



Parliamentary Debates

(HANSARD)

FORTIETH PARLIAMENT
FIRST SESSION
2018

LEGISLATIVE COUNCIL

Wednesday, 10 October 2018

Legislative Council

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THE PRESIDENT (Hon Kate Doust) took the chair at 1.00 pm, read prayers and acknowledged country.

LOCAL GOVERNMENT STANDARDS PANEL

Petition

HON ROBIN CHAPPLE (Mining and Pastoral) [1.02 pm]: I present a petition containing 19 signatures couched in the following terms —

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned support Mr Crawford's serious concerns about the inability of the Local Government Standards Panel (the Panel) to refer a complaint of perjury to WA Police from any court or tribunal proceedings that the Panel is a party to.

Yours petitioners therefore respectfully request the Legislative Council inquire into this significant restriction on the operation of the Local Government Standards Panel and how best it should be rectified.

And your petitioners as in duty bound, will ever pray.

[See paper 2029.]

DIGITAL FARM GRANTS PROGRAM

Statement by Minister for Agriculture and Food

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Agriculture and Food) [1.03 pm]: Today the government announced the second tranche of grants under the digital farm grants program. Our \$1.5 million investment will bring high-speed broadband to another 100 farming enterprises in the south west, Peel and wheatbelt regions. This will mean better access to broadband for farmers in Wagerup, Boddington, Myalup, Capel, Busselton and Williams. Access to enterprise-grade internet is absolutely critical for our farmers, so they can access the productivity gains of agtech and compete in global markets. This investment follows our announcement earlier this year of our first tranche of digital farm funding of \$2.3 million to expand broadband access in the midwest and wheatbelt. This is fantastic news for farmers, but also a fantastic story of regional business and regional capability. The grant recipient, CipherTel Pty Ltd, is a Bunbury-based telecommunications company with a background in servicing the mining sector. CipherTel has been out working with grower groups and with farmers to ensure that this proposal meets their needs on the ground. They expect to start rolling out their digital infrastructure within weeks. Without this strategic government investment, this project simply would not be financially possible. Our government is committed to keeping our growers at the forefront of international competition, whether through investing in R&D or closing the digital divide to enable proper uptake of twenty-first century agtech.

MENTAL HEALTH WEEK — EVENTS

Statement by Parliamentary Secretary

HON ALANNA CLOHESY (East Metropolitan — Parliamentary Secretary) [1.05 pm]: I rise today to inform the house that it is Mental Health Week. Mental Health Week is a national week celebrated each year in October, and around World Mental Health Day, which is on 10 October—today. This year the theme of WA Mental Health Week is “Mental health starts where we live, learn, work and play”. An estimated one in five Australians experience mental health issues in any given year, so it is very likely that someone close to you is living with a mental illness. It is also estimated that around three per cent of Australians live with a severe mental illness that can significantly impact their ability to function day to day without the right treatment and support.

The Minister for Mental Health hosted an event at Parliament House yesterday for members of Parliament for Mental Health Week, and invited all members of Parliament to hand out information at train stations today—World Mental Health Day. If members are out and about this week at events, can they please share their photos and stories on social media by using the hashtag #mentalhealthstartshere. The more we talk about it, the more likely it is that more people will reach out for help. With financial and other support from the government, the Western Australian Association for Mental Health has done a great job in bringing the week together, and some of the key highlights of the week include its takeover of major transport hubs in Perth to share the message and hand out resources to commuters this morning.

The Arts Celebration Night will be held at the YMCA in Leederville this Friday. It is a fantastic showcase of art created by people with lived experience. The exhibition runs all week, and people can purchase the art. I encourage members to attend. Last but not least is the Stand Up! For Comedy night, which acts as the closing ceremony on Saturday night. Of course, communities from across Western Australia are hosting their own events, and I encourage members to get out into their electorates to see how their communities are helping recognise Mental Health Week. If members need help finding an event please visit the Mental Health Week website, mhw.waamh.org.au, where all the events are listed. I can of course provide members with a printed copy of all the Mental Health Week events, if they so desire. Happy Mental Health Day!

**SELECT COMMITTEE INTO ALTERNATE APPROACHES TO
REDUCING ILLICIT DRUG USE AND ITS EFFECTS ON THE COMMUNITY**

Motion

Resumed from 19 September on the following motion moved by Hon Alison Xamon —

- (1) A select committee examining alternate approaches to reducing illicit drug use and its effects on the community is established.
- (2) The select committee is to inquire into and report on —
 - (a) other Australian state jurisdictions and international approaches (including Portugal) to reducing harm from illicit drug use, including the relative weighting given to enforcement, health and social interventions;
 - (b) a comparison of effectiveness and cost to the community of drug-related laws between Western Australia and other jurisdictions;
 - (c) the applicability of alternate approaches to minimising harms from illicit drug use from other jurisdictions to the Western Australian context; and
 - (d) consider any other relevant matter.
- (3) The select committee is to report no later than 12 months after the motion is agreed to.
- (4) The select committee shall consist of five members: Hon Alison Xamon (Chair); Hon Samantha Rowe (Deputy Chair); Hon Colin de Grussa; Hon Michael Mischin; and Hon Aaron Stonehouse.

HON ALISON XAMON (North Metropolitan) [1.09 pm]: I will very briefly review the key points I made in my opening contribution to this motion. I note from discussions behind the Chair that there appears to be broad support for the establishment of this select committee. I think that it will be really useful if members wish to contribute to this debate, for them to express their particular thoughts about what areas of focus they believe the committee should consider. In my opening remarks I said that there is a real illicit drug use problem within Western Australia. I outlined some of the statistics that illustrate that, particularly within the 10-year mental health, alcohol and other drug services plan, which paints a rather grim picture of not only the rate of illicit drug use, but also the need for services to address the issue. I also spoke about the deepening concern about the rate of drug use within our prison system, the fact that there is a genuine problem—that drugs can get into prisons at all of course—but also the fact that so many people within the prison system are there either directly because of drugs charges or very often a range of offences around offending behaviours that can be directly attributed to their illicit drug taking, and what a problem that is as well. I also spoke about the need to genuinely quantify the cost to the community of a business-as-usual approach when it comes to the issue of illicit drug use. Obviously there are issues around policing, prisons and prison intervention, and the need to deliver services, but also the human cost and the cost of lost opportunities for people—the cost to families and to children whose lives are detrimentally affected by the current approaches to the issue of illicit drug use.

I began concluding my remarks by talking about the specific example of Portugal and what is occurring there. In Portugal, due to the astronomical number of deaths from heroin use in particular, a decision was made to completely change the approach to dealing with what had absolutely become an illicit drug crisis by effectively treating the drug issue as a health crisis and not a criminal crisis. Before my time ran out I had also begun to say that it is really important that we note that just because a particular approach has had particular success within Portugal, it is not without its criticisms. It is useful to learn not only from the successes of other jurisdictions, but also from how systems can be improved. Importantly, we need to recognise that it is always difficult, particularly when we are talking about overseas jurisdictions, to translate it directly to Western Australia, because we have different systems and cultures. The committee would need to go in with an eye to interrogating the validity of other systems in international jurisdictions, as well as other states, to see how that would fit within the Western Australian context. Hopefully, it would be able to see whether there are elements of particular jurisdictions from which we can learn and which may be able to be applied successfully within Western Australia.

I also think that one challenge for this committee, should it be established, is to ensure that within a 12-month period we focus on where we want to primarily focus our attention. My concern is that the issue of illicit drug use and abuse is very broad and that the sort of approaches we may want to take to the issue, for example, of marijuana, could be and most likely will be very different from how we deal with another drug, such as meth. It is very important to note that there will be no one-size-fits-all approach to how we address illicit drug use. As I have said, I hope that one lens that we would be applying would look at how a more health-based approach would work in practice, remembering that harm minimisation, the sheer definition of it, is also about incorporating a level of law enforcement. That is recognised as being an important and legitimate part of how we deal with illicit drug use, but the issue is: where is that line appropriately drawn and what does that look like? For example, different approaches are constantly canvassed about an appropriate way to address the issue of marijuana. The reality is that in the same way that many people can drink alcohol and not develop issues of abuse around that, certainly it is the case, and it needs to be recognised, that many people can recreationally smoke marijuana and not experience long-term, or even short-term, adverse effects. However, I also recognise that for some people marijuana can be a very serious drug. I am one person who has had personal experience of a family member who unfortunately has experienced the correlation between psychosis and excessive marijuana use. That raises legitimate concerns about what is the appropriate way to ensure that although some people may want to recreationally use marijuana, and perhaps it would be inappropriate to have those people subject to criminal proceedings and a criminal record of any sort, a harm minimisation approach recognises that harm is implicit within all drug use, whether it be marijuana, alcohol or cigarettes. What is the balance that is appropriately struck to ensure that people are getting the assistance they need?

Another big challenge for the committee will be the issue of 3,4-methylenedioxymethamphetamine, or ecstasy. Emerging research is occurring around the therapeutic value of certain types of MDMA under close clinical supervision. That research, in particular, is occurring at Curtin University. It is going to be an interesting issue to explore. As part of that, if the committee decides to look at the issue of MDMA or other types of pills, it will need to consider the role of pill testing, for example. That is a very broad question to ask. People can, of course, purchase pill testing kits on the internet. I personally would always advise people against that because I do not think that they are particularly therapeutically sound and they can give results that are not necessarily indicative of a range of harm, but perhaps other people have different views. I know that this has been a big issue over east, particularly in recent times when there have been some tragic deaths at large music festivals. What is the role and the use of a pill testing regime at large venues? Is it successful? Is it something that we should even be contemplating? Does it have the opposite effect? Does it, as some people claim, encourage additional risky illicit drug taking? I hope that if these are the sorts of things the committee chooses to look at that it would want to potentially contemplate those questions. Likewise, what is the role of sniffer dogs? Are sniffer dogs a valid part of trying to ensure that people are not engaging in harm or, in fact, are they contributing to more harm? The feedback I have had from the drug and alcohol sector is that those sorts of measures are not desirable. We do not have it in Western Australia. It would perhaps be useful for the committee to look at those sorts of issues and, across party lines, be able to give some recommendations to the Parliament.

Likewise, the issue of heroin is fraught. It is often said that heroin, as a pure drug, is a lot safer than current legal drugs such as alcohol and tobacco. But the reality is that people die from heroin overdoses, and get caught in cycles of addiction that bring with them lifestyles that are less than positive to their wellbeing. What is that line between wanting to address issues of illegality around heroin use and wanting to ensure that people who are caught in the grip of heroin addiction can get the sort of assistance they want? Certainly, I hope that anyone caught in the grip of an addiction who has managed to conquer it can successfully go on with their lives and rise above that addiction. I think there are questions to be asked about how that is best achieved.

I could not possibly in good conscience sit down without talking about the very real impact of methamphetamine and what is happening within our community due to its use. As someone who has paid very close attention to the issue of alcohol and other drugs and mental health issues for a couple of decades now, I have never seen anything quite as destructive as meth on individuals, families and communities. It is an insidious drug. I find it so distressing just how quickly it takes a hold on people's lives, how addictive it is and how it fundamentally changes people. We will have to put some good, serious thought into grappling with this issue because what we are currently doing is clearly not having an effect. However, one of the things the proposed committee will need to look at is how bad the situation would be if we were not undertaking the sorts of measures we are undertaking now. We have to do things better than we are doing because it is a huge problem in our community. It is literally destroying people's lives and we need to make sure that we can find solutions to not only support those who have found themselves in the grip of a meth addiction, but also, hopefully, stop people from taking up methamphetamine in the first place. It is very difficult, considering the profile of who is taking up methamphetamine. It is not people who are often stereotyped as people who have a drug addiction. We are talking about professionals who may take a little bit of meth to give themselves an edge, people working on mines, tradies and small business people. It is one of those drugs about which we have to start asking how we can potentially do things better.

These are the sorts of questions the committee will have to grapple with. Within a 12-month time frame, we will have to narrow them down. It is as simple as that. I am very curious to hear members' contributions and, if they

wish, they can share their perspectives on what they think might be a particularly interesting focus for the committee to take. We know that our current approach to reducing the harm illicit drugs cause our community is not working. We have a huge issue and the crisis is getting worse rather than better. We know that no government within Australia across the political spectrum can ever claim to have got this one right, so I am not interested in pointing the finger. It is a wicked problem that governments around the world have been trying to address. I strongly believe that we need to start treating drug addiction for what it is—effectively, a health and a mental health issue. I truly believe that is a critical part of what we need to look at. I do not believe that we currently have the balance right. I think we are using vital resources to punish individual users rather than focusing on illicit drug manufacturers and distributors, who I argue are the people who should be the focus of any sort of criminal investigation. In doing this we are also distracted from the opportunities to reduce the exposure of drug users to harm and, tragically, often avoidable deaths.

This is a really important issue for the Parliament to pay attention to. I am certain that I am not the only member in this place who is contacted by constituents concerned about a loved one who needs support but is unable to get support and constituents who are struggling to find out what they can possibly do to try to have their loved one's issues addressed. On that note, I look forward to hearing members' contributions and, if there is time, maybe to reply to the motion.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [1.25 pm]: I lend my support to this motion. When Hon Alison Xamon first gave notice of it on 13 June last year, I thought at the time that it had considerable merit. If there is one thing I cavil about, it is the terminology used. I think that, grammatically, it should be “examining alternative approaches” rather than “alternate approaches to reducing illicit drug use”. With that one reservation, I have to add another, which I will mention in a moment. Probably one of the greatest challenges to our society and every human society around the globe is how to deal with illicit drug use. Even that needs to be considered in context. The search for oblivion, if it can be called that, through the misuse of substances, whether they be natural substances such as cannabis; something picked off a vine, dried and smoked; alcohol; or any other naturally occurring substance; added to the increasing ability to synthesize products, is as old as humanity. It may be inherent in the human condition to seek something that will alter our perceptions, change our mood or enhance our life experiences, so we think, but, ultimately, that can be destructive as well. My reservations about this, although I hope that I can rise to the challenge of dealing with it in the spirit it is intended—I should add that I am very flattered that Hon Alison Xamon invited me to be part of this committee—is simply that there is an immense amount of material on this. I do not think there is any civilised society on the planet that has not looked at this problem or addressed this challenge and, to a greater or lesser extent, attempted to control it, overcome it or find a solution or even a series of solutions that will address it.

Hon Alison Xamon is quite right when she says we have a new drug on the scene. I even heard mentioned in the media recently that there is another one that is even more destructive that threatens to be introduced to our unhappy planet. It seems that humans seek out ways to damage their health and their society and engage in destructive behaviour. I do not know why that is but it seems to be endemic in our society at the moment. This is not the first crisis we have faced. The United States attempted to deal with the evils of alcohol abuse with prohibition, but that did not work. It is interesting to reflect on the state of society back in those days, but the stories were that alcohol abuse had been so widespread that members were turning up to Congress drunk. It is not something that we would consider to be at all acceptable behaviour nowadays, yet it seems to have been part of the fabric of society. The reaction to that was to ban alcohol but that did not work; it caused more problems than it solved. One reflects on that and can see that an element of an advancing civilisation is that it tends to breed this behaviour out of humans—an education process, if you like.

Likewise, as Hon Alison Xamon rightly identified, an element of the stick as well as the carrot is involved in treating these sorts of problems, but with a measured criminal law or some other sanctioned response behind it to direct human behaviour and set standards. We have had crises, such as heroin. When I first started out in legal practice in the 1980s, heroin was the big evil. People were committing armed robberies to satisfy their habit. Although heroin has more of an opioid-type depressant effect on behaviour, the craving motivated people to commit crimes. The heroin scourge was considered to be the downfall of society and Western Australia was going to hell in a bucket very quickly. Since then we have had several others. The latest ice crisis is probably the worst, but there will probably be worse down the track. I cannot understand why anyone would want to try that drug having heard the horror stories of people experimenting with it and, even when they get what they are trying to buy, wanting to set their children alight or committing some other crime against a loved one, quite apart from the self-destructive behaviour that they engage in against themselves. But there we are; it is something that we need to understand.

The wealth of available material is probably going to be the greatest challenge to us and to those who will be assisting us from a parliamentary point of view—that is, the advisers, research officers and the like. Such a committee, even with a royal commission and all the resources of government thrown behind it, could go on for three years and still not come to a result. Hon Alison Xamon is quite right; I think one of our first challenges will be to refine the terms of reference to explore them in a meaningful way within 12 months without simply gathering

together everything that has been written or said before and the myriad views from various interest groups or those who think that they know the solutions, or those who can certainly identify the problems if they do not have solutions, and piling it into a report to this house. Some significant focus will need to take place and the committee's responsibility will be immense, as it will be for the advisers who will have this inflicted upon them. I am sure that the people who have been nominated to participate in the committee will make a good fist of it. We will do what we can. I hope that I do not sound pessimistic, but I appreciate the scope of what is involved and the challenge involved. Even in the terminology, "reducing illicit drug use" can be everything from prescription drugs being misused or overused through to illicit drugs in the sense of illegal drugs, prohibited substances, that may be used at all, let alone misused. It is very broad indeed.

The focus on reducing harm is a worthy one. I do not think that we are ever going to deter people from using these substances, or misusing them in the case of prescription drugs. I just do not think it is in the human condition to do that—certainly not within our lifetime. Strategies for reducing harm, I think is about the best that we can hope for, and finding ways, having accepted that there is a problem and perhaps not being able to address the problem itself, to point to the criteria, if you like, that can be addressed to minimise harm, which is very important. I refer to harm to not only the abuser of these substances, but also those who may suffer as a consequence of that abuse, most particularly the victims of offences that are committed by people while under the influence and the damage to society's confidence in itself and people's confidence in being able to engage with their fellow citizens because they are thinking that some of them who may be abusing drugs will do them harm. Families that suffer because they see loved ones in decline caused by drug abuse need to be assisted and provided with the tools to identify problems and address them in a timely fashion.

The expectations about this committee will have to be managed because I fear that the terms of reference—although I do not think they could sensibly be any narrower to be worthwhile—are broad and the time to deal with these issues will be limited. Of course, all members will have other responsibilities. I understand that there will something like 23-odd sitting weeks next year. The committee work will have to be fitted in with our other responsibilities.

