4. The option of audio-recording the yarning circles and interviews with permission was included in the approach. The purpose was to ensure the Consultant had an accurate record of their input and could use this for the purpose of the analysis and report.

Materials

A Participant Information Sheet was developed for circulation to stakeholders to provide an overview of the engagement and its purpose (Attachment A).

Procedure

1. The Consultant made initial informal contact with stakeholders in December to let them know about the engagement, to gauge their interest in participating and to invite them to provide the names of any other stakeholders that may be interested in participating.
2. The Consultant developed the Participant Information Sheet and liaised with the Ombudsman's Office to finalise it.
3. A final list of potential stakeholders was developed (Attachment B).
4. The Participant Information Sheet was provided to stakeholders, together with a formal invitation to attend a yarning circle or interview.
5. The yarning circle and interviews were undertaken. Participants consented to the audio recording of that engagement.
6. Thematic analysis was conducted on the data gathered during the yarning circle and interviews.

7. A report was developed and provided of the results.

Results

1. Yarning Circles: One face to face yarning circle was held with participants at the Derbarly Yerrigan Health Service. Three participants attended.
2. Interviews: Two interviews with individuals were conducted; one face to face, and one online.
3. One stakeholder provided brief input via email correspondence.
4. Total participants: A total of six local Aboriginal people provided input.

A key limitation in the engagement was the limited number of people who participated. Having said that, similar issues and concerns were raised across the engagement. It is likely that saturation was close to, if not achieved within the present data from the engagement. That is, it is unlikely that further consultation would identify new issues.

It is noted that a written submission was provided by the ALSWA and The Nyoongar Patrol Outreach Services to the Ombudsman. The submission from the ALSWA is noteworthy for the issues and concerns being similar to those raised during the present engagement. This gives some level of confidence regarding the issue of saturation and that between these submissions and the engagement, most if not all of the key issues and concerns with the PEP scheme and its impact on vulnerable Nyoongar/Aboriginal²¹ people have been identified.

Themes

Thematic analysis of the information provided by stakeholders identified four key themes.

Table 1. Overview of Themes and their key components

Theme No.	Theme	Key issues
Theme One	A holistic perspective is important	• Context of colonisation and ongoing colonialism • Weaponising vulnerability • PEP impacts on access to services • The absence of the root cause of harm in PEP areas
Theme Two	An unsafe scheme	• Not evidence-based • Safety for whom? • Removal from survival zones

²¹ The term Nyoongar/Aboriginal is used in acknowledgement of the traditional custodians of the lands on which the PEP scheme operates, and to also acknowledge the different peoples from other traditional lands who may be visiting or living on Nyoongar Country, who may be impacted by the PEP scheme.

		• Misidentification of vulnerability as threat • Increases stress and pressure • Lack of accountability
Theme Three	The PEP scheme is racist	• Two-tiered standard of belonging • Imposes a third wave of dispossession and dispersal • Predictive policing, racial profiling and criminalisation of presence • Four-fold penalties
Theme Four	Barriers engaging with the PEP scheme	• Language is not user friendly • Vulnerable people's capacity to engage with the PEP scheme

Theme One: A holistic perspective is important

Theme One reflects an overwhelming and consistent view among participants that there is a need to adopt a holistic perspective when considering the impact of the PEP scheme on local Nyoongar/Aboriginal people. This is because Nyoongar/Aboriginal people do not interact with the PEP scheme from a neutral position. Their experiences must be understood in its full historical and cultural context.

A holistic perspective reflects an Aboriginal world view and ensures that important considerations are not missed. Participants spoke about the need for a holistic perspective in four key ways: vulnerable Nyoongar/Aboriginal people must be understood in the context of colonisation and the ongoing structural violence as a result of colonialism and coercive control; the PEP weaponises vulnerability; the PEP impacts access to support services; and they raised questions about the absence of what they consider to be the root cause of harm in PEP areas, which is in their view, the sale and distribution of alcohol in PEP areas and its impacts on behaviour.