I commend Hon Alison Xamon for having raised this subject. I have confidence that if any committee of this Parliament can do the job, it is one from this house rather than from the Assembly. I took on board Hon Nick Goiran's experience and comments about the superiority of our standing orders in that regard and the ability to craft a committee report rather than provide one that is focused on a particular end. I am sure that we will be able to do that. Having seen the members, excluding myself, who will be on the committee, I am sure that we will have a wealth of different views that can be channelled into finding something to assist this Parliament, and certainly assist the members of this house and, hopefully, assist the government in due course. The committee will not be the solution to the problem; rather, it can find a solution and point the way to how things can be improved for Western Australians.

I thank Hon Alison Xamon for the motion. I believe that Hon Peter Collier will also say a few words about this motion on behalf of the opposition generally, but I can indicate that the Liberal Party is supportive of what is being proposed and looks forward to finding out from the committee's inquiries more about this problem and the latest learning on this issue here and overseas. Hopefully, the committee can distil some pointers as to how we can improve the problem and new ways of tackling it rather than using those that have been adopted in the past, with a mixture of possible solutions and strategies.

HON ALANNA CLOHESY (East Metropolitan — Parliamentary Secretary) [1.36 pm]: I thank Hon Alison Xamon for bringing this motion to the house. I am speaking on behalf of the government and I indicate that we will be supporting the motion to establish a select committee to investigate the approaches used by other jurisdictions to regulate and reduce harm associated with drug use. We are pleased to support the motion because the impact of drug and alcohol problems in Western Australia is far-reaching. I included alcohol—I will come back to that—because even though the motion does not talk about alcohol, often there are co-occurring issues between alcohol and illicit drug use. That is one of the issues that the committee might need to look at. But as I said, I will come back to co-occurring issues in a minute.

One of the reasons that we support the establishment of the select committee is that, as every member in this place knows, the problems that arise as a result of illicit drug misuse permeate a lot of areas, including health, social and economic concerns. We can never have too much information about ways to address particularly wicked social, economic and health problems in our society. We know that the use of illicit drugs in our community has impacts on family violence. We have seen an increase in the rate of family violence in our state over a number of years. There are many complex and interrelated reasons for that increase in the reported rate of family violence. But to be sure, the impact of illicit drug use in families is one part of a complex reason. Illicit drug use can also have an effect on relationships, homelessness, poverty, crime rates, illness, injury—and the list goes on. It does not affect only individuals; it affects families, which is another reason we support the establishment of a select committee. Our preconceived ideas of illicit drug users are of the lone user. That is the myth perpetuated, probably through Hollywood, and the way in which illicit drug use is portrayed in popular culture. I will come back to stigma a little bit later, because I think it is something that the committee will need to have a look at.

What we do about this, how we identify and address these problems, is quite complex, involving a number of interrelated individual and environmental factors. There is not one standalone silver bullet. It also requires effective coordination. When illegal drug use, or any drug use, is discussed or debated publicly, it usually elicits very emotive responses—emotions run high. That is very understandable because of the harsh and unforgiving impacts of illegal drug use, which create much damage. Good public policy responses must recognise that impact and draw on evidence-based programs to reduce the impact and prevent harm. I emphasise “evidence-based”, because a lot of responses are offered up to any particularly wicked public policy problem, such as illicit drug use, not all of which are based on evidence of whether they work. Some of them are new responses, and some may even seem exciting, or to be the silver bullet that society has been looking for, but they are not, and sometimes they can cause more harm than help. I emphasise to the committee the need to make sure that the programs, projects and responses it is looking at are based in solid evidence.

I come back to coordination, because the public policy problem we face does not require just a government response. Obviously government can, should and must have a role in reducing the impact of and preventing harm from illicit drug use. We already have a lot of agencies, including government, non-government and private services. We see communities already working to address these problems. We need a whole-of-community approach, not just a government response. Only through government, non-government and private sector agencies working together will we see significant gains in prevention and reduction of harm.

Let me now move on to an issue I note was raised by Hon Michael Mischin—that is, one of definitions. One of the issues I suggest the committee consider very early on is what is meant by “illicit drug use”. Those are the words in the terms of reference in the motion, but often we think we understand what those words mean, and they are used interchangeably with other phrases. Does the committee intend to look at illegal drugs, or drugs that are used illicitly? Those terms are interchangeable. I refer to the “National Drug Strategy Household Survey”, which has some useful definitions. It talks about illegal drugs—drugs that are prohibited from manufacture, sale or possession in Australia; for example, as Hon Alison Xamon pointed out, cannabis, cocaine, heroin and amphetamine-type stimulants. That is one category of illegal drugs, but it also mentions pharmaceuticals obtained on prescription that can also be used illicitly. To refer back to the national drug strategy, pharmaceuticals are described as drugs that are available from a pharmacy over the counter or by prescription that may be subject to misuse, for example opioid-based pain relief medications, opioid substance therapies, benzodiazepines, over-the-counter codeine and steroids.

Hon Michael Mischin: I understood that that was the reason the motion has “illicit drug use”, which can embrace the use of illegal and illicit drugs, or using drugs illicitly.

Hon ALANNA CLOHESY: I understand that, but I am going to get to a point in a minute about resources—a very similar one to that which the member used—and responses to those.

The third category, if you like, are the psychoactive substances, legal or illegal, potentially used in a harmful way—I am referring to the national drug strategy here—for example, kava, synthetic cannabis, other synthetic drugs, and inhalants such as petrol, paint or glue.

Hon Michael Mischin: Or too much coffee.

Hon ALANNA CLOHESY: I am trying very hard not to respond to that!

For the purposes of this motion, members must understand that each of those categories requires a different response, because the way in which people come to, for example, petrol sniffing might be very different from the way in which they come to using methamphetamine. The way in which someone overuses prescription medication, and the way they arrive at that practice, may be very different from the case of someone who uses MDMA for recreational use. That will mean that the committee might need to be very prescriptive in the types of programs it looks at to achieve its goal of reporting in 12 months’ time. One of the ways through that might be by looking at the use of illegal drugs—what is used, by whom, how often and when? A trusted source of data, the Australian Institute of Health and Welfare’s “National Drug Strategy Household Survey”—the most recent is 2016—made some quite detailed findings on drug use. Sometimes we happily quote who uses what, without really understanding where it comes from. The survey has found that about one in eight Australians have used at least one illegal substance in the past 12 months, and one in 20 has misused a pharmaceutical drug. The most commonly used drug, used at least once in the past 12 months, is cannabis, followed by cocaine, ecstasy and methamphetamine, the use of which, in the most recent survey, is at 1.4 per cent.

This is quoting directly from the report on the illicit use of drugs. I want to reinforce that those were the most commonly used illegal drugs that were used at least once in the past 12 months. I want to talk more about methamphetamine in a minute. Ecstasy and cocaine were used relatively infrequently. When examining Australians using illegal drugs weekly or more often in 2016, it found that methamphetamines, which includes ice, were the second most commonly used illegal drug after cannabis. That makes quite a difference. Daily or weekly use of methamphetamines among recent users has more than doubled in the six years from 2010. People were using methamphetamines daily and weekly twice as much in 2016 as what they were using in 2010. That issue makes that drug particularly insidious. Daily or weekly use of methamphetamines went from 9.3 per cent in 2010 to 20 per cent in 2016.

Another way of focusing on this issue might also be to look at illicit drug use amongst particular population groups. Particular population groups disproportionately experience drug-related risks. The use of illicit drugs in the past 12 months was far more common amongst people who identified as homosexual or bisexual. Ecstasy and methamphetamine use in this group was 5.8 times higher than use by heterosexual people. Again, this is from the “National Drug Strategy Household Survey 2016: Detailed findings” by the Australian Institute of Health and Welfare. Recent and regular methamphetamine use was 5.8 times higher than use by heterosexual people. People who live in remote and very remote areas, unemployed people and Aboriginal people, particularly those living in remote and very remote areas, are more likely than any other population group to not only smoke daily but also use illicit drugs.

My next point is where I come back to co-occurring issues. The proportion of people experiencing high or very high levels of psychological distress increased amongst illicit drug users between 2013 and 2016 from 17.5 per cent to 22 per cent, but also increased from 8.6 per cent to 9.7 per cent over the same period for the non-illicit drug using population. People with a mental illness are more recent illicit drug users compared with other populations. We kind of know that anecdotally, but therein is the evidence. That might be a way forward for the committee—to consider the use of illegal drugs on particular population groups. Yesterday, the Australian Criminal Intelligence Commission announced another piece of useful data. It released its “National Wastewater Drug Monitoring Program: Report 5, August 2018”, which found that 1 528.3 kilograms of methamphetamine is consumed in Western Australia each year, as well as 43.8 kilograms of cocaine, 101.3 kilograms of MDMA and 42.5 kilograms of heroin. In Western Australia, methamphetamine is by far the most consumed illicit drug in Western Australia.

I also draw members’ attention to this: the national wastewater drug monitoring program found that of the substances tested for in April 2018 in Western Australia, nicotine and alcohol remain the highest consumed substances, as they also were in December 2017. Let us remember that those drugs are being consumed at a high rate in Western Australia. Average methamphetamine consumption use decreased in the capital city, but average use increased in rural and regional areas in Western Australia. The use of methamphetamine in Perth is decreasing, based on the evidence provided by the Australian Criminal Intelligence Commission, but has increased in rural and remote areas. Again, I suggest that the committee takes into account, when focusing on what it might look at, where the problems are and who is affected by the problems. Another way might be to look at the impact of drug use on the community, but I think I have talked enough about how that impact manifests through, for example, family violence, and impacts on the individual and relationship breakdowns.

I want to talk about the “National Drug Strategy 2017–2026” and the “Western Australian Alcohol and Drug Interagency Strategy 2017–2021”. The national drug strategy gives us a framework for action that can take into account new and emerging evidence-based issues as they arise. It also gives us a guide for different jurisdictions and states to develop their individual responses to drugs, including alcohol and tobacco. In this instance, I am talking about other drug issues, but I ask members to think about why we need those strategies and a national drug strategy. I come back to the very point that harms from all those things—alcohol, tobacco and other drugs—impact directly and indirectly on our communities. They impact on me and each and every one of us in this place. I have talked about the health harms, such as injury, chronic conditions, mental health issues, and social harms. There are also economic harms, such as decreased productivity, reinforcement of marginalisation and economic disadvantage, as well as health and justice costs.

Strategies such as the national drug strategy and others that I will talk about later all work to minimise those harms. Many of the strategies, and, indeed, ours in Western Australia, try to prevent and delay the uptake of drug use and alcohol use because that plays a key part in the overall effort to reduce the harm associated with alcohol and other drugs.

Interestingly, since 1985 the national drug strategy has been underpinned by an objective of minimising the harm associated with illicit drug and pharmaceutical drug use. The consistent approach to the national drug policy framework has earned high international regard and many achievements can be seen emanating from it. During the 2010–15 period of the national drug strategy, demand, supply and harm reduction strategies had positive results across Australia. For example, in 2014–15 police reported a record 105 862 national illicit drug seizures and issued 11 809 diversions for cannabis-related offences. I will talk about cannabis-related offences in a minute. The national drug strategy household survey, which I talked about earlier, reported a decline in the proportion of people exceeding lifetime risk guidelines for consuming alcohol of approximately 3.5 per cent and declines in the use of some illicit drugs. Although the strategy has been commended, problems continue, as we know. The point about the strategy is that it is flexible. It provides opportunities for uniform action as required, but flexibility for each of the states to respond to issues as they occur.

“The National Drug Strategy 2017–2026” sets out a balanced approach across three pillars of harm minimisation—that is, demand reduction, supply reduction and harm reduction. I will talk about those three pillars as identified in the national drug strategy. Demand reduction means preventing the uptake or delaying the onset of the use of illegal drugs or other drugs; reducing misuse; and supporting people to recover from dependence through

evidence-informed treatment. That is what the strategy means in terms of demand reduction. We heard the honourable member talk about whether the committee could consider which of those points were of value in addressing the problem of supply reduction. Supply reduction is preventing, stopping, disrupting or otherwise reducing the production and supply of illegal drugs and controlling, managing or regulating the availability of legal drugs. Those, of course, are what we would normally see as law enforcement strategies in relation to supply reduction, although there are other strategies around supply reduction. Harm reduction is about reducing the adverse health, social and economic consequences of the use of drugs for the user and their family and for the wider community. The honourable member said that some of the harm reduction strategies in place might also include needle exchanges and those kinds of things. My point about this is that there are any number of approaches within each of those three pillars of harm minimisation. A balanced approach across those three pillars is really important, because the evidence suggests that the balanced approach achieves the best outcome.

The national drug strategy identifies priority actions, such as enhancing access to evidence-based informed, effective and affordable treatment. It refers to developing new and innovative responses to prevent uptake, to delay drug use, and to reduce alcohol, tobacco and other problems. I particularly recommend that the committee consider that part of the national drug strategy, along with the way in which it identifies priority populations, including Aboriginal and Torres Strait Islander people, young people, people from culturally and linguistically diverse populations, and people with co-occurring issues, including those with mental illness. Based on national and international studies, it is estimated that at least 30 to 50 per cent of people with an alcohol and/or other drug problem also have co-occurring issues.

The strategy goes on to state —

A harm minimisation policy approach recognises the clear recognition that drug use carries substantial risks, and that drug-users require a range of supports to progressively reduce drug-related harm to themselves and the general community, including families.

The strategy suggests that the following considerations need to be taken into account when addressing harm minimisation. This is a particularly important point: drug use occurs across a continuum, from occasional use to dependent use. Again, it might be a focus for the committee to look at what part of the continuum the committee is looking at. A range of harms are associated with different types and patterns of drug use and the response to those harms requires a multi-faceted approach. Before I go on I should note that the three pillars of harm reduction are also the focus of the state government's methamphetamine action plan. That is being delivered through a coordinated implementation of a set of initiatives across government.

I want to talk about supply reduction in particular as one of the three pillars because I think this is the one that comes in for a fair bit of criticism. Perhaps it might be just that it is an easy target. As I said before, supply reduction strategies aim to restrict the availability and access to illegal drugs in order to prevent or reduce the use of drugs. The Australian Criminal Intelligence Commission, in a separate report to the one I talked about earlier, states that there has been an increase in not only the availability, but also the purity of methamphetamine as indicated by more domestic seizures, border detections and arrests. As a consequence of that, states and territories are recording an increase in associated harms. Supply reduction requires regulation: it requires working with industry, intelligence, and coordination between enforcement agencies within jurisdictions, across jurisdictions, nationally and internationally.

One of the strategies that might affect supply includes the regulation of retail and wholesale sale; we talked about that in this place in relation to tobacco. The same argument around legalisation applies. There is also border control, regulating or disrupting production—we have seen a significant amount of that in this state—and the implementation of real-time monitoring of prescription medication, so that prescribers can prevent patients from inappropriately accessing harmful and substantial quantities of medication. That is the state government approach through its methamphetamine action plan.

The other state government initiative that is important in the context of this committee is the Western Australian alcohol and drug interagency strategy. That is a real mouthful—if members can come up with a better name, I will give them a cup of tea! I will refer to it as WAADIS.

Hon Adele Farina: I think it's worth more than a cup of tea!

Hon ALANNA CLOHESY: You think it is worth more than a cup of tea? My tea is very nice!

It is important that we know what we are talking about: it is the Western Australian alcohol and drug interagency strategy, which we expect to be released later this year. A consultation draft was released that reflects the national strategy, with the adoption of an overarching harm-minimisation approach aligned to the three pillars of supply, demand and harm reduction. WAADIS provides a guide for stakeholders, including government, non-government and community organisations, for the development and implementation of initiatives. It intends to drive collective action through collaboration and coordination of efforts across government. At its core, this strategy adopts a prevention-first approach and support for those who need it, which is probably very different from the way we

have looked at these issues before. It focuses on preventing and reducing adverse impacts on our community. If members looked at the draft strategy when it was released for feedback earlier this year, they would have recognised that its five key strategic areas focus on prevention, intervention before the issue becomes a problem, effective law enforcement approaches, effective treatment and support services, and strategic coordination and capacity building. I commend the strategy to members because this is the first time it has been done. It does exactly what I was talking about before; it aims to provide a framework based on the three pillars of harm minimisation, and attempts to implement the coordination that is so important. For someone trying to address their illicit drug use it is really important that they know where to go and how to navigate the system. That is why coordination is particularly important.

I will touch on some other initiatives that have had positive impacts on the prevention and reduction of illegal drug use. An old one is the Cannabis Law Reform Act, which reduced the limit for the prosecution of cannabis possession to no more than 10 grams; it was previously no more than 30 grams. The act enables police to issue a cannabis intervention requirement to first-time adult offenders and juveniles with no more than two offence occasions who are found in possession of 10 grams of cannabis or less, or cannabis-use paraphernalia. If the recipient attends a cannabis intervention session, the offence is expiated through treatment. In 2016–17, a total of 2 434 cannabis intervention requirements were issued by police. Of those, 76 were expiated through treatment. That indicates that it might be an interesting way to reduce illegal drug use. I suggest that the committee might like to consider that one.

I earlier said that I would come back to how the state government has prioritised reducing harm, supply and demand for alcohol and other drugs. The “Western Australian Mental Health, Alcohol and other Drug Services Plan 2015–2025” attempts to give us a balanced and optimal approach to the mix of services we need—community-based prevention treatment support services, and those in hospital settings. I earlier talked about the government’s statewide integrated methamphetamine action plan, which has had some very recent successes. The government allocated \$83.5 million for the creation of the WA Police Force meth border force, and a further \$48.2 million supports other initiatives including early intervention treatment facilities, the expansion of specialist drug services into regional and rural areas of need, the improvement of drug and alcohol programs in schools, and the creation of drug and alcohol rehabilitation facilities for prisoners. Members may have seen the release of all those new initiatives, and I encourage the committee to look at those. In addition, there is the government’s increase in roadside drug testing. I have said that the MAP is focused on reducing demand, supply and harm. Recent successes announced yesterday are that the WA Police Force has seized more than 1.56 tonnes of crystal meth since the commencement of that program, has charged 185 offenders, and has frozen nearly \$30 million worth of assets, including bank accounts, real estate and vehicles. That announcement indicates the significant success of that component of the meth action plan.

The government has also established a meth action plan task force to provide advice on improving how programs can be best delivered, targeting areas of greatest need, especially regional areas. We expect the task force to report quite soon—at least before the end of the year. The task force will also report on opportunities for cross-sector collaboration to reduce methamphetamine harm. I recommend that members read the Methamphetamine Action Plan Taskforce report of consultation, in which they will find significant information about the impact of methamphetamine.

I want to get to one particular point about stigma and its effect on the way people access or do not access services. Stigma holds back people’s chances for recovery. It is a barrier for many drug users about whether they are able to access services in the first place, and when they do access services, when they overcome that stigma, what happens to them in some services. The meth task force’s report on consultation highlights that that is a significant problem in overcoming addiction to methamphetamine. To quote one participant —

We need to open the conversation more. And there needs to be more discussion regarding users who aren’t the ‘typical’ addict we see advertised on TV. They aren’t all violent, stealing, crazed users. My dad had a wife and 3 kids.

I am running out of time so I recommend that members read that report.

In summary, the use of illicit drugs causes much harm in our community. As a result, it behoves us as public policymakers to respond. That is why the government supports the establishment of the committee. The committee’s brief will be wide, but I want to make some suggestions about its terms of references that it might want to consider. I urge the committee to consider those definitions. What is the committee actually looking at? I urge it to look at evidence-based programs—those that actually work.

Hon Alison Xamon interjected.

Hon ALANNA CLOHESY: And can be demonstrated. Thank you, member. The committee may want to consider the extent of illegal use and also those who disproportionately use illegal drugs. The committee may want to look at the impact on the community and what different strategies are needed.

HON AARON STONEHOUSE (South Metropolitan) [2.21 pm]: I rise to indicate my support for the motion. I thank Hon Alison Xamon for bringing on this motion to establish a select committee into alternative approaches to reducing illicit drug use and its effects on the community. I am also excited to see that I will be a member of that committee, and I look forward to working with the other honourable members on it, including Hon Alison Xamon. I wholeheartedly support it. In fact, last year I brought on my own motion in this house to recognise the benefits of legalising recreational cannabis. Although I certainly did not get much support for that motion, an interesting part of that debate arose when I was speaking at one point about Portugal and its approach to decriminalising drugs, and the Minister for Regional Development interjected to suggest that perhaps we should take a trip to Portugal to look at how things are working out for them there. I think her suggestion was perhaps somewhat tongue in cheek, but it is great to see that there is now broad support from all parties across the chamber for this select committee and that it will be looking specifically at Portugal's approach to the decriminalisation of drugs as a tool in drug harm reduction.

The Liberal Democrats have long had a policy for legalising any substance that is less harmful than alcohol and for decriminalising all other substances. By "decriminalising", it means that it would still remain illegal but personal consumption would no longer be treated as a criminal matter and that those who are caught with small amounts of drugs for personal consumption would be directed to health services as opposed to the justice system, which is essentially Portugal's model, which I will get into more detail later. The approach of legalising anything less harmful than cannabis might sound rather controversial, but the logic is that if as a society we accept that alcohol is an okay substance—a substance that can be used in social settings—then it is only logical that any substance less harmful than alcohol should be treated the same way or with even less regulation. That may include things such as cannabis and other substances; MDMA could perhaps fall within that depending upon what metric for harm is used.

Moving on from that, it is my view that our current policy towards drugs—this so-called war on drugs—has been a failure. It has been a failure due somewhat to its unintended consequences. A war on drugs, a prohibitionist approach, fuels organised crime. It has created a black market for illicit substances, just like the temperance movement did with alcohol. Because the trade in drugs can only exist outside the law, those who do business outside the law control the trade. When operating in a black market, no legal recourse is available for those who are ripped off or who are owed money. More often than not, debts are enforced through violence. The more the government tries to interdict the drug trade, the greater the risk for traffickers. As a result of risk increases, prices will often go up. However, for addicts the demand for drugs is inelastic, which means that as prices go up, demand does not necessarily drop off at the same rate and addicts can become more and more desperate as prices increase. We know that many of the burglaries and thefts committed in our community are by those who are desperate for money to feed their addictions.

We also have a system in which non-violent offenders are incarcerated. In WA it costs the taxpayer about \$432 a day to keep someone in jail and the recidivism rate is around 40 per cent. We also have, which I have spoken about many times in this house, a regime of property confiscation that is targeted towards supposed drug traffickers. The problem with that, though, is the definition of "trafficker" is rather arbitrary. Merely having over a certain quantity of drugs determines that a person is a trafficker whether they are engaged in trafficking or in dealing or selling those drugs. Possession of three kilograms or 20 plants of cannabis, or 28 grams of meth, will get a person declared a drug trafficker and the state can confiscate all and any property they own, whether or not that property was obtained legitimately. Under the current regime, the courts also have no discretion in property confiscation. Someone with 20 plants that may be little more than seedlings will still be declared a drug trafficker regardless of whether any criminal activity was involved in the growing or cultivation of those plants.

For the last year and a half I have been lobbying the Attorney General on these issues, on the war on drugs and on our property confiscation regime. I have been raising awareness where I can about confiscation and ensuring that these issues are kept in the public sphere and in the media. I have met with many people affected by our draconian confiscation regime. As I mentioned, I introduced a motion on this matter last year, I have spoken about it in Parliament on at least a few occasions, and just a few months ago I introduced a private member's bill that was aimed at amending the Misuse of Drugs Act and returning discretion to the bench by allowing judges to refuse to make a drug trafficker declaration if making such a declaration would be clearly unjust. I was excited to see that in recent weeks the Attorney General announced a desktop review into property confiscation, specifically into the Criminal Property Confiscation Act, which will be chaired by former Chief Justice Wayne Martin. I am delighted by this news. It is long overdue. I can think of no-one better qualified than former Chief Justice Wayne Martin to conduct this review. I look forward to its report, which should be available by 1 February 2019.

Moving back to the matter of illicit drug use, I will muse a little. It seems to me that those who advocate prohibition seem motivated by a somewhat paternalistic instinct. Often if they see their neighbour indulging in a form of recreation that they disapprove of, they feel obliged to impose their own will upon him for his own good. This paternalistic attitude demands more government action and harsher penalties. In my view, that kind of kneejerk response should be resisted. We all have a natural right to life, liberty and property, but most importantly we are endowed with free

will. The government does not own us and society does not own us. Earlier, during Hon Alanna Clohesy's contribution, the idea was brought up that a cost of drug use is the loss of economic productivity. That is certainly true; it is a cost of drug use, but I am not sure that is something the government should be concerned about. It implies almost that government or society is owed our productivity. It is not. We can be as productive or unproductive as we like in our life; it is our choice. The economic decisions we make should not really be the concern of the government, in my view. I digress.

As members of a society, we should absolutely advocate for a clean, sober lifestyle through volunteering, outreach or ministering. Leveraging the coercive power of the state against our neighbour for their own good would be not only immoral, but also wholly counterproductive. The unintended consequences of prohibition are far more harmful in most cases than the drugs themselves. Recently, the Royal College of Physicians, the Royal Society for Public Health, the Faculty of Public Health, the Australian Medical Association, former New South Wales Premier Bob Carr, former Victorian Premier Jeff Kennett and former Commissioner of the Australian Federal Police Mick Palmer are among a long list of experts and public figures who have called for the decriminalisation of drugs in one form or another. As I mentioned before, decriminalisation means that although drugs remain illegal, personal consumption of them is no longer treated as a criminal offence. These health bodies and others recognise that decriminalisation removes much of the stigma around accessing health services. When addicts do not fear criminal charges, they can access the professional help they need. Overdose rates decline, HIV rates decline and, importantly, valuable police, prison and court resources can be directed towards tackling far more serious and violent crimes.

The best known example of drug decriminalisation is, of course, Portugal. At the turn of the twenty-first century, Portugal was facing a heroin epidemic. At one point in the 1990s, about one per cent of Portugal's population was addicted to heroin. HIV-related deaths and overdoses were amongst the highest in Europe. In 2001, Portugal passed legislation to decriminalise all drugs—cannabis, amphetamines, heroin, everything. Seventeen years later, Portugal has the second lowest overdose rate in Europe. The number of cases of HIV have declined. Despite the decriminalisation of drugs, drug-use rates have not increased. In fact, amongst 15 to 24-year-olds, drug use has drastically declined and is lower than the European average. This is all despite the fact that Portugal is one of the poorest countries in Europe. Portugal still struggles with drug abuse; it has not been a silver bullet, but by changing its focus from law enforcement to health, it has markedly reduced drug-related harm.

This proposed select committee into alternative approaches to reducing illicit drug use and its effects on the community will give us an opportunity review our prohibitionist approach to drugs. It is my hope that we take a step towards a more compassionate and evidence-based drug policy, one that reduces drug-related harm and recognises that addiction is first and foremost a health issue, that upholds our principles of natural justice and that respects the autonomy and freedom of the individual. On that, I indicate that I support this motion and I encourage other members to support it too.

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [2.32 pm]: I will not take too long, but I want to make some comments and clarify that the Liberal Party will support this motion to establish a select committee. I commend Hon Alison Xamon for bringing it to the chamber.

As Hon Michael Mischin stated, he will be a member of the committee and we are delighted with that. The Liberal Party feels very strongly about doing all we possibly can as part of this chamber and the Parliament to reduce illicit drug use, and that is why we will support the committee's establishment. I imagine that I am one of the few people in the chamber who has never taken an illicit drug in their life, so I am probably least qualified more than anything. I am sure that there are a lot of us like that. I can assure members, not even a cigarette, and I say that proudly.

Having said that, in the 1990s I was on the National Advisory Committee on School Drug Education and that was very enlightening to me. As a result, we now have the national drug education strategy, which, I am sure, the Minister for Education and Training will be well across. I was also part of the Western Australian School Drug Education Reference Group, and that is where School Drug Education and Road Aware came from in the 1990s under the Richard Court government. We did a lot of evidence-based investigation in that instance to try to develop a very comprehensive, holistic and effective approach to school drug education, because early intervention is absolutely essential. In a moment, I will go through the various strategies that I am sure the committee will look at. The motion more than adequately covers what should be looked at with regard to any investigation into alternative approaches to reducing illicit drug use. Looking at other jurisdictions is imperative. "A comparison of effectiveness and cost to the community of drug-related laws between Western Australia and other jurisdictions" is imperative. Who is to say that we are the font of all knowledge in this area? That is not the case. "The applicability of alternate approaches to minimising harms from illicit drug use from other jurisdictions to the Western Australian context" is very significant. If the committee can do that and come back with some recommendations based upon evidence-based criteria, I think we will be halfway there.

We have moved significantly from even a generation ago when cannabis was deemed to be one of the, dare I say, higher-order illicit drugs in the community, now seen almost as just a recreational drug. That is the attitude.

I mentioned this in a contribution to the motion Hon Aaron Stonehouse raised a few months ago. Ironically enough, as I said, we are at the point that although cannabis was a hanging offence in the 1970s and smoking was fashionable, now cannabis is fashionable and smoking is a hanging offence. Whether we like it or not, that is the way it is. Now, of course, particularly the younger members of our community and in many instances those who are marginalised are moving towards a higher-order illicit drug, hallucinogen or stimulant, and we now have a smorgasbord of illicit drugs that transcend our community—cannabis, cocaine, meth, pharmaceuticals, ecstasy. Unfortunately, in 2016, over three million Australians admitted to illicit drug use at some stage over the previous 12 months. What is happening in the community, particularly among the younger members of the community and, as I said, those who are marginalised—we have to remember that those with mental health issues are becoming more and more prevalent in our community—Aboriginal people and across the board, is that people are being socialised into higher-order illicit drug use. That is why I would like to think the committee could do something to ensure that we can make some recommendations to this place and to governments of both persuasions to make sure that our programs and policies are effective and that they are evidence based. As we know, dozens of programs and committees have been incorporated through Parliaments in not just Western Australia but also nationally and internationally with honourable intent. I wish the committee well.

I would like to think that the committee will be comprehensive in its research because if we look at it from a holistic perspective, we cannot look to one particular area of the community and lay blame. Families must be an embedded component of any strategy and schools simply must be an embedded part of any strategy. As I said, we must look at those who are marginalised, particularly those with mental health issues, and accelerating mental health issues. They must be incorporated into any research or investigation on the part of the committee. I would like to think that law enforcement agencies will be incorporated and not-for-profit organisations that deal with the homeless et cetera. The committee will no doubt consider various strategies. It will depend on who its members speak to and, quite frankly, the day of the week they speak to them to determine what strategy is best. There will be those who see a punitive approach as the best way out. Personally, I do not think that is the way. That is not the gospel according to Pete, but, as I said, it is a result of work that we did on those committees. Nothing came out to suggest that a punitive approach would stop someone using illicit drugs.

Hon Alison Xamon: Of course, it is about following the evidence.

Hon PETER COLLIER: That is my point. I have been fortunate that none of my family or close friends has been affected by illicit drug use, but I will tell members a personal story. I remember when I was teaching at my last school. A couple of years prior, I was teaching history and politics and was also a house head, which is a pastoral role. I vividly remember this. We had drug issues at the school, as all schools do. There are two ways that schools deal with those issues—drug education or a punitive approach; that is, if a student is caught with cannabis or whatever, they might be suspended. On this particular day, I had the house group of 80 boys who were under my pastoral care. At the end of the day, one of the boys brought up a wallet. He said, “Sir, I found this on the chair.” I opened it and there was a satchel of cannabis in the wallet. I saw the name of the boy who owned the wallet. I will refer to him as Max, but that is not his name. Within 10 minutes of returning to my office, Max came to my office. I could see the fear on the boy’s face. He said, “Sir, I left my wallet in the house room.” I said, “Yes, I know, Max. Come here, mate. Here it is. Take better care of it.” He said, “Yes, sir.” He thought he had got away with it because he had turned around to leave. I said, “Max.” He said, “What?” I said, “You and I are the only ones who know about this, mate. But if it happens again, you and I will not be the only two who know about it.” He said, “Thanks, sir”, and off he went. About four years later when I was in Parliament in opposition, I was waiting at home for a pizza I had ordered. There was a knock on the door. I opened the door and there was Max with my pizza. He was delivering it from Chelsea Pizza. We had a great chat. He was a terrific young man. I like to call him a likeable rogue. He was a really good kid; a bit edgy, but a likeable rogue. We had a chat. He was doing law and had a lovely girlfriend. Everything was going well for him. After our chat, I said, “Thanks, Max. It is good to catch up, mate.” When I first opened the door, he said, “Oh, sir!”, I told him he could call me Peter now and he said, “Yes, sir.” He went to walk out but then turned around and stopped. He said, “Sir?” I said, “Yes.” He said, “Thanks.” I said, “No worries, mate.” He said, “I’ve never done it again.” The reason I have told that story is that if I had taken the punitive approach, that story might have ended differently. That young man, without a doubt, would have been suspended from school. He would have been labelled with a stigma and, quite frankly, it could have changed the way he went about life. It may not have, but all I am saying is that I am not convinced that a punitive perspective is necessarily the right way to change the void in illicit drug use. That is one thing the committee will look at.

The other strategy is harm minimisation, which is used by a number of people. The committee will come across prevention and a whole raft of other different strategies. Unfortunately, we will never find a community, either in Western Australia and nationally, or across the globe that is drug free. If we do, we may as well call it *The Truman Show* because it is simply not real.

Good luck to the committee. It has my full endorsement. I would do anything I possibly could to eradicate the scourge of drugs, but I am also a realist and understand that it is a big task. As long as the committee goes into this process with open eyes and understands that it must take a collaborative approach and show a tapestry of strength

that brings wisdom, understanding and knowledge to the table. It cannot be just one person—not just the police, not just the schools, the families or the community groups—it is everyone working collectively together. If the committee can go into the process with that strategy, I think it will come out with very effective and, dare I say it, productive recommendations. The Liberal Party will be supporting the motion and wishes the committee good luck in its deliberations.

HON DR SALLY TALBOT (South West) [2.44 pm]: It has been a really interesting debate so far. I do not want to indicate that that is unusual in this place. I congratulate Hon Alison Xamon for bringing this motion before us. There have been some quite innovative and creative uses of select committees in this Parliament. It will be interesting when the four years are over to see whether we think that that is going to have a long-term effect. There are some members in this place—I probably count myself among them—who feel that they are putting in a lot of hours on committee work, a lot more than we have done perhaps in previous Parliaments. My feeling thus far—I know that we are not halfway through—is that it has been quite productive. The establishment of this select committee may well contribute to that beneficial effect of the work that this Parliament does.

In looking at the motion, I was impressed by the emphasis that the drafter of the motion put on harm reduction strategies. I think that what she has been able to do in crafting the motion this way is to draw our collective attention to probably the least explored arm of that tripod. Various speakers, including Hon Alanna Clohesy, who responded for the government, have explained the drug strategy on legal substances, such as alcohol, through to illegal substances and highly dangerous substances, as well as the misuse of prescription medication. All our strategies to mitigate the harmful effects of drugs of all kinds are based on this three-pronged approach of reducing demand, supply and harm, but I do not think we talk enough about harm reduction. I hope that a lot of the committee's work will focus on that. I notice that there are two places in the terms of reference where Hon Alison Xamon has crafted the motion in those terms. I think that will give a very specific focus to the work the committee does.

I would have been enjoyed being on this committee but I am very pleased that the government will be represented by Hon Samantha Rowe, who I think will do a very fine job. The make-up of the rest of the committee suggests that it will have some real brainpower behind it. I think Hon Alison Xamon will do a great job of chairing it because she has a lot of experience in this field. She knows how to speak this language, address stakeholders and get the best out of witnesses. The more work I do on select committees and the more hearings I participate in, one of the things that I have become aware of is that there is an art to getting the best out of a witness. We need to know not only who to call, but also how to understand what it is that each individual, whether they have professional expertise or lived experience of a situation, has to bring to the topic. Illicit drug use, of course, is a particularly complex topic. I think that is going to be particularly important. I would hate to see the committee waste the first few months trying to get into the swing of things, but I am confident, given the make-up of the committee, that it will swing straight into action. I encourage it to do that because although a year seems like a long time from now, it will go just like that. Suddenly, the committee staff will be giving members reporting deadlines and it will be the moment at which they need to begin writing and the moment at which members need to sign off on paragraph after paragraph. It will feel like it is next week, so they need to get cracking really quickly.