Participants highlighted the importance of locating the experiences of vulnerable Nyoongar/Aboriginal people in the context of the relatively recent experiences of the racist violence of colonisation and the ongoing structural violence of colonialism and coercive control. The impacts continue to resonate across generations of Nyoongar/Aboriginal people.

*Yeah, it makes you feel winyarn, you know, I mean, and, you know, just takes you back to what your parents and your grandparents went through, you know?*²²

²² Interview 1, p.23.

Understanding the historical and intergenerational context is important for understanding how the PEP scheme impacts on Nyoongar/Aboriginal people because:

For Aboriginal peoples, exclusion orders:

- *Echo historical control over movement (curfews, passes, reserves)*
- *Reinforce the idea that Aboriginal people must be managed in public spaces*
- *Perpetuate the trauma linked to forced removal, surveillance, and displacement.*

This is not neutral law enforcement – it is experienced as a continuation of colonial governance.

For Aboriginal people, policies that

- *Enable removal of Aboriginal people from public spaces*
- *Limit freedom of movement*
- *Increase police powers*

echo historical practices of control, surveillance and displacement. As a result, PEPs risk:

- *Retraumatizing communities*
- *Undermining trust in public institutions*
- *Deterring Aboriginal people from accessing city centres altogether.*²³

Participants also identified as important, the need to ensure there is proper contextualising of the circumstances of vulnerability of Nyoongar/Aboriginal people when they interact with the PEP scheme. They are generally homeless, rely on public spaces due to housing insecurity, there is a lack of private venues for social and cultural connection, they may be visiting Perth from regional or remote areas for medical treatment or court hearings particularly regarding child protection, and are highly visible in PEP areas and surrounds. That is, they live in spaces of heightened risk rather than safety.²⁴ In these circumstances, the PEP scheme can operate to *weaponise their vulnerability*. This happens where individuals can be penalised when their high visibility interacts with racial biases and/or mental health, trauma or other vulnerabilities. This can attract the attention of the Police, such that their very presence in PEP areas places them at risk. In these circumstances, PEP scheme involvement can add to the trauma and vulnerability recipients' experience.

*Short term exclusion orders do not operate temporarily for Aboriginal people. They sit within a system of ongoing surveillance, racial profiling, and spatial exclusion that produces long term harm. True safety cannot be achieved by removing Aboriginal people from public view.*²⁵

These notices being issued to people...(are there)...any accommodations that we might need to make in the scheme for when people are identifying people,

²³ AFLS yarning circle notes.

²⁴ Ibid.

²⁵ Ibid.

*you know, realistically who are...their behaviour is usually driven by, you know, extraordinarily complex, often really horrendous experiences...*²⁶

*...but she was highly, highly distressed, like distraught. And had, she was injured, was visibly injured, and had been just minutes before I came across her, you know, lying in the street crying, had been issued with the exclusion paperwork... And I realised when I sat down with her that I'd actually observed her earlier in the day, I think just not long earlier...she would have been served the paperwork by police, and she was being stood over by police. She was already highly distressed, and I just saw it from across the road....and the literal kind of standover approach of police would have been, you know, intimidating and unnecessary for someone who, she wasn't being arrested...The nature of that engagement, no consideration as a human being. Like they really were standing over her. She was sitting on a bench but curled up. So just even the service of it is just brutal.*²⁷

*...thinking about in the context of even people travelling for medical treatment or have been with family for medical treatment, or have travelled to Perth potentially because of...that they live out of town, but there's, you know, there's court events going on, or there's potentially child protection events going on that mean that...someone else is putting them up somewhere...(they can be negatively)...impacted by this scheme in terms of people being able to engage in those supports (located in PEP areas including the Courts).*²⁸

Participants referred to the impact of the PEP scheme on vulnerable Nyoongar/Aboriginal people's access to support services in PEP areas or when they are travelling through those areas to access support services. They noted that vulnerable people may be prevented from accessing support service, attending meetings, and fulfilling other important requirements which may attract further sanctions. If they took a risk and entered a PEP area from which they were excluded, and they were caught, they would be breached and this is an additional stressor for already vulnerable people.