We are all political tragi-comics of one degree or another. We all know that during the 1992 Bill Clinton election campaign, his campaign offices were covered with signs reading, "It's the economy, stupid". That was their motto and what they used to focus their minds on the main game. It did not matter what they were doing—raising money, talking to constituents or designing policy—that is what they looked at. Everywhere their eyes went, they met the words, "It's the economy, stupid". I hope this committee will do the same thing. I have a suggestion for Hon Alison Xamon. I suggest that the committee has the motto, "For every complex problem, there is an answer that is neat, plausible and wrong". I think that is what the committee is going to come across again and again. It will have witnesses who are professional and those who have a lived experience and who say, "I've studied this" or "I've been through this and I can tell you what the answer is". It is as well to remember, when anyone starts to give evidence like that, that this might be the answer that is neat, plausible and wrong. Without in any sense whatsoever detracting from the outline that Hon Alanna Clohesy gave us about what the government is doing thus far—I will go into this if I have time later in my speech, but I think the McGowan Labor government is doing a fine job of getting us back on track; we have lost a number of years, and I want to talk about that in one specific context—there is a problem with all jurisdictions in Australia, in that we have tended to go for the quick fix. We have tended to delude ourselves as policymakers and parliamentarians that the neat, plausible answer, the answer that comes to us most readily, and the answer that is shouted the loudest into our ears when we ask for advice, will be the right answer. What we are living through now is living proof that people have been wrong so far. What we are doing now is not working. I know that we get small successes. The evidence yesterday, already referred to by Hon Alanna Clohesy, that methamphetamine use in Perth is going down is a small battle won but the war—I will have something to say about the terminology in a minute as well—is still going on. We are not winning the war. We are winning these little battles, but we are not actually making progress.

The end result of that is that a lot of people are dying, just as they were in the 1980s and 1990s of heroin overdoses. Now they are dying over a longer period; they are destroying their lives and their families. Obviously, there have

been a lot of deaths. The figures from our courts and mental illness treatment institutions show that woven through all those narratives is this terrible problem that we are not able to control. We are not able to persuade people to desist from putting substances into their bodies that do irreparable damage. What we are doing now is not working. People are dying, but the suffering being caused is not just to the individuals who are taking the drugs. Day after day, we walk into our electorate offices, open the daily newspaper, listen to talkback radio, read professional journals—whatever we do during the day—and come across the fact that any number of Western Australians are living with daily misery because of illegal drug use. They are the mothers, fathers, brothers, sisters and children of people who are addicted.

It boils down to the fundamental problem that we have to give this committee a realisable task. I doubt that in 12 months it will be able to solve every problem. It may not be able to solve the problems, but it may be able to bring back to this place some avenues for further exploration, and if we have the courage and determination we might then follow up the nature of addiction itself. That is one of the key failures of modern medicine. We do not really understand the nature of addiction itself. Perhaps if we began to understand some of the psychological and physiological predispositions, we would get different outcomes for different people. How do some people end up completely dysfunctional and unable to work, function and sustain relationships, while other people seem to be able to function perfectly well? It has always been the case. It was the same with heroin. People can cite any number of professionals who managed to sustain an illicit drug habit and yet became very eminent individuals, but other people fall right off the edge within if not days, then certainly weeks of becoming addicted.

A particularly moving and, for me, very challenging account was written a couple of years ago by a young man who was working as a journalist. His name was Luke Williams. I do not know whether anybody else has come across him. He wrote a book called *The Ice Age*. He took an extraordinary decision. He wrote a book, it sold a lot of copies and he is now quite well known. He decided to start taking methamphetamine and then write about it as a journalist. He wanted to give an anecdotal account of exactly what it was like. I first read about him about a year ago, which I think was about when the book came out. His account is so chilling because he was a young man in full possession of his faculties. He has a successful career, so he does not have a psychological predisposition to destroy his life. He was not suicidal, he was not enduring any trauma, and he was not going through something that most of us would think was unbearable. He was not using the drug to help him get through life. He was doing it simply as an empirical experiment and, I guess, with a professional interest. He wanted to write about it to give people an insider's view.

With hindsight, if he brought that proposition to us now, we would want to sit him down and tell him to be very careful. Before he knew it, he was addicted. The part of the story that I particularly recall was that after three or four months of taking methamphetamine regularly, in a sense, his first waking up to himself was when he found himself in a physical fight with his father. He thought that his father was being particularly intrusive. He was a successful, capable young man, and here was his dad who kept on muscling in on his life. He decided he was going to teach him a lesson, and the next time his dad came and banged on the door he was going to punch him out. He woke up on the floor. For the first time, three or four months after beginning this experiment, he asked himself what he was doing: "My father's six feet three; he's built like a biker. I'm quite small and not a robust person. Why am I swinging punches at this man I love? What's going on in my life that I'm suddenly in this situation?" He realised, when he looked at himself in the mirror, that he was a meth addict—somebody whose mental processes had departed from anything rational. That is why he was trying to sock his father. His father was desperately worried about what was happening to his son. His father was watching a life unravel, and yet this young man, in full command of all his faculties when he started on what we would probably call a very rash experiment, had completely lost the plot and was for all intents and purposes lost to the world after only three or four months.

That describes in graphic detail for me what happens to people. People are not bad, and that is one of the difficulties we have. We can trace it back, I think, to the early 1980s, with the "Just Say No" campaign that was started in America by Nancy Reagan, who did some magnificent work. We do not want to detract from the effort, energy and resources that were put into the Just Say No campaign. I do not have any reason to think that anybody involved in that campaign was motivated by anything other than a genuine care and concern about how to stop young people from getting involved in drugs. The title, "Just Say No", came explicitly from one of the talks that Mrs Reagan was giving to a school group, when one of the children asked what she would say if somebody came up to her at a party and offered her drugs. She said, "I would just say no." That gave the advertisers the line they needed to market the campaign. The problem is that when we analyse what the Just Say No campaign achieved, it firmly cemented that stigma that speakers before me have referred to—if someone has failed to just say no, it is because of some kind of personal weakness; it is a failure of their own morality, and therefore that person has, in some significant sense, put themselves beyond the bounds of social nicety. They have stepped outside. They have done it because they are weak, and that is what they have decided in their weakness, and therefore they have no recourse to all the support that they would have had if they had been strong enough to go to someone and say, "Look, I'm struggling with this. Somebody is trying to get me to take these drugs but I don't want to do it. Can you help me?" Someone who has stepped outside suddenly becomes that outsider.

I think that is a big problem. It would be very useful if the committee were able to spend some time reflecting on the divergence of that “just say no” approach and the modern twenty-first century approach to harm reduction. I think we will find that, from the albeit fairly limited reading that I have been able to do around the subject, they take very, very different approaches. I am struck by the Portuguese experience, which is founded on the notion that we never give up on anybody. I wonder whether we can read the converse into that. If we stick with the “just say no” message, we have given up on anyone who fails to just say no. We expect them to carve their own path and get on with it out there. The modern messaging of harm reduction programs will be an interesting avenue for the committee to explore.

What sort of problem do we have in Western Australia? As I said, we received some good news yesterday about meth use in the metropolitan area. Given that there is no safe level of meth use, I am reluctant even to say that we won that battle, because we know the havoc that can be wrought from having somebody who is addicted to meth in one’s family. Many, many hundreds of people in Perth are still going through that terrible experience. After having been in this job or, indeed, in politics for a few decades, I sometimes feel that there is not much that can surprise me, but I was shocked about 18 months ago when a primary school teacher in my electorate told me—I will not name the town—that she would stand in the staffroom with her colleagues, her fellow teachers, and they would watch the drug deals being done by the parents down at the school gate. They knew that was happening. Parents of primary school children were using the car park at the school to do drug deals. That is right here and now in our state within the last 18 months.

What we see in the United Kingdom reminds me of some evidence that the Joint Standing Committee on the Commissioner for Children and Young People heard recently about the habits of young people. We were told that sending a nude photograph of oneself is the second stage of forming a relationship. It comes before kissing. It was surprising to hear that. Some evidence coming out of the UK now shows that more young people, school-age children, take illegal substances than smoke. We have been very successful in our anti-smoking campaign. I always think the strongest message we ever gave was getting children to go home and tell their parents that they did not like going to school smelling of cigarettes. That never happened to me; I gave up smoking before I had my family. However, I imagine that it would be a challenge for a parent to have their kids come home and say that they do not want to go to school smelling like cigarettes. Along with all the other health messages that were promoted amongst young people about smoking, that seems to have worked. Young people are not smoking tobacco. Instead, they are using illegal substances.

The figures are quite alarming. I can put my hands on them right here. I am quoting from this newspaper article: 19 per cent of youngsters aged 11 to 15 years have smoked; 24 per cent have taken drugs and 44 per cent have drunk alcohol. The alcohol problem is still with us. I was impressed that we had that exchange across the floor earlier in this debate about the misuse of things such as alcohol and tobacco coming within the purview of this select committee, because that is indeed an illegal use of drugs. Look how well we have done on smoking. Fewer than one in five children have tried tobacco, but nearly a quarter of them have taken drugs and getting on to half of them have had an alcohol experience before they turn 15 years old. I say again that what we are doing now is not working. We have to do things differently.

While I am talking about the UK experience—I love this example because it is a fine example of British irony—there is a place in the East End of London called Tower Hamlets, which in my day was not somewhere we would ever find a desirable property, but these days it is full of multimillion-dollar apartments. That is a sign of how fast London has developed, rather than how long I have been away. Tower Hamlets is a night-life place. It has the new railway line down there; it is the old East End. It has a thriving night-life, so, of course, where there is a thriving night-life, we have a drug problem. The local residents in Tower Hamlets have designated parking spaces that say “Drug dealers only”, as a way of bringing their frustration to the attention of local authorities. They have installed street signs designating crack pick-up points and telling drivers to give way to oncoming drug dealers. Hon Alison Xamon may want to put Tower Hamlets on her itinerary. It is a terrible thing, but that is how bad it is. That is the lengths that people have been driven to try to say, “For God’s sake! Look what is happening here and help us do something about it.” I will give that article to Hon Alison Xamon because she might want to look at it.

Hon Alison Xamon: Thank you.

Hon Dr SALLY TALBOT: We are not alone in facing this problem and that is why I think this committee will have plenty to deal with and plenty of evidence to collect. I have only a very short time available to me. I want to say that one of the important things that I have learned from my experience on select committees is that we do not need to reinvent the wheel. The first job to do is to look at what else has been done. I think there has been a number of areas recently where I, for one—I know I am not alone—have felt very frustrated by the fact that we have had yet another inquiry into issue X. I can think of one case—I do not need to go into the details—in which we have had 23 inquiries in the last two decades. We have hundreds and hundreds of recommendations about many, many things, most of which have never been actioned. It is a bit hard to pin down, but there has been a Senate report in very recent times. It is hard to pin down only because the inquiry into ice by the Joint Committee on Law Enforcement started in 2015 in the forty-fourth Parliament. Parliament was then prorogued before the committee had finished its inquiry and it started again in October 2016 in the forty-fifth Parliament. The committee has brought down

two reports. I have been interested to see the extent to which the committee looked at harm reduction specifically. I thought it was worth drawing the attention of members, particularly members who are going to be on this committee, to this report. I also noticed that at least for a time, if not the whole time, the member for Cowan was a member of that committee, so Anne Aly was on that committee. It occurred to me to mention that because it might be useful to speak to some of the people who took part in that inquiry to get an idea about who is worth talking to and what direction is worth going in. As part of its first report, the committee produced a series of recommendations. One of them reads —

7. The Australian government expand its leadership in relevant international fora and considers:
- strengthening ties with countries in the Asia Pacific, beyond existing ties with China, Cambodia and Thailand;
 - collaborating to develop regional law enforcement and health and welfare responses to crystal methamphetamine;
 - sharing its practices with a particular focus on demand reduction and harm reduction; and
 - enhancing co-operation with the United Nations Office on Drugs and Crime ...

This committee has done a lot of work. A diverse range of people make up the committee. It would be well worth our committee taking all of that evidence into account. I will have a bit more to say about its reports when we restart this debate in a week. However, I think it is important to draw the attention of honourable members to the existence of that report.

Debate adjourned, pursuant to standing orders.

COMMITTEE REPORTS — CONSIDERATION

Committee

The Chair of Committees (Hon Simon O'Brien) in the chair.

Joint Select Committee on End of Life Choices — First Report —

“My Life, My Choice: The Report of the Joint Select Committee on End of Life Choices” — Motion

Resumed from 19 September on the following motion moved by Hon Colin Holt —

That the report be noted.

Hon NICK GOIRAN: I take this opportunity to say a couple of words about this report. As members know, it has been deferred on several occasions. From my perspective, one of the reasons that has occurred is that a motion, of which I have given notice, will come on for debate in the fullness of time that seeks to have the Legislative Council send a message to the other place to have this committee's minutes tabled, as is the ordinary custom and practice of committees operating under the Legislative Assembly standing orders, as was the case with this joint standing committee. From my perspective at least—other members may have a different view of things—it would be helpful to be able to have a more wholesome discussion about the workings of the committee once those minutes are available, as is the case and the ordinary custom and practice in all Legislative Assembly-run committees. However, I take this opportunity to make a brief contribution this afternoon on this general topic. The reason I do so is because I notice on the notice paper that listed under “Consideration of Committee Reports” is the eighth report of the Joint Standing Committee on the Corruption and Crime Commission, entitled “The More Things Change... Matters arising from the Corruption and Crime Commission's Report on Operation Aviemore: Major Crime Squad Investigation into the Unlawful Killing of Mr Joshua Warneke”. I want to talk about that in the context of this report because during the past two weeks I had the good fortune of delivering a talk at a medico-legal conference in Barcelona. While I was there talking about the report “My Life, My Choice: The Report of the Joint Select Committee on End of Life Choices” among a group of medicos and legal practitioners, a variety of topics were discussed. I was given an hour to present—40 minutes for a presentation and 20 minutes for a question and answer session. As I said to the delegates at that conference, 40 minutes is a completely inadequate period for me to comprehensively deal with my minority report, let alone the whole topic. However, I highlighted a couple of issues. I will raise just one of those matters this afternoon.

A plethora of issues need to be considered in this matter, not the least of which are those that were not dealt with by the majority of the committee who failed to undertake their full terms of reference, as I have outlined previously. I want to highlight one in particular. It is linked to this issue and the theme that arises out of the Josh Warneke case. What happens in this debate is that from time to time people of goodwill will say that they can make a case for a legalised assisted suicide regime. That happens often. However, what always happens immediately after that is that those people will say that there have to be safeguards.

At the medico-legal conference I was in an international jurisdiction with delegates from across the globe. I asked delegates: why was it the case that Western Australia did not have the death penalty? I said to the delegates that I am one of those in Western Australia who believes that we should not have the death penalty. Why is that? From my perspective I am concerned for the one wrongful death that might occur after a wrongful conviction. I hold

that view notwithstanding the fact that our criminal justice system in Western Australia has a massive list of safeguards in place. I took the delegates through how the Western Australian jurisdiction works in that respect. Our criminal justice system starts with the need for a complaint. There has to be a complainant and a complaint. That complaint then gets investigated—not by just anybody, but by an independent body, which is the Western Australia Police Force. During the process of that independent investigation by the WA police into a complaint, the person who is being complained of or investigated has a range of rights available to them, or safeguards one could say. First, they do not have to cooperate with the police, other than to the extent that they need to give their name and address. Other than that, they can remain silent during the course of the investigation. In Western Australia we are very generous. We will even ensure that a person is legally represented during that process and we will fund that through the legal aid process to ensure an extra safeguard and protection.

There is a complaint. An independent organisation, the WA police, does the investigation. During that process the person does not have to cooperate, other than to give their name and address. We will make sure that they have a lawyer representing them to ensure that nothing goes wrong during the course of the investigation. At the end of that, what happens? That independent body, the WA police, might lay charges. Is that the body that prosecutes those charges in the court? No. We have an extra safeguard in place—the Director of Public Prosecutions, another independent body that goes ahead in the higher jurisdictions to prosecute those cases, and it reviews the investigation and reviews the evidence. During the course of the prosecution another safeguard is that the Director of Public Prosecutions has to reveal all of the evidence that is available, including evidence that might be to the benefit of the person who is being complained of.

If members do not think those are enough safeguards, in Western Australia during the course of that trial we also make sure, generously, that the person has a lawyer who is able to represent them and we will fund that through the legal aid process. We make sure that there is another independent person, a judge. The judge supervises the whole process to ensure that there is no possibility of anything going wrong. In our system we have a jury, a separate group, who will then determine whether the person is guilty or not guilty.

If they are not enough safeguards, imagine after all of that that the person has been convicted. One would think that with all of those safeguards we would be pretty sure that the person was guilty. We then give them several rights of appeal. In those appeal processes in Western Australia we will generously also fund the person to make sure that they are legally represented.

During the course of the conference, somebody pointed out to me an additional protection I had not thought of; that is, in our system, the standard of proof required is beyond reasonable doubt. So people cannot just go and be found guilty on a whim; the prosecution has to prove the case beyond reasonable doubt. Even with all the safeguards in the criminal justice system, here in Western Australia we say that is not good enough and we will still not have the death penalty. Why? Because of the possibility of a wrongful conviction that would lead to a wrongful death. I hold that view, and I suspect I am not alone.

The point of saying all that with respect to the Josh Warneke case that has been dealt with by the Joint Standing Committee on the Corruption and Crime Commission is that I am sure that Mr Gibson, who was wrongfully found guilty of killing Mr Warneke, is very grateful that we do not have the death penalty in Western Australia, because he certainly would not have had any recourse or redress after the event. I thought it would be useful in my brief contribution this afternoon to highlight that that is one of a plethora of issues that we need to consider if we go down this path. I might add that that issue was not considered by the majority of the committee during this 12-month inquiry. It had only 12 months to look into this issue, and it required a minority report of one member without any other assistance—not three full-time staff members, like the majority of the committee—to address this as one of the various issues in the 250-page minority report.

Question put and passed.

*Joint Standing Committee on the Corruption and Crime Commission — Seventh Report —
“Unfinished business: The Corruption and Crime Commission’s response
to the Committee’s report on Dr Cunningham and Ms Atoms” — Motion*

Resumed from 19 September on the following motion moved by Hon Alison Xamon —

That the report be noted.

Consideration Postponed

Hon ALISON XAMON: I move —

That consideration of the seventh report of the Joint Standing Committee on the Corruption and Crime Commission be postponed to the next sitting of the Council.

By way of explanation, we are still waiting for the matter to be resolved in the courts. It is certainly dragging on and that is disappointing, but I hope it will be resolved in due course.

Question put and passed.

*Select Committee into Elder Abuse — Final Report —
“I never thought it would happen to me’: When trust is broken” — Motion*

Resumed from 19 September on the following motion moved by Hon Nick Goiran —

That the report be noted.

Hon ALISON XAMON: I wish to say a few more words about this report. I am aware I have already made a contribution on it, but this report has so many elements that I think are worthy of extrapolation and discussion in this place that I would like to speak about it a bit further.

One area of the report that I would particularly now like to speak to is the issue of elder abuse of Aboriginal Australians. From the outset the committee proactively sought to try to get data around the rate of elder abuse within Aboriginal communities because it wanted to ensure that it was being quite thorough. We were already aware that particular evidence needed to be sought on people from culturally and linguistically diverse backgrounds and lesbian, gay, bisexual, transgender, intersex, queer and other areas who had been identified to be potentially at additional risk; Aboriginal Australians was another area of inquiry. Evidence was given around the specific issue of humbugging. I want to say how difficult it was to try to get any evidence around the rate of humbugging, particularly as it pertains to older Aboriginal Australians. It was very clear that comprehensive data has not been sought on this area, and there is no clear research around the rate of humbugging; instead, we received anecdotal evidence that this is a particular issue for older Aboriginal Australians.

Members who have read the report are aware that one of the recommendations and findings of the report was that when we are talking about the definitions of elder abuse for Aboriginal Australians we are talking about people who are 10 years younger than the age of 65, which has otherwise been recognised as the standard cut-off point for other Australians. We are talking about Aboriginal Australians aged 55 or older. That is partly because of the reduced life expectancy amongst Aboriginal Australians, but also culturally the nature of when people within Aboriginal communities are deemed to have elder status. We were advised that applying pressure to older people to obtain a monetary benefit is an issue of particular concern within Aboriginal communities.

Of course, that highly complex issue arises through cultural concepts around reciprocation and the obligation to provide for kin and broader family. The issue that arises is when does it turn into abuse, and when does the sense of placement in community and that cultural sense of reciprocation become an abusive relationship. The sorts of evidence that came to the committee’s attention were about a disconnect between younger Aboriginal people and traditional cultures of respect towards elderly Aboriginal Australians, the role that that plays and how difficult that can be. Of course, there is then the risk that we are talking about older Aboriginal Australians who are left sometimes destitute, effectively, because their money has been taken and they are left with very little to live on.

One recommendation was that the Department of Communities commission research into the prevalence and forms of elder abuse, and specifically look at the unique challenges that Aboriginal Australians face within Western Australia. Recommendation 5 reads —

The Government develop an action plan that is culturally safe, developed in conjunction with Aboriginal and Torres Strait Islander people and acknowledges the unique circumstances that Aboriginal and Torres Strait Islander older people face in Western Australia.

One thing that came to our attention was that other states have already started doing this work. They are doing a reasonably good job of raising public awareness and ensuring that materials are available that reach out to older Aboriginal people who may be experiencing humbugging and the distress around that, and also trying to use messaging to particularly target younger Aboriginal as to why humbugging is not okay.

I draw members’ attention to page 33 of the report, which is an example of one of the sorts of brochures used in South Australia in which specific material is being targeted. A range of materials has also been produced in other states. That tries to make clear what constitutes abuse. As I said in my previous contribution, the committee found that very often people think their behaviour is perfectly normal and acceptable, and it is not until it is pointed out to them that they recognise that what they have been doing is, in fact, abusive. I have seen materials from other states that contain some really targeted messaging for young people about what it means to respect Aboriginal elders. They say things like, “It is not okay to engage in the various behaviours that effectively constitute abuse.”

It is really important, should the government decide that the Department of Communities will be the lead agency in the state response to elder abuse, which is, of course, one of the recommendations that arose from the Select Committee into Elder Abuse, that some priority is given to developing a targeted campaign for Aboriginal Australians within Western Australia to help tackle the issue of elder abuse or humbugging within their communities. It will be absolutely essential, however, that if those campaigns are developed, they are done in conjunction with Aboriginal communities. In my opinion, it is simply pointless to try to produce campaigns, materials and messaging without talking to the very people who will be affected by the campaigns or who are the intended targets of the campaigns, because, frankly, they have the wisdom to best direct the messaging around that.

I also point members to recommendation 6, which is that the government ensure that when the national plan to combat elder abuse is released, it addresses humbugging as a form of elder abuse that affects Aboriginal and Torres Strait Islander older people and includes culturally safe strategies and responses. The reason that particular recommendation was put forward is that it recognises that although we need to be and should be proactive in this state to ensure that we are running campaigns around this, it is important also to ensure that this particular issue does not fall off the agenda for the national response to elder abuse.

I want to say how disappointing it was to see that no one agency has the knowledge or has been pulling together any sorts of strategies on how to address issues of elder abuse and humbugging within Aboriginal communities. Hopefully, the Department of Communities will take up the challenge and will recognise that this is an important component in addressing elder abuse issues within the Aboriginal community. I wanted to draw members' specific attention to those particular recommendations.

Hon NICK GOIRAN: I have not had an opportunity during consideration of committee reports to make a contribution on the final report of the Select Committee into Elder Abuse, "I never thought it would happen to me": When trust is broken". As the chair of the committee, I got to make a very brief three-minute statement at the time of the tabling of the report, but I would like to make a contribution to the consideration of the committee report now that several of my colleagues on that committee, which has now dissolved, have had an opportunity to do so.

I also would like the opportunity to do so once the government has considered the report and tabled its response. I note that the government response is due on 13 November this year, and I am particularly keen to see how it chooses to respond to this particular inquiry. I note that in some public comments made by the government at and around the time of the tabling of the report, it seemed to be very supportive of the work of the committee and certainly indicated a desire to look at the recommendations and respond appropriately in due course, so I wonder whether we might be better off having further discussion once the government has had the opportunity to make a response. Unless other members want to contribute today, I might seek to have consideration of the report deferred until another occasion. But before I move such a motion, I want to say one thing. One of the terms of reference of the committee—it had 10 terms of reference that needed to be addressed—was to determine the types and forms of elder abuse. Members might be interested to know that there is not necessarily a consensus in the academic literature on which form is the most prevalent. The reason that that is the case makes sense when we appreciate the paucity of data around prevalence. Determining the actual prevalence rate of elder abuse is a problem at the moment. The federal government has recognised that and has commissioned some research to be done on it. We are waiting with interest to see what arises out of that. But to the extent that there is consensus, there is consensus that if we were to ask which one was the most prevalent of the forms, it would be either financial elder abuse or psychological/emotional elder abuse. It would be one of the two. I want to park financial elder abuse to one side for a moment. It is a very important area and the committee has made some good recommendations on this, but I want to highlight for a moment the issue of psychological and emotional elder abuse. This really follows on from the contribution that I was making a little earlier this afternoon on the report of the Joint Select Committee on End of Life Choices. It is interesting that psychological and emotional elder abuse is recognised as one of the most prevalent forms. I note that I might have to continue this on another occasion.

The CHAIR: Unfortunately, temporary order 4 now applies in relation to this matter, so we have to defer our further consideration until after committee reports have been contemplated.

Consideration of report postponed, pursuant to standing orders.

*Joint Standing Committee on the Commissioner for Children and Young People — Second Report —
"Talking to the Experts: Responding to recommendations made by the Commissioner for Children and Young
People in the School and Learning Consultation: Technical Report"*

Resumed from 13 September.

Motion

On motion by **Hon Dr Sally Talbot**, resolved —

That the report be noted.

*Standing Committee on Procedure and Privileges — Fifty-first Report — "Review of the Standing Orders
relating to motions on notice — Request for extension of reporting time and discussion paper"*

Resumed from 18 September.

Motion

On motion by **Hon Stephen Dawson**, resolved —

That the report be noted.

*Joint Standing Committee on the Corruption and Crime Commission — Eighth Report —
“The More Things Change...: Matters arising from the Corruption and Crime Commission’s Report on
Operation Aviemore: Major Crime Squad Investigation into the Unlawful Killing of Mr Joshua Warneke”*

Resumed from 20 September.

Motion

Hon JIM CHOWN: I move —

That the report be noted.

Hon ALISON XAMON: I rise because I would like to make some comments on this report. For members who have not had an opportunity to read the eighth report, “The More Things Change...: Matters arising from the Corruption and Crime Commission’s Report on Operation Aviemore: Major Crime Squad Investigation into the Unlawful Killing of Mr Joshua Warneke”, this has arisen because the Joint Standing Committee on the Corruption and Crime Commission undertook some hearings and has some additional reflections following the CCC’s report into what happened after Operation Aviemore. To refresh people’s memories, Operation Aviemore was the CCC investigation that looked at the circumstances around the investigation into the murder of Joshua Warneke and the subsequent conviction of Mr Gene Gibson. As members are probably aware, that conviction was subsequently overturned because very serious irregularities were found in the way the investigations had been undertaken. A year after tabling its initial report, the CCC conducted further inquiries into the progress of the recommendations that arose from that report. The Joint Standing Committee on the Corruption and Crime Commission then looked further into how those recommendations had been progressed.

It would be fair to say that the report highlights that people should be still quite concerned about what is happening within our state, particularly our remote areas, in the administration of justice and engagement with Aboriginal people in particular. I point out to members that Operation Aviemore particularly focused on the inadequacies of investigative techniques around language. A lot of recommendations came out of that. Members may recall that one of the issues identified in the Gene Gibson interviews was that English was his second, if not his third, language. There were genuine issues with his capacity to understand the line of questioning that was levelled at him about the murder of Josh Warneke. Another element that raised deep concerns was the lack of cultural understanding about how Aboriginal people often respond to interrogation techniques and how problematic that can be when looking at confessions and the like.

One of the things that was looked at was a tendency, for example, for a lot of Aboriginal people, particularly those who live on the lands and have limited engagement with white culture, to agree with figures of authority without regard to the fact that they are responding in an environment in which they are expected to give information. In this instance, one of the problems identified was that Gene Gibson had a tendency to nod and say yes and agree, regardless of whether he understood what was being asked or the implications that arose from that. There is an entrenched cultural response from a lot of Aboriginal people to agree with people they view as being in authority. That was identified as a clear issue and a cultural concern about the way interrogations and investigations are undertaken and how we need to look at a totally different approach to investigation techniques, particularly for Aboriginal people.

A third concern that was given reference in Operation Aviemore but was not seen to be one of the core issues, but is one that I have a particular interest in, was the recognition fairly late in the piece that Gene Gibson most likely has a cognitive impairment, potentially, foetal alcohol spectrum disorder. As someone who may be deemed to be a mentally impaired accused person, how do people like him respond during interrogation and how do we need to do better in that regard?

Unfortunately, this state has a history of miscarriage of justice when it comes to mentally impaired accused people. Anyone who was in here the last time I was in Parliament will remember that I spoke long and hard about Mr Marlon Noble’s case, who was detained under the Criminal Law (Mentally Impaired Accused) Act for 14 years without ever having the opportunity to have his charges tested in court. Of course, those charges were subsequently dropped and Mr Noble was released and now lives successfully within the community. However, he is not entitled to any sort of compensation because, despite being in prison for 10 years, he was never convicted and therefore he is not entitled to any sort of compensation. That case highlighted how poorly we deal with mentally impaired accused people. When the issue of Gene Gibson gained public prominence, I confess to feeling chills because it felt a little bit like it was happening all over again. These are not isolated cases. There are other cases, but I think it is fair to say that the cases of Marlon Noble and Gene Gibson are probably the two most prominent cases in this state.

One of the things this report has looked at is: where are we now, so many years down the track, dealing with Aboriginal people who have either been accused of or are being investigated for crimes? We have found that although there has been some progress, unfortunately, the police have a long way to go. There is a genuine risk here because, as long as we are not improving our practices, there is always a serious risk that further miscarriages of justice will unfold. I can tell members that when we are talking about miscarriages of justice, we are not talking

about just a miscarriage of justice against a person who may have been wrongfully convicted or charged. I think one of the devastating tragedies about the Joshua Warneke case is that while a man languished in jail for a crime he was subsequently found not to have committed, the real killer of Joshua Warneke has been walking around Broome or somewhere else this whole time. Justice has not been served for Joshua Warneke and his mother, who has been an absolute stalwart in her campaign to ensure that justice is finally served for her precious, precious son. I remind members that when we talk about miscarriages of justice, there are broad-ranging effects when we get it wrong. That is something of which we need to be very mindful.

A series of findings come from the report. The Corruption and Crime Commission, as I mentioned, exposed systemic issues in the way Western Australian police officers interact with Aboriginal people. Specifically, there are concerns about aspects of the investigative policies utilised by the major crime squad.

The CHAIR: Hon Alison Xamon.

Hon ALISON XAMON: That was finding 1. In finding 2, the Corruption and Crime Commission made a range of recommendations to the Western Australia Police Force to address the issue identified in the way that Western Australian police interact with Aboriginal people. Disturbingly, finding 3 states that two recommendations from the Corruption and Crime Commission's 2015 "Report on Operation Avimore: Major Crime Squad Investigation into the Unlawful Killing of Mr Joshua Warneke" have even now not been adequately addressed by the Western Australia Police Force. Finding 4 states that not enough time is dedicated to cultural diversity training for recruits during the 28-week program at the Western Australian police academy.

One of the report's recommendations is that the Western Australia Police Force should routinely work with local groups and Aboriginal elders when inducting regionally and remotely stationed officers because the committee found that far too often, police officers with limited cultural training have been placed in complex regional environments, which is an unenviable task, where they are expected to maintain order and undertake investigations of crime or disturbances. Those communities may have ways of operating, dealing and communicating that are quite different from what we are used to. It is of concern that we put someone with relatively little experience into a remote environment in which there are language challenges and different cultural understandings. It is also a problem if they are dealing with people who have a cognitive or intellectual impairment that is not easily recognised. I point out that that challenge is fraught for police officers when dealing with the issue of cognitive and intellectual impairment anywhere in Western Australia. It is difficult to get a diagnosis. It is an enormous challenge to get FASD diagnosed, for example. It is particularly aggravated in situations in which there are language and cultural differences. Nevertheless, it is an issue that the police need to be mindful of, particularly those from the major crime squad who are very much at the pointy end of undertaking investigations and interrogations.

One thing that we should be doing better is supporting our police officers when they are placed in large Aboriginal environments to ensure they receive the full suite of ongoing supports that they require. This will be a particular challenge in the Kimberley and areas of the Pilbara where there is a range of languages, many of which are very poorly recorded. There will be genuine challenges with issues of interpretation and access to interpreters. Nevertheless, if we are serious about ensuring that we deliver justice and get law enforcement right—this is a big state and it is a big state with a great variety of people—we need to ensure that we better invest in this area. Quite frankly, the committee found that we are not doing that well.

The committee welcomed the increased focus by the Western Australia Police Force on the issue of cognitive impairment and its implications for compliance with the Criminal Investigation Act 2006. Frankly, we could not have been much worse at it. We started from a pretty low bar, but it is absolutely essential that we recognise how differently we need to approach the issue of cognitive impairment and address how we deal with the issue of identification and diagnoses and how we work with people who are intellectually or cognitively impaired to ensure that we gain accurate information so that those people have the opportunity to defend themselves and ensure that justice is being done. These issues have always been a challenge, but now they are finally being understood, and there is growing expertise. I point, particularly, to the marvellous work that is being done by Telethon Kids Institute on the issue of FASD. It has been doing some phenomenal work at Banksia Hill Detention Centre. I hope that it receives more funding so that it can move into the next phase of its research, which it is very keen to do. It has looked heavily at not only the issue of diagnosis, but also the appropriate interventions to better work with those people who may or may not be engaging in offending behaviours and deal with issues of cognitive impairment. In part, recommendation 2 reads —

Given this, the Western Australia police force need to prioritise internal policies and increase training of frontline officers in order to keep in step with ongoing developments.

I recognise that we have some pretty tough asks of our police force. We expect them to be culturally aware of Aboriginal people in the area of language and we need to ensure that they have an awareness of cognitive and intellectual disability. I am also aware—I am one of the first people in this place who will keep talking about this—that it is critical that police have a good understanding of how to respond to people with mental health issues or who are experiencing mental health distress. We have an expectation of our police that they have a comprehensive understanding of the various different cultural approaches in all the culturally and linguistically diverse

communities in Western Australia. Of course, we also expect that our police force will be sensitive to the unique needs of lesbian, gay, bisexual, transgender, intersex, queer Australians. We recently spoke about the fine recommendations from the report on elder abuse, one of which is that we provide better education for our police force on the implications of elder abuse, as well as domestic violence and all the areas in which we want our police to have a better view. I recognise that there are hugely competing demands in the provision of training in our police, which is in addition to ensuring that they have all the necessary training to best do their job, such as the physical, legal and paperwork requirements. I absolutely get that that is a huge ask of our police force. I would have thought, at the very least, that when we talk about sending police to particular areas to undertake their job, that they are extensively equipped with the necessary knowledge to best do their job within whatever community they have been sent to.

It is very clear from the initial Aviemore report, the subsequent report from the Corruption and Crime Commission and now the report of the Joint Standing Committee on the Corruption and Crime Commission that we are still not there. We still have not progressed far enough to ensure that we are doing the job around issues of culturally appropriate law enforcement, particularly in remote regions. It was found that the WA Police Force has progressed a range of initiatives to improve cultural awareness training to police officers, but, as I said, so much more still needs to be done to ensure that the training is improved for dealing with vulnerable people.

Recommendation 3 was that the WA Police Force commit the time and resources necessary to the ongoing education and training of police officers in cultural awareness.

The CHAIR: Hon Alison Xamon.

Hon ALISON XAMON: As I have said already, the sheer number of Aboriginal language groups, particularly in the Kimberley, remains an ongoing challenge for law enforcement. It is an ongoing challenge for all services. I know that mental health services, alcohol and other drug services and suicide prevention services in particular also face exactly the same challenges. When we are talking about the administration of justice, we have to be precise. We need to know that the information we are collecting is accurate and will be fairly administered in any ensuing court proceedings. This is a huge challenge, but I believe we have an obligation to rise to it. It was noted that the police force is progressing the implementation of prerecorded cautions in 20 Aboriginal languages, which is an important first step. It certainly would have helped Gene Gibson; that is what was found.

There have been real challenges in doing that, partly because any issue of translation of languages into formal legal processes is difficult. I know this from when I was working as a lawyer with refugees. I was working with people who did not speak a word of English, but we were undertaking legal processes. We cannot ask just anyone to come along and do that interpreting for us, because it is precise work, and we have to make sure that the client genuinely understands what we are asking them and, importantly, that whatever information they are giving us is absolutely legally correct. We are talking about legal processes in which there is no room for interpretation or being a little bit woolly on the facts. We have to be clear. I recognise that it is a huge challenge to try to ensure that those interpreter services are being accurately provided, and to find the expertise from people who can do that. Nevertheless, this has been going on for quite a few years and it is about time we ensured that it is given priority. It will have to be progressed sooner rather than later.