*And you know...you know, a lot of the services...that these people need are in the, in those main areas too. So, you know, is it that long term harm to reintegration and, you know well-being...*²⁹

Having one of these notices is going to be, in some ways, one of the lowest things on your concerns list if you are needing to seek refuge and that's the only bed. Well, look, I'm going there anyway, but great, now I'm set up to be, yeah, noticed, yeah, so even, you know, having to...well, yeah, safety should always be the first one...but now I'm in trouble...with

²⁶ Interview 2, p.14.

²⁷ Interview 2, p.2.

²⁸ Interview 2, pp.10-11.

²⁹ Interview 1, p11.

*this scheme, for something that actually couldn't matter less in the spectrum of my life.*³⁰

Participants spoke about the absence of a focus on what they believe to be the root cause of many of the harms in PEP areas, and that is the sale and distribution of alcohol.³¹ They acknowledged that there are also typically illicit drugs present in those areas, but these are more difficult to regulate.

*You know, those really, really catastrophic events. Alcohol's at the centre of a lot of it, and it is not possible to separate those two things...We kind of kid ourselves...that we make things safer, but we're not actually addressing the root causes.*³²

Theme Two: An unsafe scheme

Theme Two reflects the way participants described the impacts of the structural bias and lack of cultural safety that is present in the PEP scheme, and how this affects the community's sense of safety and the sense of safety of vulnerable Nyoongar/Aboriginal people. Participants spoke about the PEP being an unsafe scheme in six key ways: the PEP scheme is not evidence-based; safety for whom – who's safety is being priorities; removal from survival zones; misidentification of vulnerability as threat; and increases stress and pressure on already vulnerable people.

Participants spoke about the PEP scheme being a knee-jerk reaction to terrible incidents that occurred in entertainment areas such as one-punch attacks resulting in deaths. They queried the evidence base that gave rise to the PEP scheme that demonstrates the link between exclusions from entertainment precincts and reduction or elimination of harm and increased perceptions and experiences of safety in these areas.

*How were these areas decided? I mean really, it's Northbridge is the is you know one of the is the main area really that where a lot of this stuff occurs. So how did it? How did all those other areas get swept up under that you know, is there evidence to support that? Why they put those other areas in? I mean, Mandurah, Fremantle, what's the other one? You know, how did they decide on the other? Did they just decide, okay, we're gonna put it all in the other sort of major areas where people, where night clubs are, you know, or did they pick those areas based on escalation of violence or effect or, you know, any social behaviour...?*³³

It doesn't seem to be a clear connect to me that equals public safety increase, because there's not a clear correlation between, you know...(between)...what

³⁰ Interview 2, pp.6-5.

³¹ Yarning circle.

³² Interview 2.p.10.

³³ Interview 1, p.10.

happened and what the behaviour was and the thing being issued...³⁴ (resulting in increased safety).

Also, I mean, you'd need to look at the past, you know, since this has been implemented, looking at the crime stats as well, you know, has there been an increase or a decrease in violent behaviour and drunkenness...Has this actually impacted on reducing violent and disorderly drunken whatever behaviour or offences in the city?³⁵

Vulnerable Aboriginal people are presenting with social issues; issues are social, not a policing issue. How has this been working? Has there been a drop in other types of offences, e.g., assaults?³⁶

Participants spoke about safety in terms of questioning, safety for whom – who's safety is being prioritised. They consistently spoke about who was being looked after through this legislation; who's wellbeing was being prioritised.

And then it's a very cultural unsafe initiative. I just can't believe this is sort of under the radar.³⁷

What's the goal that this game is trying to...you know, address that wasn't able to be addressed by, for example, you know, and I'm not advocating for this, but like the previous police response. Who are the people who are receiving the majority of these notices? Is that achieving the aim? And I would say no, from what I've observed and been told and understand to be happening. But again, the kind of prioritising of...The illusion of safety, I don't believe, I do not believe it is achieving a kind of safer outcome for the broader community situation.³⁸

And is it? Is it making the community safe? I don't think so. I don't think it is making this community safe... No, and it's culturally unsafe. It's unsafe for our people to be in the city, in the city, in those areas because they are victimised then so it's a culturally unsafe scheme.³⁹

Participants were also concerned about vulnerable people being removed from PEP areas which contain important infrastructure for safety and survival. For example, where this occurs

Aboriginal people may lose access to:

- *Transport hubs*
- *Safe meeting places*
- *Food outlets*

³⁴ Interview 2, p.19.