One of the concerns was that no time frames have been allocated to ensure the completion of this work. It is my sincere hope that I will not be standing here in two years' time saying that we have still not progressed any of this. It should have been done by now, and it is problematic that it has not been done to date. It is an ongoing issue of concern to both the CCC and the joint standing committee, and I want to continue to pursue it to make sure that we get progress on it. I was pleased to note that the Corruption and Crime Commission has indicated that, in its public hearings, it will be engaging in ongoing monitoring of the recommendations that arose from Operation Aviemore. It is really good that these issues are not going to fall off the agenda.

I also note finding 12, that the police force is progressing the implementation of an information technology solution known as the automated interview plan. That will potentially allow an interviewing officer to fill in minimal information and identify the potential vulnerabilities of a witness. The AIP generates an interview plan with specific attention to the needs and vulnerabilities of the person being interviewed. This is potentially a bit of groundbreaking work. I applaud the police force for initiating this, and look forward to, hopefully, receiving a further briefing at some point in the future about how it has been implemented and what it actually looks like. Those sorts of reforms are really critical for the administration of justice. I suggest to any member who has a particular interest, as I do, in the area of the administration of justice, particularly around vulnerable people, Aborigines or mentally impaired accused, that the eighth report of the Joint Standing Committee on the Corruption and Crime Commission is particularly important. It shows that although we are starting to make some slow progress in these areas—it has been quite a number of years—we are still quite far away from getting there. It is good that the CCC decided to prioritise this report and to follow it up.

Personally, I think that the CCC report on Operation Aviemore is one of the most important investigations it has undertaken. I know that a lot of publicity has been given to a lot of the other reports that the CCC has undertaken.

Most notably, in recent times we have seen the very public reports into corruption in public sector procurement, in the North Metropolitan Health Service and in Horizon Power. However, issues of human rights, which is what this report is about, are really core business, and I am glad that this is receiving attention. I think, 10 years ago, people really did not care what was happening when there were miscarriages of justice to some Aboriginal bloke who did not speak English and was potentially a mentally impaired accused. I hope that we are starting to see a change of attitude in this space, but even if it turns out that people do not care about the Gene Gibsons or the Marlon Nobles of this world, maybe their hearts will be moved by a concern about a miscarriage of justice against Mr Joshua Warneke and his family. This is something that we should all be concerned about. I suggest that members may want to look at this report, and we should keep revisiting this issue as a Council.

Hon NICK GOIRAN: Just briefly, I thank the committee for this helpful report. I effectively concur with everything that has been said by Hon Alison Xamon. I note that this eighth report of the Joint Standing Committee on the Corruption and Crime Commission, tabled in September this year, contains a number of recommendations, and I wonder whether it is the intention of the government to respond to those recommendations. For reasons not immediately apparent to me, other reports listed in today's business program for consideration have the date on which the government response is due, but this one is silent on that issue. It strikes me that a government response is due on it, because it is the eighth report and at page xiii —

Hon Sue Ellery: Do you think we might ask the Chair if any advice is available on why a reporting date for the government's response was not on the notice paper?

Hon NICK GOIRAN: The Leader of the House can do that, but I am in the middle of a very short contribution. Under "Ministerial Response" at page xiii, it sets out that under standing order 277(1) the committee directs the Minister for Police to report. It seems to me that it would be helpful for us to consider this matter once again, for all the reasons that Hon Alison Xamon has already outlined. The point on which I quickly want to concur with her—with the 50 seconds remaining to contribute—is the importance of the issues of cognitive impairment and foetal alcohol spectrum disorder, and how such things can, as in this instance, lead to a wrongful conviction and therefore a person spending some time in prison when that ought never to have happened. Notwithstanding that the criminal justice system in Western Australia has a multitude of safeguards in place, it still happened for various reasons. Injustice has occurred, and thank goodness Mr Gibson is still alive to receive redress for the injustice that has happened to him. I think it is appropriate that we consider this matter on another occasion when the government response has been provided.

The CHAIR: Before I report progress to the house, the question was raised just now about a government or a ministerial response to this report. This CCC report directs recommendations to a minister of the Crown and, as indicated at page viii, the direction for a ministerial response is to the Minister for Police. I understand that under the standing orders of the Legislative Assembly, under which this joint standing committee is established, the ministerial response is required to be tabled two months after the tabling of the committee's report, which would place it at around 20 November this year. With that, and noting the time, I shall leave the chair to report progress.

Consideration of report adjourned, pursuant to standing orders.

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

Sitting suspended from 4.15 to 4.30 pm

QUESTIONS WITHOUT NOTICE

TRANSPORT — MATAGARUP BRIDGE — SUPPLY AGREEMENT

906. Hon PETER COLLIER to the minister representing the Minister for Transport:

I refer to question on notice 1582, which was dated 22 August 2018. Will the minister provide a list of the reports received by Main Roads Western Australia from the Matagarup Bridge joint venture including the date each report was received; and, if not, why not?

Hon STEPHEN DAWSON replied:

I thank the leader of the opposition for some notice of the question.

Main Roads has advised that in excess of 100 reports exist and that it will take some time to collate a list of such documents. As such, it is requested that the honourable member places this question on notice.

HEALTH — DANNY CLOGHAN — EMPLOYMENT

907. Hon PETER COLLIER to the parliamentary secretary representing the Minister for Health:

- (1) Is Danny Cloghan employed, contracted or consulting for any agency or department within the health portfolio?
- (2) If yes to (1) —
 - (a) in what capacity is Mr Cloghan engaged—for example, employed, contracted or consulting;
 - (b) what is the project and/or purpose of the engagement;

- (c) what was the commencement date and expected completion date of the engagement;
- (d) what is the remuneration for the engagement; and
- (e) who authorised the engagement of Mr Cloghan?

Hon ALANNA CLOHESY replied:

I thank the honourable member for some notice of the question. I am advised of the following.

- (1) Yes.
- (2) (a) He is contracted.
- (b) A review to evaluate and identify any issues related to the governance and effectiveness of the workforce and integrity functions of North Metropolitan Health Service.
- (c) From 11 June 2018 to 30 November 2018.
- (d) The expected total cost of the engagement is less than \$150 000.
- (e) It was the director general.

JUDICIAL OFFICERS — APPOINTMENT

908. Hon MICHAEL MISCHIN to the Leader of the House representing the Attorney General:

I refer to the Attorney General's selection of judicial officers since taking office.

- (1) How many of his appointments to judicial positions have been of practitioners from outside Western Australia?
- (2) When and whom and to what positions, and from what jurisdiction have those practitioners been drawn?
- (3) Why did he appoint them and not Western Australian practitioners?
- (4) Were those appointments made following their successful application for advertised positions; and, if not, why not, and what was the process for their appointment?
- (5) Did he discuss prospective appointments with anyone outside the formal consultation process; and, if so, who and when and with what result?
- (6) Has he in mind appointing any other non-Western Australian practitioners; and, if so, who and to what positions?

Hon SUE ELLERY replied:

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

- (1) There was one appointment.
- (2) On 11 September 2018, Mr Paul Samuel Glass was appointed as a magistrate to exercise jurisdiction in the Family Court of Western Australia to commence on and including 1 October 2018. Mr Glass is from Melbourne, Victoria.
- (3) As a result of the interview panel assessment of the candidates on the basis of the written applications, interviews and referee reports, Mr Glass was the recommended applicant. The Attorney General agreed with that recommendation.
- (4) Yes.
- (5) The Attorney General regularly discusses a range of issues, including appointments, with the legal profession and stakeholders as necessary, as I am sure the honourable member did during his time as Attorney General. If the honourable member has a question about a specific appointment, he is asked to put it on notice.
- (6) No.

SECONDARY SCHOOLS — FUNDING

909. Hon DONNA FARAGHER to the Minister for Education and Training:

I refer to the government's decision to reduce the per-student funding allocation for schools with an enrolment threshold of 1 200 students or more in 2018.

- (1) Can the minister confirm that this decision reduced the combined total per-student funding across these schools by \$12.674 million; and, if not, what is the correct figure?

- (2) Will the minister provide a breakdown of the redistributed funds referred to in (1) to —
- (a) schools with fewer than 500 students;
 - (b) schools with 500 to 900 students; and
 - (c) support the delivery of Labor election commitments?
- (3) With regard to 2(c), will the minister provide a further breakdown of the election commitments that have been supported through this redistribution, including funding amounts for each commitment?

Hon SUE ELLERY replied:

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

- (1)–(3) Please refer to Legislative Council question on notice 1204.

GOVERNMENT DEPARTMENTS — ANNUAL REPORTS

910. Hon NICK GOIRAN to the Leader of the House:

Has the government now tabled all the agency and departmental annual reports for 2017–18?

Hon SUE ELLERY replied:

I do not know. I will find out for the member.

WATER — LICENCE FEES

911. Hon JACQUI BOYDELL to the minister representing the Minister for Water:

I refer to the announcement on 10 May 2018 to increase water licence and permit assessment fees for the mining and the public water supply scheme by July 2018, subject to the gazettal of government, and the Treasurer’s comments —

The additional revenue will be reinvested in the Department in the form of additional staff and implementation of digital services to improve service delivery and reduce environmental application assessment timeframes.

- (1) Have many full-time equivalent positions have been acquired in anticipation for the cost recovery changes?
- (2) What work has been done on the implementation of digital services to improve service delivery?
- (3) To what extent will the outcome of the consultation process inform the government’s decision to increase water licence and permit fees?

Hon DARREN WEST replied:

I thank the member for some notice of the question. I make the point that this question was lodged on Tuesday, 11 September 2018. On behalf of the minister representing the Minister for Water, I will give the answer as provided on that date.

- (1) There has been none.
- (2) System enhancements have been scoped to improve customer interactions with the Department of Water and Environmental Regulation, promote the uptake of online services and enhance licensee capacity for self-management.
- (3) The consultation process will inform the government’s decision on whether water licence and permit fees will apply to other sectors.

MOBILE BLACK SPOT PROGRAM

912. Hon MARTIN ALDRIDGE to the Minister for Regional Development:

I refer to the ministerial statement made by the minister on 9 October 2018 relating to the federal government’s Mobile Black Spot Program.

- (1) On what date and by what means did the minister communicate with the Minister for Regional Services as suggested in the statement?
- (2) Can the minister please provide a copy of that correspondence?
- (3) Is it the state government’s position that it seeks to obtain \$3 million in funding from the federal government program and on what basis does the minister believe this to be fair and equitable rather than a higher amount?
- (4) Where in the 2018–19 state budget can the \$3 million in matching funding from the state government for this purpose be found?

Hon DARREN WEST replied:

I thank the honourable member for some notice of the question. On behalf of the Minister for Regional Development, I give the following answer.

- (1) I approved a letter to the minister on 5 October 2018. Due to an oversight in my office, this letter was not processed and posted until 9 October 2018. My office also emailed a copy of the letter to the minister's office on 9 October 2018. My chief of staff contacted the minister's officer today to explain the need for the extension and apologised for the delay in the letter being sent. We expressed our desire to work cooperatively with the federal government to obtain the best outcome for Western Australia.
- (2) I table the document.
[See paper 2030.]
- (3) My intention is to obtain as much funding as possible from the federal government, but one needs to be realistic about the share of the \$25 million national pie that we will receive.
- (4) Any state government investment will be approved through normal budgetary processes. However, I am advised that the current regional telecommunications project budget includes some unallocated funding that may be able to be put towards that purpose.

FISHERIES — BOAT LIMIT — DHUFISH

913. Hon RICK MAZZA to the minister representing the Minister for Fisheries:

I refer to the current Western Australian dhufish boat limit of two fish.

- (1) Is the state government considering increasing the current boat limit of two dhufish?
- (2) If not, when will the state government consider lifting the limit?

Hon DARREN WEST replied:

I thank the honourable member for some notice of this question. On behalf of the Minister for Regional Development representing the Minister for Fisheries, I provide the following answer.

- (1) There is currently no proposal under consideration to increase the boat limit on dhufish.
- (2) The boat limit for dhufish and other management arrangement measures were introduced between 2008 and 2010 to assist the recovery of the west coast demersal scalefish resource. A 2017 stock assessment indicated that stocks have not recovered to acceptable levels. Management arrangements for west coast demersal scalefish will be reviewed over the next 12 months.

DRUGS — FENTANYL

914. Hon COLIN TINCKNELL to the parliamentary secretary representing the Minister for Health:

The latest Australian Criminal Intelligence Commission's report on drugs revealed that there is an increase in fentanyl use in Western Australia. I note that fentanyl is a legally prescribed schedule 8 drug used for pain relief.

- (1) Is there any research into the level of legally prescribed fentanyl versus the level of illegal use of this drug?
- (2) The latest Australian Criminal Intelligence Commission's report on drugs revealed that use of fentanyl, also known as popcorn heroin or china white, is on the increase in Western Australia and Australia. What is the government doing to specifically respond to this increase?
- (3) Are any regional rehabilitation services planned for 2018–19?

Hon ALANNA CLOHESY replied:

I thank the honourable member for some notice of the question. I am advised of the following.

- (1) Yes. Both prescription use of fentanyl—an opioid—and illicit use of fentanyl have been associated with opioid overdose.
- (2) The Western Australian Department of Health issues authorisations to prescribe opioids, benzodiazepines and other schedule 8 medicines and it monitors the prescription of schedule 8 medicines from reports received from pharmacies. The Mental Health Commission convenes and chairs the Overdose Strategy Group. The OSG is an interagency collaboration of health, paramedic, alcohol and other drug service, law enforcement, pharmacy and user groups. It monitors and provides advice about opioid overdose and its prevention in Western Australia. The Mental Health Commission funds and delivers a range of overdose prevention initiatives. It also delivers and purchases services for people experiencing alcohol and other drug problems.
- (3) The Mental Health Commission is seeking to expand the number of beds in the south west of Western Australia by up to three low medical withdrawal/stabilisation beds and up to 30 residential alcohol and drug treatment beds. These beds will complement and build on the existing system of alcohol and other drug treatment and support services across the state. An open tender process has been utilised to procure these services, which is still being finalised, with the successful proponents expected to commence services between January and 30 June 2019.

MINING LEASES — AUDIT

915. Hon ROBIN CHAPPLE to the minister representing the Minister for Mines and Petroleum:

I refer to questions without notice 962 and 192, asked in the Legislative Council on 6 December 2017 and 28 March 2018 regarding the High Court decision in *Forrest & Forrest Pty Ltd v Wilson* [2017] HCA 30.

- (1) Will the minister confirm that Department of Mines, Industry Regulation and Safety staff have undertaken a review of pending applications and the leases granted since 2006 to identify those affected by the High Court decision in *Forrest & Forrest Pty Ltd v Wilson* [2017] HCA 30?
- (2) Will the minister confirm that DMIRS staff have identified 55 current mining lease applications when a mineralisation report was not lodged contemporaneously or when the report was not signed off by a qualified person?
- (3) Will the minister provide a list of the 55 current mining lease applications identified by DMIRS staff when a mineralisation report was not lodged contemporaneously or when the report was not signed off by a qualified person?
- (4) Will the minister confirm whether any of the 55 mining lease applications have been granted?

Hon DARREN WEST replied:

I thank the honourable member for some notice of the question. On behalf of the Minister for Regional Development representing the Minister for Mines and Petroleum, I give the following answer.

- (1) The Department of Mines, Industry Regulation and Safety reviewed pending mining lease applications following the High Court decision. Granted mining leases have not been audited. The government is drafting legislation to remove any doubt regarding the validity of granted mining tenements.
- (2) No, there are no current mining lease applications for which the mineralisation report was not lodged contemporaneously, or for which the report was not signed off by a qualified person.
- (3)–(4) Not applicable.

SALINITY — MANAGEMENT

916. Hon DIANE EVERS to the Minister for Agriculture and Food:

I refer to recommendations 1(a) to (f) from the Office of the Auditor General's eighth report, "Management of Salinity", which are to be completed by December 2018.

- (1) Will all the recommendations be implemented?
- (2) If no to (1), why not?
- (3) If yes to (1), will they all be implemented by December 2018?
- (4) If no to (3), which recommendations will be implemented, and what progress has been made on each recommendation that the government intends to implement?

Hon DARREN WEST replied:

I thank the honourable member for some notice of the question. On behalf of the Minister for Agriculture and Food, I provide the following answer.

- (1) These are complex matters and the recommendations are being worked through in a considered manner.
- (2) Not applicable.
- (3) No.
- (4) A report will be submitted to Parliament before the end of this term.

HIGH STREET–STIRLING HIGHWAY INTERSECTION — UPGRADE

917. Hon SIMON O'BRIEN to the minister representing the Minister for Planning:

I refer to the McGowan government's proposed works for High Street and Stirling Highway in Fremantle and East Fremantle.

- (1) Of the 17 buildings to be demolished in the course of these works, how many are leased or rented to residential tenants?
- (2) When will the tenants, if any remain, be evicted?
- (3) Have any current or former tenants been served with notices of eviction; and; if so, when and with how much notice to move out?

Hon STEPHEN DAWSON replied:

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

- (1) Four of the properties to be demolished are leased to residential tenants.
- (2) As the project is still in planning and development, that is yet to be determined.
- (3) There is one commercial tenant, who was advised on 8 June 2018 and given six months' notice, as per the conditions of their lease agreement.

BUSHFIRE CENTRE OF EXCELLENCE — LOCATION

918. Hon Dr STEVE THOMAS to the minister representing the Minister for Emergency Services:

I refer to the minister's announcement on 13 April of a Rural Fire Division within the Department of Fire and Emergency Services and the development of a co-located Bushfire Centre of Excellence, and the so-called tender document released online in September 2018 that effectively calls for expressions of interest from local governments in having the Bushfire Centre of Excellence in their jurisdiction as reported in *The Great Southern Weekender* of 27 September this year.

- (1) What media statements were issued by the government announcing the opening of this tender and when were they issued?
- (2) What media statements were issued by the Department of Fire and Emergency Services announcing the opening of this tender and when were they issued?
- (3) How did the government advertise this tender?
- (4) Noting that the closing date of the tender is 24 October, has the government attempted to minimise the distribution of this document in an attempt to reduce the applications from rural and regional areas of Western Australia?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The Department of Fire and Emergency Services advises the following.

- (1)–(2) No media statements were released to signal the opening of the request for proposal process. All eligible local governments were directly advised via the WA Local Government Association. Additionally, advertisements were placed in *The West Australian* of 29 September 2018 and 3 October 2018.
- (3) The request for proposal is not a formal tender process; it is a preliminary process to gauge interest in hosting the new Bushfire Centre of Excellence. DFES is calling for proposals from local governments to ensure that a fair and equitable process is followed, given the overwhelming interest in the first-of-its-kind centre.
- (4) No.

BUSHFIRE CENTRE OF EXCELLENCE — LOCATION

919. Hon COLIN de GRUSSA to the minister representing the Minister for Emergency Services:

There may be a sense of *deja vu* with this question I think! I refer to Department of Fire and Emergency Services tender DFES 178818—anyone would think we shared an office!—for naming rights to the emergency helicopter fleet and to a separate tender, DFESRFP 179518, for the Bushfire Centre of Excellence.

- (1) Why does the minister believe the naming rights for a helicopter require a longer tender process than the proposed \$18 million Bushfire Centre of Excellence?
- (2) Why is there no promotion of the Bushfire Centre of Excellence tender on the DFES website when there is promotion of the helicopter naming tender?
- (3) Does the minister consider that a corporate brand on a helicopter is more important than the Bushfire Centre of Excellence?
- (4) Please table all media statements from DFES and the minister in relation to both of these tenders.

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The Department of Fire and Emergency Services advises the following.

- (1) The process to select a sponsor for the emergency rescue helicopters is a separate process from the request for proposal for the Bushfire Centre of Excellence, which calls for expressions of interest based on eligibility criteria. They are separate processes with separate requirements.
- (2) The request for proposal process is not a formal tender process; it is a preliminary process to gauge interest in hosting the new Bushfire Centre of Excellence. All 108 eligible local governments were contacted directly and all information is provided in a single location through Tenders WA.

- (3) No.
- (4) I table the attached document.
- [See paper 2031.]

JOBS — SKILLED MIGRATION LIST

920. Hon CHARLES SMITH to the Minister for Education and Training:

I refer to the graduate skilled occupation list and the admission by the minister that it is in fact a pathway to permanent migration into Western Australia.

- (1) Will the minister now concede this scheme is less about actual labour needs in WA and more about providing an incentive for foreign students to study here?
- (2) Will the minister advise how this will not impact the employment prospects and wages of incumbent residents?
- (3) Is this scheme in fact a total betrayal of the government's election pledge to prioritise Western Australians, as it sponsors foreign nationals to do jobs that Western Australians could do at a time when unemployment is high and underemployment higher?
- (4) If no to (3), how is this scheme putting Western Australians first?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. Before I provide the answer, can I send my best wishes to him for his recent birthday celebrations.

- (1) The purpose of the scheme is to support the growth of the international education sector in Western Australia by providing a small number of the best and brightest international university graduates with a pathway to skilled migration under the existing state-nominated migration program.
- (2) The scheme will be implemented to ensure that only the best and brightest graduates with qualifications and experience relevant to the needs of the Western Australian labour market will be selected. The program is capped, which will minimise any impact on the employment or wages of residents.
- (3) No. It supports the McGowan government's plan to create a more vibrant and diversified economy with a broader range of industries and jobs.
- (4) The scheme will stimulate the growth of the international education sector and the diversification of the state's economy. This will create jobs for Western Australians in a wide range of industries including tourism, food, drink, accommodation, education and retail.

CLIMATE CHANGE — POLICY

921. Hon TIM CLIFFORD to the Minister for Environment:

I refer to the minister's response to question without notice 903 and the alarming report published recently by the United Nations Intergovernmental Panel on Climate Change.

- (1) Can the minister explain why, in the 18 months that the McGowan government has been in power, the only action taken towards developing a climate change policy has been to prepare to develop a process to support development of the policy?
- (2) Will the minister commit to a time line for the development of a climate change policy, and will the minister please outline this time frame?
- (3) In relation to the portfolio consultation undertaken, which organisations and individuals have been consulted?
- (4) Is the reintroduction of industry caps on emissions included within the scope of the policy document?

Hon STEPHEN DAWSON replied:

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

- (1) Since coming to power in March 2017, the McGowan government has re-established and resourced the climate change unit in the Department of Water and Environmental Regulation. The unit has already undertaken a stocktake of climate change actions across government, which considered climate change adaptation and mitigation policies, projects and programs. The unit has also commenced consultation with key agencies on climate-related initiatives and is examining cost-effective options to promote and accelerate the transition to electric vehicles. The climate change unit is also working across government on carbon-related initiatives. Additionally, I have asked the Environmental Protection Authority to provide some advice on the ministerial conditions applied to some of the state's major emitters.

- (2) No.
- (3) There were 39 state government agencies and government trading enterprises consulted as part of the stocktake. My office continues to consult broadly across government to advance a process to support the development of a future policy.
- (4) The McGowan government considers that national approaches to mitigation are generally more economically efficient.

DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION —
COST RECOVERY DISCUSSION PAPER

922. Hon KEN BASTON to the Minister for Environment:

I refer to the discussion paper on cost recovery for the Department of Water and Environmental Regulation. Will the minister commit to not introducing or to significantly increasing charges for native vegetation land clearing and water licences and permits before the next election?

Hon STEPHEN DAWSON replied:

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

The government is currently undertaking a 12-week consultation with key stakeholders and the community on the implementation of a proposed cost recovery approach. Views on the proposed fee structures, the level of cost recovery, and the potential impacts to community, businesses, individuals and industry are being sought. Once the consultation process has concluded and the views of stakeholders and the community are known, the government will consider this matter further. Fees for clearing permit applications have not increased since the clearing provisions commenced in 2004, with applicants currently paying a \$50, \$100 or \$200 application fee. Questions related to water licences and permits should be referred to the Minister for Water.

TAB — PRIVATISATION

923. Hon JIM CHOWN to the minister representing the Treasurer:

- (1) What is Treasury's estimated value of the TAB now that it is going to be privatised?
- (2) Who are the likely purchasers of the TAB?
- (3) Will there be any restrictions on the sale of the TAB to give priority to national buyers over international buyers who may be interested in submitting a purchase tender once the legislation has passed through the Parliament?

Hon STEPHEN DAWSON replied:

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

- (1) The government will not be disclosing what it believes the TAB is worth, as this would clearly not be in the state's or the racing industry's best interests.
- (2) It is expected that the bidder field will include existing wagering operators that have experience in the Australian market. The government will assess bidders on their capability and capacity to operate the TAB in the long-term interests of the racing industry.
- (3) The government will run an open market process that is compliant with Foreign Investment Review Board processes.

HAWTHORN RESOURCES — PINJIN PASTORAL STATION

924. Hon ROBIN SCOTT to the minister representing the Minister for Mines and Petroleum:

Subsequent to question without notice 897, I again refer to mining leases 31/79, 31/284 and forfeiture 536709, recorded on 27 September 2018.

- (1) Can the minister explain the reasons and factual circumstances, including dates, that the department was able to identify that Hawthorn Resources had not taken all reasonable measures to prevent or minimise the generation of dust from all materials handling operations, stockpiles, open areas and transport activities in noncompliance with condition 21 on mining lease 31/79?
- (2) Can the minister explain why a penalty of \$40 000 was chosen and determined rather than a higher penalty?
- (3) Can the minister state how much money in gold royalties was owing by the holders and how this figure was derived and calculated for the June 2018 quarter to justify the issuing of forfeiture notice 536709?
- (4) Can the minister explain why no penalty has been imposed on mining lease 31/284?

Hon DARREN WEST replied:

I thank the honourable member for some notice of the question. I provide the following answer on behalf of the Minister for Regional Development representing the Minister for Mines and Petroleum.

- (1) Following a detailed investigation, the minister received a recommendation from the Department of Mines, Industry Regulation and Safety on 16 August 2018 regarding the breach of condition 21 and options available to me for decision. DMIRS had previously issued a direction to modify to the tenement holders on 24 November 2017 to improve dust management, which was actioned by the tenement holders.
- (2) Section 97 of the Mining Act 1978 permits the minister to impose a penalty of up to \$150 000 on a company for a breach of tenement condition. DMIRS' resource and environmental compliance enforcement panel determined the breach justified a penalty, with the penalty being at the discretion of the minister. Based on the information provided to the minister by DMIRS, which included factors that led to the breach, the minister chose to impose a penalty of \$40 000.
- (3) DMIRS has a long established practice of not disclosing the specific royalty payments of individual companies. The royalty rate is calculated at 2.5 per cent of the royalty value of the gold metal produced.
- (4) With respect to forfeiture 536709 on M31/284 relating to noncompliance with royalty provisions, DMIRS has issued only a notice of intent to forfeit in accordance with regulation 50 of the Mining Regulations 1981. DMIRS is still in the process of determining whether a penalty will be imposed for late royalty payment in accordance with established procedures.

MENTAL HEALTH — CLINICAL GOVERNANCE REVIEW

925. Hon ALISON XAMON to the parliamentary secretary representing the Minister for Mental Health:

I refer to the clinical governance review arising from the interim health services review.

- (1) Will the minister please table the terms of reference for the clinical services review?
- (2) If no to (1), why not?
- (3) When is it anticipated that the review will commence and be finalised?
- (4) Will the minister commit to not undertaking any substantive changes to governance or services until such time as the review is completed?
- (5) If no to (4), why not?

Hon ALANNA CLOHESY replied:

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

- (1) Yes. I now table a copy of the terms of reference of the review.

[See paper 2032.]

- (2) Not applicable.
- (3) The review is expected to commence in late October–early November. Unfortunately, a member of the review panel recently stepped down as they are now moving interstate. A replacement reviewer is currently being sourced. The timing and methodology of the review will be determined, in large part, by the review panel; however, it is anticipated the review will be finalised within six months.
- (4)–(5) The minister does not intend to undertake any substantive changes to mental health governance or services until such time as the review is complete; however, the minister remains responsive to the needs of the mental health system and the community and therefore cannot unequivocally rule out any changes.

CORRUPTION AND CRIME COMMISSION — NORTH METROPOLITAN HEALTH SERVICE —
MISCONDUCT — DEPARTMENT OF FINANCE

926. Hon TJORN SIBMA to the minister representing the Minister for Finance:

I refer to the matters raised by the Corruption and Crime Commission's "Report into bribery and corruption in maintenance and service contracts within North Metropolitan Health Service", and actions undertaken by the Department of Finance both prior to and following the publication of that report on 16 August 2018.

- (1) Noting the period of time canvassed in the CCC report, what distinction, if any, does the Department of Finance make between the individuals and companies named in the report?
- (2) Is the department aware of changes to the ownership of any of the companies named in the report?
- (3) If yes to (2), which company or companies changed owners and when did this occur?
- (4) Will this information have any bearing on the temporary suspension of a company or companies from being awarded state government contracts or expulsion from common-use agreement panels; and, if not, why not?

Hon STEPHEN DAWSON replied:

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

- (1)–(4) The Department of Finance is working through the matters raised in the Corruption and Crime Commission's report in close consultation with the State Solicitor's Office. It would be premature to make any further statements at this point.

WESTERN POWER, HORIZON POWER AND SYNERGY — EXECUTIVE TEAM REMUNERATION

927. Hon PETER COLLIER to the minister representing the Minister for Energy:

What is the base salary and total remuneration for each member of the executive team for 2016–17 and 2017–18 at Western Power, Horizon Power and Synergy?

Hon STEPHEN DAWSON replied:

I table the document.

[See paper 2033.]

COMMISSIONER FOR VICTIMS OF CRIME

928. Hon MICHAEL MISCHIN to the Leader of the House representing the Attorney General:

I refer to Western Australia's first Commissioner for Victims of Crime, Ms Jennifer Hoffman.

- (1) Who is the current commissioner and when was that person appointed, by whom, by what process, and on whose recommendation?
- (2) When was Ms Hoffman removed from that position, why, by whom, and on whose advice, request or representations?
- (3) Does Ms Hoffman still have a position with the Western Australian government; and, if so, what is that position and its responsibilities?
- (4) If no to (3), when did she leave and under what circumstances?

Hon SUE ELLERY replied:

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

- (1) Ms Katalin Kraszlan, the Acting Commissioner for Victims of Crime, was appointed to the position for six months by the director general on 13 June 2018, following an expression of interest process within the Department of Justice.
- (2) Ms Hoffman vacated the commissioner position on 2 October 2017 at her request to take up an acting opportunity with the Department of Justice's strategic reform division.
- (3) No.
- (4) Ms Hoffman departed from the Department of Justice on 2 July 2018, having sought, and been granted, separation under section 59 of the Public Sector Management Act 1994.

KALGOORLIE HEALTH CAMPUS — MAGNETIC RESONANCE IMAGING MACHINE

929. Hon ROBIN SCOTT to the parliamentary secretary representing the Minister for Health:

I refer to question without notice 832 on the subject of a magnetic resonance imaging machine for the Kalgoorlie Health Campus.

- (1) Will the minister explain why up to 30 months will be required, after a budget decision, for the procurement, installation and commissioning of an MRI?
- (2) Will the minister now confirm that from the date of placement of an order, a complete MRI machine, together with Faraday cage and water-cooling system, can be installed and commissioned within 16 weeks?
- (3) Will the minister identify the section of the department that is responsible for preparing the business case for the MRI for the Kalgoorlie Health Campus, with or without identifying the individual or individuals involved?

Hon ALANNA CLOHESY replied:

I thank the honourable member for some notice of the question. I am advised of the following.

- (1) Extensive infrastructure planning, a tender process, contractor appointment and construction, including internal re-alignment or relocation of existing facilities and services, in addition to the procurement of the equipment, is associated with the establishment of MRI services.

- (2) Procurement, installation, testing and commissioning is unlikely to be achievable within a 16-week time frame due to the many variables associated with sourcing, through to commissioning, specialised medical equipment such as an MRI.
- (3) It was the WA Country Health Service.

QUESTIONS ON NOTICE 1607 AND 1618

Papers Tabled

Papers relating to answers to questions on notice were tabled by **Hon Darren West (Parliamentary Secretary)**.

STRATA TITLES AMENDMENT BILL 2018

Committee

Resumed from 9 October. The Deputy Chair of Committees (Hon Adele Farina) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 83: Insertion of sections 4 and 5 and Parts 2 to 14 —

Progress was reported after clause 83 had been partially considered.

The DEPUTY CHAIR (Hon Adele Farina): I draw members' attention to supplementary notice paper 80 issue 2, dated Wednesday, 10 October 2018. I understand that we have completed clause 82 and the question before the committee is that clause 83 stand as printed. When the house was last in committee on the bill, there was some discussion of whether the house should immediately postpone consideration of clause 83. I remind members of the order of the Council, when proposed part 12 of clause 83 was referred to the Standing Committee on Legislation, which states —

the house may proceed with consideration of the bill, other than the matters referred under paragraph (a), —

That is, proposed part 12 —

but the Committee of the Whole shall not agree to a resolution to report the bill to the house until after the Standing Committee on Legislation reports on the referral of proposed part 12 and any related matter;

Therefore, the Committee of the Whole may consider clause 83 up to proposed part 12, at which point further consideration of the clause must be postponed. The Committee of the Whole may then proceed to consider the remaining clauses of the bill before returning to consideration of clause 83 after the legislation committee's report has been tabled. I hope that clarifies matters.

Hon DONNA FARAGHER: Could I seek some clarification so that we are all working on the same path? That is my understanding of how we could proceed. Given the fact, though, that section 83 covers some 200 pages, I seek your guidance about the best way that we might be able to deal with this, because clause 83 contains proposed parts 4, 5, 6, 7 et cetera. Just to assist, am I able to refer to proposed parts within clause 83, at 6, 7, 8, 9 and 10? There are also amendments on the supplementary notice paper that fall within this clause. Are members happy to proceed?

The DEPUTY CHAIR: That is certainly one way that we could proceed. An alternative is that I could move clause 83 proposed part 1, clause 83 proposed part 2. I seek the guidance of the chamber about how it wants to proceed. I am here to facilitate the chamber.

Hon STEPHEN DAWSON: That would be the best way to move forward. If you can move proposed parts at a time, then when we get to proposed part 12, as you say, it is my intention to move the motion that the further consideration of clause 83 be postponed. I will deal with that at that time.

The DEPUTY CHAIR: If members are agreeable, I will proceed on that basis. I will allow some flexibility if a question runs over a couple of different parts, with the exception of part 12.

Proposed sections 4 and 5 put and passed.

The DEPUTY CHAIR: The question now is that clause 83, parts 2 to 7 will now be considered, unless any member wants to speak to a clause before part 7?

Hon RICK MAZZA: I seek your guidance if I am out of sequence here. I am looking at page 238, proposed section 144(1)(b)(ii). Am I too far ahead?

The DEPUTY CHAIR: No, that is part 2, so I will put the question. Do you have a question relating to proposed part 2 that you would like to put?

Hon RICK MAZZA: Yes, I have a question on proposed section 144(1)(b)(ii). It is about education or other qualifications.

The DEPUTY CHAIR: I will just put the question to the house. The question is that clause 83 part 2 stand as printed.

Hon DONNA FARAGHER: Can I get some clarity here? I am sorry, Hon Rick Mazza; I just want to make sure I am clear. I understood from the suggestion that effectively we would be working from page 124 of the bill and moving along from clause 83 and then go through proposed parts 4, 5, 6, 7, 8, 9, 10 et cetera. I had understood that that was the way we were going to work through from page 124. Otherwise, we are going to be going back and forth across a range of parts or proposed sections. I perhaps prefer to refer to them as proposed sections—otherwise, I think we are going to get ourselves very confused.

The DEPUTY CHAIR: There is confusion here, because if members look at the top of page 238 of the bill, which Hon Rick Mazza referred to, they will see it says part 2, but looking at the body of the bill, we get to proposed part 3 at page 136. I will have to ask us to go through this very, very slowly. If members could just indicate the page at which you want to raise an issue so I can work out what part of the bill that is before I put the question. Does any member want to speak to any matter before page 238?

Hon DONNA FARAGHER: I would like to speak at page 126. For what it is worth, I just think it would be a lot easier if we effectively went page by page like we normally do with a bill, albeit—I reiterate that this is the problem with a bill such as this, minister—it is one clause that goes for so many pages. It would still be easier that we go through methodically page by page. That is my humble opinion, Madam Deputy Chair. I am going to leave it in your most capable hands.