³⁵ Interview 1, p.34.

³⁶ Yarning circle.

³⁷ Interview 1.p.12.

³⁸ Interview 2, p.8.

³⁹ Interview 1, pp.18-19.

- *Support and outreach services*

For Aboriginal people experiencing homelessness, exclusion equates to removal from survival zones...(a) short term order can function as place-based banishment.⁴⁰

Related to the exclusion from such survival zones is the example provided regarding vulnerable Nyoongar/Aboriginal people being pushed out of central well-lit areas, to less populous areas that have less people around to observe what is happening and to potentially intervene if they are experiencing harm, i.e., help them.

but also, women then get pushed further and further out of busier nightlife districts to sleep rough are more vulnerable.⁴¹

Participants were also concerned that the PEP scheme is in effect a blunt instrument that unfairly penalises vulnerable Nyoongar/Aboriginal people. The spoke at length about the misidentification of vulnerable people as potential threats to the public, when they should be viewed as people in need of care and support.

What are they classing as antisocial behaviour versus what is being traumatised in public?⁴²

...look at somebody who appears to be busy, you know, is having a bit of a chat with themselves...is having a bit of a shout in a park, and how accurately is the risk being assessed?⁴³

So, you know, whether that be identifying, you know, misidentifying, say, an Aboriginal woman who is extremely highly reactive...because there's no context or balance...there being kind of a one-size-fits-all response. So, if you're appearing that way, then you're the problem and you're the one who needs to be moved on and excluded.⁴⁴

...you know that...health department, you know...they've beautified that...moving people on in a vicious white, you know, like in a terrible way, really just very rough handling of people. So, I mean, I think there's two things you've got there. You've got your mob that come down and then they can't get home, right. They come down for help and they can't get home.... They would have no idea about these things, you know, and I know royal Perth was trying to work on that....But they definitely need some strategy around that. You know, how do we keep those people safe and out of...the clutches of you know of these kind of legislations or policies or schemes or whatever you want to call them.⁴⁵

⁴⁰ AFLS yarning circle notes.

⁴¹ Interview 2, p.4.

⁴² Interview 2, p.6.

⁴³ Interview 2. P.12.

⁴⁴ Interview 2, p.5.

⁴⁵ Interview 1, pp.26-27.

And the other thing is people coming out of prison. It's a friggin huge problem. They end up in the city, they've already, they've got nowhere else to go and they will congregate in the city. And I guess that's a lot. That's a group I know a lot about, you know like...and you know...they're either at Saint Barts or they're flitting between Wungening you know, all those inner-city services, ...which also impacts because they go to use the services they hang around in the inner city. They get into trouble.⁴⁶

Participants spoke consistently about the PEP scheme adding further stress and pressure to already vulnerable people, and that this may lead to them reacting and behaving in a way that either harms themselves or other people.

It's actually, you're tightening the screws around people's access to support. And also, you know, their autonomy, their ability to live their own lives and travel through certain areas to get to others. And it actually decreases, I would argue, public safety in a lot of ways, because the, particularly for people who might need to access services in these areas for the thing that keeps most people going, which is access to their children, when you extinguish that hope, even a bit for somebody, the outcome for that individual, but also in terms of, you know, behaviour that may harm them or other people, or, you know, people lose hope, and you know, what's the cost-benefit analysis of that?⁴⁷

Theme Three: The PEP scheme is racist

Theme Three reflects the overwhelmingly consistent view among participants that the PEP scheme contains structural biases,⁴⁸ is harmful to Nyoongar/Aboriginal people, and is fundamentally racist. Participants spoke about this theme in five key ways: the PEP scheme represents a two-tiered standard of belonging; it imposes a third wave of dispossession and dispersal; predictive policing, racial profiling and criminalisation of presence causes harm; exposure to four-fold penalties; and lack of accountability in the PEP scheme.

And it's racist.⁴⁹

Inherent in this scheme is discrimination...there's a discomfort among the population with seeing Aboriginal disadvantage...and I bet if we asked business owners what the problem is, they'd say it's an Aboriginal problem.⁵⁰

...yeah, who's the community and who's not in the community...I think it is structured to prioritise the safety and to be honest, not even the safety most of

⁴⁶ Interview 1, p.27.

⁴⁷ Interview 2, p.4.

⁴⁸ AFLS yarning circle notes.

⁴⁹ Interview 1.p.19.

⁵⁰ Yarning circle.

the time, the convenience and the sensibilities of certain people, those sectors of the community, over others...The broader community doesn't have to look at you...You're disrupting the chill of the area, you know...⁵¹

Participants spoke about how subjective interpretations permitted in the PEP scheme are harmful to vulnerable Nyoongar/Aboriginal people. They noted that the policy aim of preserving the 'atmosphere and character' of precincts is highly subjective. This framing can:

- *Prioritise commercial interests and tourist comfort over community inclusion*
- *Position Aboriginal people as 'out of place' in city nightlife spaces*
- *Reinforce colonial norms about who belongs in public areas after dark.*

This creates a two-tiered standard of belonging, where (Aboriginal) people are disproportionately removed, excluded, or monitored.⁵²

Participants spoke about the effects of Nyoongar/Aboriginal people being excluded from a PEP area as reflecting historical experiences of exclusion from townsites and city areas, or a third wave of dispossession and dispersal: the first being original colonisation, the second being the historical exclusion of Nyoongar/Aboriginal people from townsites and cities, and the third being, being excluded through a PEP exclusion order. This can be triggering and traumatic for Nyoongar/Aboriginal people.

And I think that's one of the main report issues to make in there, is that it, you know, East Perth and all around all around East Perth and even Fremantle are a cultural I don't know what we would call it a cultural areas where Aboriginal people did meet...meeting areas, you know.⁵³

You know, I just think it's such a racist policy. It is...just reminds me of the curfews that our old mob used to have to go...and you had to be out of town by 6 O clock, you know. But instead of making people go out of town, what they're doing is criminalising them for it. And I mean, there's no, I couldn't see any provision for a caution in here.⁵⁴

I'm conscious of the...historic echoing of exclusion of Aboriginal people from particular parts of town, but also the...the very real potential, the very real impact of excluding Aboriginal people from various places that are culturally significant or are gathering places for, you know, family and community. You know, that's not that's not a minor inconvenience; that's a that's a really impactful, and again, what are we what are we doing to people by continuing to perpetuate a level of isolation or surface service disengagement...What are we doing? You know, what's gonna be the impact on that, and that order...is it public safety or individual safety.⁵⁵

⁵¹ Interview 2, p.6

⁵² AFLS yarning circles notes.

⁵³ Interview 1, p.45.

⁵⁴ Interview 1, pp.14-15.

⁵⁵ Interview 2, p.9.

*Because the other thing is, you know, our mob don't go into the city to eat. You know what I mean? They don't go to the restaurants to eat, do they? You know, they'll go to McDonald's or hungry or whatever, but they won't go. They don't go in there to eat. They go in there to socialise. That's a meeting place and it's always been a meeting place because it's... it's Perth, you know historically. And I mean, yeah, they'll go to the servos, the seven elevens, the little corner delis, and whatever.*⁵⁶

There was also a consistent view among participants that the high visibility of vulnerable Nyoongar/Aboriginal people as a result of their appearance, their way of being, their ways of expressing strong emotions such as joy through laughter, anger, and their distress. This can place them at risk because of the predictive policing, racial profiling, and criminalisation of their presence that occurs through the PEP scheme. This is because their visibility can often attract the attention of the Police who, based on negative stereotypes, can make negative assumptions and judgements about what they are observing.

The broad focus on 'disturbance' and 'disorder' allows for higher levels of discretionary enforcement by Police and authorised officers. In practice this discretion can:

- *Pathologise cultural presence and behaviour*
- *Treat visibility as risk*
- *Conflate Aboriginal identity with threat, non-compliance, or anti social conduct*

*For (Aboriginal) peoples, being present in public spaces at night – particularly in groups – can be misinterpreted as disorder, even when no offence has occurred.*⁵⁷

Yet many of these behaviours may reflect normative Nyoongar/Aboriginal ways of being and doing, and normal responses to trauma and distress. This visibility activates stereotypes and as noted by the AFLS, cultural difference is often mistaken for risk.⁵⁸

*And I mean, you know, it's like Aboriginal people don't have a right to go out and enjoy themselves and meet up with their, with their mob and, you know, socialise.*⁵⁹

With regard to the legislation, they note that

The language used is vague, subjective and culturally loaded. Behaviours that are

- *loud or expressive communication*
- *gathering in groups*

⁵⁶ Interview 1, p.37.

⁵⁷ AFLS yarning circle notes.

⁵⁸ Ibid.

⁵⁹ Interview 1, p.39.

- *emotional distress or trauma responses*
- *cultural patterns of socialising*

*(m)ay be misinterpreted as being 'disorderly' or 'offensive'. For Aboriginal people, this creates a lower and more ambiguous threshold for state intervention where cultural difference is mistaken for risk. This means that Aboriginal presence becomes behaviour that must be managed.*⁶⁰

*Yeah, I think the acceptable face of alcoholism is a very white one.*⁶¹

Participants were concerned that exclusions would add a fourth penalty, to vulnerable Nyoongar/Aboriginal people already facing multiple penalties through the trifecta of charges typically imposed on Aboriginal people: disorderly conduct, resist arrest and assault Police. They were concerned that imposing exclusion orders would become normal practice that would result in four-fold penalties being imposed on vulnerable Nyoongar/Aboriginal people.⁶²

*And so, for this is kind of a little bit worse than that trifecta.*⁶³

Participants spoke about the lack of accountability in the PEP scheme and the risks of increasing Police discretionary powers. The AFLS noted that provisions that do not require the recording of approvals in writing constitute weak accountability mechanisms inherent in the scheme.⁶⁴ These can increase the risk of

Rushed decisions

Inconsistent application

Lack of meaningful review

*Aboriginal people rarely receive clear explanations or written reasons in accessible language.*⁶⁵

They noted that this can result in decision with serious consequences occurring with minimal transparency.

On the issue of Police discretion, there can be an increase in racial profiling wherein cultural behaviours such as gatherings, storytelling, or speaking loudly can be misinterpreted as 'disorder'. Using their discretionary powers Police can apply any terms or conditions they 'think fit'. These could

- *Be unrealistic*
- *Be poorly explained*
- *Conflict with cultural, family, or survival needs*
- *Disrupt daily routines*
- *Cause distress and fear*

⁶⁰ ALFS yarning circle notes.

⁶¹ Interview 2.p.10.

⁶² Yarning circle.

⁶³ Interview 1. p.16.

⁶⁴ AFLS yarning circle notes

⁶⁵ Ibid.

*Breaching conditions can lead to further criminalisation, such as escalating into longer-term exclusions following repeated contact.*⁶⁶

In these circumstances, complex survival realities are reduced to compliance rules.⁶⁷

Further, vulnerable Nyoongar/Aboriginal people may not have the capacity to understand the conditions of an exclusion order, they may not understand they can have a decision reviewed and may not have the capacity to engage with a review process. The net effect is that accountability for decision making is limited and the onus for compelling accountability falls on vulnerable people.

Theme Four: Barriers to engaging with the PEP scheme

Theme Four reflects a consistent view among participants that the operation of the PEP scheme contains significant barriers for vulnerable Nyoongar/Aboriginal people. They spoke about these in the following ways: language and literacy difficulties; vulnerable Nyoongar/Aboriginal people may not receive the exclusion notice, they may not have the capacity to understand what the exclusion means and that they can ask for a review, and they may struggle to navigate the review process.

Participants noted that often, vulnerable Nyoongar/Aboriginal people may face language and literacy issues. They note that institutional language and forms are not user-friendly, and people may not understand what an exclusion orders says and what their obligations are under an order.

*Aboriginal people may face barriers to responding to or contesting orders...Literacy and language differences.*⁶⁸

*So, people are going to be punished without fully understanding their obligations. You know that they are banned from the city, all those areas.*⁶⁹

Participants also spoke about vulnerable Nyoongar/Aboriginal people who may be living rough/homeless, they may not have access to a reliable mobile phone or one at all, and they may not have sufficient stability to receive service of the order excluding them from PEP areas.

I mean I just can't believe that they've put this in place. I think it's disgusting. People may not know that ban if you know we're talking about homeless people, Aboriginal people, you know of no fixed address that are sort of moving around...if the notice is sent by text or e-mail, how do they know? And they don't get it? How do they? How do people know if they don't get them? They

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Interview 1, p.9.

don't have access to phones or reliable emails. And even if they don't know they've got the notice, they can still be charged (with a breach).⁷⁰

Further, vulnerable Nyoongar/Aboriginal people may not have the capacity due to their vulnerability, to understand what it means, or that they can ask for a review, let alone navigate the review process.

She didn't articulate any understanding of why it had happened or why, what she had done...The concern for her immediately was how am I going to get out of here? How am I going to get home? There's no way in how she was going to have money for a ride share or a taxi, and there wasn't one anyway, so...and she was really concerned that she was gonna get picked up again, so she couldn't move on fast enough, and she couldn't understand the paperwork...so, whether that's a language thing, whether also just someone in that level of distress is not going to take things in any way, but the outcome is the same in that she's handed this paperwork that puts yet another kind of punitive restriction on her life that she in no way understands is a profoundly disempowering in every single aspect of it.⁷¹

It is noted that for those living in impoverished conditions, their time can be taken up with simply trying to navigate the systems that they rely on for support to maintain a basic standard of living – it takes all day to be poor.⁷² In relation to the issue of survival each day, seeking a review of a PEP exclusion order is unlikely to be a priority.

Summary and Conclusions

Overwhelmingly, participants spoke about the inherent structural bias and racism in the PEP scheme and its multiple negative impacts on Nyoongar/Aboriginal people, which renders it unsafe for them generally, let alone for those who are vulnerable. The impact of the scheme on them is fundamentally worse due to their visibility, their vulnerability and for many, their limited capacity. Consequently, participants reinforce that the scheme is culturally unsafe, it traumatises Nyoongar/Aboriginal people because its operation echoes the historical experiences of exclusion and marginalisation, it reinforces colonial control over movement and visibility and colonial patterns of control and exclusion, it criminalises Nyoongar/Aboriginal use of public spaces, it increases criminalisation of vulnerability, and it further reinforces mistrust of formal support systems, e.g., Police are supposed to be a source of support.

Participants note that neutral language does not produce neutral practice. Without cultural safeguards and accountability, the terms that govern exclusion orders can operate as tools of structural harm against Nyoongar/Aboriginal people.

⁷⁰ Interview 1, p.8.

⁷¹ Interview 2, pp.2-3.

⁷² Brody, J. & MacKinnon, S. (2009). It takes all day to be poor. Canadian Centre for Policy Alternatives- Manitoba, CA. [SIC_2009_report_120909.pdf](#) Retrieved. 17 January 2026.

Further, while framed as a public safety mechanism, the design and enforcement of the PEP scheme create significant, foreseeable, and disproportionate harm for Aboriginal people, particularly for local Nyoongar people because its design and enforcement can unintentionally produce racialised harm when applied without cultural safety, proportionality, or accountability.⁷³

In the context of who's voice is allowed to inform the design of initiatives such as the PEP scheme, true harm reduction must engage with the local Nyoongar/Aboriginal communities in their design to minimise the harm of structural bias and racism, and consider who experiences harm, who defines threat or what constitutes disorder, and whose presence is seen as unacceptable in public spaces.

⁷³ AFLS yarning circle notes.

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Attachment A

Participant Information Sheet

(separate attachment)