The DEPUTY CHAIR: In an effort to get us through this, I will move each provision of the bill on a page-by-page basis and ask for members' forbearance, because I also note that we have a proposed amendment at page 134, which is well ahead of the indication by Hon Rick Mazza. We have moved the first part and has been passed, so we are all now at part 2 at page 125 of the bill. The question is that clause 83, page 125 do stand as printed. I am trying to do as members are asking; we asked for it page by page.

Hon STEPHEN DAWSON: Let us do it page by page, but the proposed sections are the information that I think we can all benefit from. The intention is to still move the whole proposed part—to do a proposed part at a time before we get to proposed part 12. But if we can deal with proposed sections, I think that would make it easier for Hon Donna Faragher and it will also make it easier for me and my advisers.

The DEPUTY CHAIR: Can I just clarify that you are asking me to put the question that clause 83, proposed part 2, proposed section 6 stand as printed? Is that correct?

Hon DONNA FARAGHER: Yes. On page 125, proposed section 6 is “Legislative framework” and proposed section 7 is “Strata titles schemes”. If we can go through in that way, I can refer to each. For example, my first questions are about proposed section 8, which is at page 126. Does that help?

Proposed sections 6 and 7 put and passed.

Proposed section 8: Freehold schemes and leasehold schemes —

Hon DONNA FARAGHER: I appreciate the chamber's forbearance on this and how we have worked through it. I think we are all on track.

Proposed section 8 refers to freehold schemes and leasehold schemes. My specific interest is in the leasehold schemes, which is the new concept that is being brought in as part of this bill. The minister gave quite a detailed response about these new schemes. After the briefing that I received, I think I have a fairly good understanding of how it is, but I think we need to get some information on the record. I might ask some general questions that might help us to move forward. How is the expiry day determined? Is it from the date when the lot is created and registered?

Hon STEPHEN DAWSON: I am advised that it is from the date that the scheme is registered.

Hon DONNA FARAGHER: If I can give a hypothetical example: if the scheme has 10 lots within it, it is my understanding that they would all have the same expiry day because the scheme will expire on one day. It is not a question of the timing of when a lessee signs the lease; it is the date on which the leasehold scheme comes to an end. Is that correct?

Hon STEPHEN DAWSON: Yes.

Hon DONNA FARAGHER: It is my understanding that the expiry day can be postponed, but that it cannot be postponed for a longer period than 99 years.

Hon STEPHEN DAWSON: The member is correct.

Hon DONNA FARAGHER: My understanding is that if a lessee wants to sell the lot at any time within the lease period, they can do so and the new owner would be provided with all the relevant information about the lease period or expiry day and all other matters relevant to the scheme.

Hon STEPHEN DAWSON: Again, the member is correct.

Hon DONNA FARAGHER: Can I confirm something about the day-to-day role of the lessor? This goes back to a point that I made during the second reading debate, which the minister responded to in part. Some concerns have been raised about how this new scheme might operate and that as a scheme gets closer to its expiry day,

maintenance might be reduced, allowing the buildings to, effectively, become run down. My understanding is that is unlikely to be the case. I have to make sure I have my terminology right between lessors and lessees. It is my understanding that the lessor does not have a role in the day-to-day management of the scheme, if I might put it that way. Effectively, they would not be in position to allow buildings to become run down to a point of potential demolition, which is a concern that has been raised. Could the minister provide us with a bit more detail on that and confirm what role, if any, a lessor would have in the day-to-day management of the strata?

Hon STEPHEN DAWSON: The management and control of the scheme building is the responsibility of the strata company. Members are the owners of the lots. They are the owners—the lessees—under the strata lease. Does that make it clear?

Hon DONNA FARAGHER: Might the minister repeat that?

Hon STEPHEN DAWSON: I will find a more fulsome briefing to read out and put on the record. What I have said so far is that the management and control of the scheme building is the responsibility of the strata company. Members of that strata company are the owners of the lots. I will explain how leasehold schemes will work. A leasehold scheme is essentially a strata or survey-strata scheme that is set up for a fixed term of 20 to 99 years, as we have previously discussed. The scheme and all the lots exist until the expiry day. The owner of the lot has a long-term lease of the lot—a strata lease, which is a useful option for affordable housing. The owner of a lot in a leasehold scheme can transfer the lot and the strata lease or mortgage the lot without the consent of the lessor, who is the owner of the leasehold scheme. The owners of the lots are members of the strata company. They decide how to run the leasehold scheme. On the expiry day for a leasehold scheme, the scheme, lots and strata leases cease to exist and the owner of the leasehold scheme—the lessor—regains full ownership of the land and buildings. The ordinary rules of the act mostly apply to leasehold schemes. Leasehold schemes can be strata or survey-strata schemes. Leasehold schemes have a strata company, which must maintain the common property. The owner of a lot is a member of the strata company. They must comply with by-laws, can vote at general meetings, can serve on the council and must pay contributions to cover the cost of running the strata company. For a leasehold scheme, there is a separate title for the parcel. The owner of the leasehold scheme is the registered proprietor of the parcel and is entitled to the reversion on the expiry day. That is the lessor.

Hon RICK MAZZA: I am a little bit confused about the terminology between the owner of the lot and the lessee and those that are members of the strata company. From what I understand from the minister's explanation, the owners of the lot provide a lease to the leasehold. Is it the leaseholders who are members of the strata company or the lot owner—the lessors—who are members of strata company?

Hon STEPHEN DAWSON: I am told the lot owner is the lessee under the strata lease and the owners of the lots are members of the strata company.

Hon DONNA FARAGHER: Can I just double-check, though. I appreciate it is the lessees who effectively have the day-to-day management because they are the owners of the lots, but my question relates to the lessor. I appreciate that at expiry day the lots are transferred back to the lessor, but I am keen to understand whether the lessor has any day-to-day role in management of the strata, because that concern has been raised. I think I know what the answer is going to be; that is why I am asking the question.

Hon Stephen Dawson: By way of interjection, the answer is no, unless, for example, they own a lot.

Hon DONNA FARAGHER: Of course. Okay; that is understood. I think the fact that the lessor will not have a role in the day-to-day management will give some comfort to those people who may have concerns about how this new concept will work. So, people's concerns that the lessor may choose not to put money into maintenance costs and all those sorts of things will not be the case. I think that the answer that the minister just provided will allay some concerns.

If I could then ask a question on the postponement of the expiry day, which is referred to in proposed subsection (3)(g). I understand that if the leasehold by-laws provide for postponement of the expiry day, the expiry day may be postponed if the postponement is within the framework set out in paragraph (d), which relates to the expiry being somewhere between 20 and 99 years. I believe it would be the case that the strata company or the owners would obviously have to agree to the postponement. Does that agreement have to be the full agreement of all owners?

Hon STEPHEN DAWSON: It is by way of a special resolution. I have been given further advice that it is by way of a special resolution of 75 per cent of the owners.

Hon DONNA FARAGHER: Without knowing every intricacy of special resolutions, do special resolutions normally require 75 per cent agreement or is this a new requirement?

Hon STEPHEN DAWSON: A resolution of the strata company with at least 75 per cent of the lots in favour must be passed. It is not actually a special resolution; it is a resolution with at least 75 per cent of the lots in favour of the change.

Hon RICK MAZZA: When the minister says that 75 per cent of the lots is a special resolution —

Hon Stephen Dawson: It's not a special resolution.

Hon RICK MAZZA: When the minister is talking about the lots, he is not talking about the unit entitlements? Is there a unit entitlement within leasehold schemes?

Hon STEPHEN DAWSON: There is a unit entitlement in the leasehold scheme, but that unit entitlement is not looked at when the 75 per cent vote is required to postpone the expiry day.

Hon DONNA FARAGHER: Can I just clarify. I presume that that would be the same process for other matters that might come before the council of owners, if I might put it that way, whether it relates to this or another matter. It does not relate to unit entitlement, but it relates just to the lots. The minister referred to it as per lot in this case, if I might put it that way, but is that the same when we deal with other matters that the strata company might have to deal with?

Hon STEPHEN DAWSON: I am told that resolutions for a leasehold scheme are the very same as for a freehold scheme, with the exception of this. This is different. So, apart from this issue, for everything else the resolutions required for a leasehold scheme are the same as would be required for a freehold scheme.

Hon DONNA FARAGHER: Why is this one not the same?

Hon STEPHEN DAWSON: It goes to the question of the life of the scheme. It was felt that 75 per cent was fair when we are dealing with the expiry of the scheme, essentially.

Proposed section put and passed.

Proposed sections 9 to 12 put and passed.

Proposed section 13: Strata titles —

Hon STEPHEN DAWSON: I move —

Page 134, lines 6 and 7 — To delete the lines and substitute —

(7) When a strata title for a lot in a freehold scheme comes into existence it confers on the owner of the lot —

This amendment to clause 83, proposed section 13(7), relates to the second suggested amendment in the letter tabled yesterday by Hon Donna Faragher from the Strata Community Association WA, dated 18 September 2018. Proposed section 13(7) provides what rights are conferred on the owner of a lot for a freehold strata title scheme. The owner of a lot in a freehold strata title scheme is defined in section 3(1) to include the registered proprietor of the fee simple estate in the lot, the person who is registered as the proprietor of the life estate in the lot, or the mortgagee in possession. SCAWA's letter points out that the rights conferred on the owner of a lot by proposed section 13(7) are rights relating to the fee simple estate which a person who owns the lot as the holder of the life estate or as the mortgagee in possession does not have.

To clarify the situation, proposed section 13(7) will be amended as per the amendment on the supplementary notice paper to provide that when a lot is created, it confers certain rights on the owner of the lot. It is important to note that a strata lot can only be created by registration of fee simple land. This means that every time a strata lot is created, the only person who can be the owner of the lot at the point in time when the lot is first created is the registered proprietor of the fee simple.

I should make the point that a number of conversations have occurred behind the Chair over the past few weeks. I acknowledge conversations involving the Greens, Hon Rick Mazza and Hon Donna Faragher that have caused me to bring forward these amendments this evening.

Hon ROBIN CHAPPLE: In relation to the amendment that we are dealing with and also the amendment that we will be dealing with shortly, I need to understand and get clarification from the minister. When he says that when the freehold scheme comes into effect, it confers on the owner of the lot, is it the intent to confer to a registered proprietor? I think it needs to be clarified that this could also be a registered proprietor or is a registered proprietor.

Hon STEPHEN DAWSON: I will answer it this way. Again, the owner of the lot in a freehold strata title scheme is defined in section 3(1) to include the registered proprietor of the fee simple estate in the lot, the person who is registered as the proprietor of the life estate in the lot, or the mortgagee in possession. It is important to note that a strata lot can only be created by registration of fee simple land. This means that every time a strata lot is created, the only person who can be the owner of the lot at the point in time when the lot was first created is the registered proprietor of the fee simple.

Hon DONNA FARAGHER: I sent these amendments on the supplementary notice paper to the Strata Community Association because they obviously reflect discussions. It would appear, with the exception of the point raised by Hon Robin Chapple, that this amendment effectively deals with the second point of its letter. With that in mind, we will support the proposal to delete the lines and substitute the new subsection.

Hon ROBIN CHAPPLE: Again, after clarification, I thank the minister. We have worked with him on this and we will be supporting the amendment.

Amendment put and passed.

Hon STEPHEN DAWSON: I move —

Page 134, lines 21 and 22 — To delete the lines and substitute —

- (8) When a strata title for a lot in a leasehold scheme comes into existence it confers on the owner of the lot, subject to Part 4 Division 5 —

Again, I will put on the record an explanation for this amendment. It amends clause 83, proposed section 13(8), and relates to the second suggested amendment in the letter tabled by Hon Donna Faragher yesterday from the Strata Community Association WA, dated 18 September 2018. Proposed section 13(8) provides what rights are conferred on the owner of a lot in a leasehold strata title scheme. The owner of a lot in a leasehold scheme is defined in proposed section 3(1) to include the registered proprietor of the strata leasehold estate in the lot or the mortgagee in possession. Section 138 will be amended to provide that when a lot is created, it confers certain rights on the owner of the lot. This is to mirror the amendment to section 13(7).

Amendment put and passed.

Proposed section, as amended, put and passed.

Proposed section 14 put and passed.

Proposed section 15: Subdivision approval of strata scheme —

Hon DONNA FARAGHER: This is slightly different. This is a clarification question and relates to the subdivision approval of a strata scheme. Is this consistent with current practice; and, if not, what are the changes, if any?

Hon STEPHEN DAWSON: It is slightly different. This clause clarifies the requirement under the current act to obtain Western Australian Planning Commission approval of a strata plan or amendment of a strata plan for the subdivision of land by a strata scheme. It also clarifies that the planning commission may impose conditions when granting subdivision approval; and further, that a strata plan or amendment of a strata plan cannot be registered until such plan has been endorsed with the unconditional approval of the planning commission. It further clarifies that the regulations may exempt strata plans from needing planning commission approval.

Hon DONNA FARAGHER: I should obviously know this, being a former planning minister, but can the minister tell me what is the current role of the planning commission with respect to subdivision approvals of a strata scheme?

Hon STEPHEN DAWSON: It is almost the same but we have made it absolutely clear that a strata plan or amendment of a strata plan cannot be registered until such plan has been endorsed with the unconditional approval of the planning commission.

Hon Donna Faragher: So currently that is not the case?

Hon STEPHEN DAWSON: No, it is not always clear. We are clarifying it and making it very clear that this can happen.

Proposed section put and passed.

Proposed section 16: Application of Planning and Development Act —

Hon DONNA FARAGHER: Again, I presume this relates back to proposed section 15. Is this consistent with current practice or is this a new section?

Hon STEPHEN DAWSON: While my adviser gets some further information, this proposed section clarifies that specific sections of the Planning and Development Act 2005 do not apply to strata schemes, and that specific sections of the Planning and Development Act 2005 apply to strata schemes that contain a vacant lot. That is the current position. I am advised that this provision omits a reference to section 136, and later on we have a consequential amendment to section 136 in the Planning and Development Act.

Hon DONNA FARAGHER: Without having the Planning and Development Act in front of me, what is section 136 and why has it been omitted?

Hon STEPHEN DAWSON: We do not have the answer in front of us so we will take the question on notice and provide an answer to the member.

Proposed section put and passed.

Proposed section 17 put and passed.

Proposed section 18: Planning (scheme by-laws) condition —

Hon DONNA FARAGHER: Could the minister give me an example of what a planning scheme by-law might be or might include?

Hon STEPHEN DAWSON: An example would be where a new scheme is created and the planning decision-maker may want to set aside part of the common property as visitor parking, for example.

Proposed section put and passed.

Proposed section 19 put and passed.

Proposed section 20: Approval for postponement of expiry day for leasehold scheme —

Hon DONNA FARAGHER: This comes back to the issue of the expiry day for leasehold schemes. As I understand from a previous discussion on an earlier section, if 75 per cent of the lot owners agree, then the expiry day can be postponed. I presume that they would make that resolution first and then the resolution needs to go to the Western Australian Planning Commission. Is that how it actually works? I want to know at what point the planning commission becomes involved.

Hon STEPHEN DAWSON: Again, like with the rest of the bill, it is complicated. When the owner of the leasehold scheme registers the scheme, they can include within the by-laws an option to postpone the expiry day. This also requires the consent of the planning commission. With the consent of the owner of the leasehold scheme and the planning commission, the strata company can also make a by-law that includes the option to postpone the expiry day. For the postponement of expiry day option to be included in the by-laws, the strata company must pass a resolution with at least 75 per cent of the lot owners in favour of the option, and the strata company has to serve the resolution on the owner of the leasehold scheme.

Hon RICK MAZZA: I have a question on the postponement of the leasehold. If a by-law provides for the postponement of a term, then I expect that the lessor would receive a payment for that extra time. If the lessor agrees in the by-laws to extend the term for another 10, 15 or 20 years, then surely the lessor will want compensation for that extended term and to be paid a fee. If only 75 per cent of the unit holders need to agree with that and 25 per cent do not want to pay the extra fees, what protections are there for the 25 per cent of the unit holders who do not want to pay a fee for a postponement?

Hon STEPHEN DAWSON: If the by-laws require a fee to be paid by lot owners to the owner of the leasehold scheme to postpone, the amount paid by each owner of a lot must be in proportion to their unit entitlement. If the owner of a lot does not pay, the owner of the lot can surrender the strata lease to the owner of the leasehold scheme. Those people would not be forced to pay but they would simply surrender the lot at the time of the original expiry day. For those who went on, obviously the fee would be paid.

Hon DONNA FARAGHER: Sorry, minister. Can we go through that again? With respect to the point raised by Hon Rick Mazza, is the minister saying that compensation would be payable to the lessor if the lessees, by resolution, requested that the expiry day be pushed out? Is the minister saying that compensation is payable to the lessor?

Hon Stephen Dawson: A fee is payable; it is optional.

Hon DONNA FARAGHER: Can the minister explain the fee to me, please?

Hon STEPHEN DAWSON: I am told that the fee will be set in the by-laws. Again, I will put this on the record. If the by-laws require a fee to be paid by lot owners to the owner of the leasehold scheme to postpone, then the amount paid by each owner of a lot must be in proportion to their unit entitlement. If the owner of the lot does not pay, then the owner of the lot can surrender the strata lease to the owner of the leasehold scheme. If a decision is made to postpone—if the by-laws allow it—then a fee would be required to be paid. But if the owner does not want to pay, they would surrender at the original expiry day. They would not get the extension of the postponement date. They would surrender at the original expiry day. For those who were paying the fee and wanted to continue, they would continue—they would get the benefit of the postponement date.

Hon RICK MAZZA: The fee paid to the lessor could be a long time down the track—up to 99 years. It is in the by-laws. What parameters are there around what fee can be charged? Obviously, if a fee is agreed today, in 99 years it will be pretty worthless, so there must be some mechanism around what fees can be charged that are reasonable for a postponement.

Hon STEPHEN DAWSON: I am told that it will be specified in the by-laws. The by-laws can be changed only through a resolution without dissent. Nothing specifies an amount; what is specified is that the amount paid by each owner of a lot must be in proportion to their unit entitlement. That is all we specify. We do not specify an amount, but there is a process.

Hon RICK MAZZA: What is preventing a lessor who wishes to regain possession of a leased strata lot from asking an outrageous price as a postponement fee? What protections are there for those leaseholders, if any?

Hon STEPHEN DAWSON: When an owner buys the lot in the first place, they will see the fee set out in the by-laws. It will be there, plain and simple. Those by-laws can be amended only by a resolution without dissent. The owner will know from the very beginning what the fee is, because it is set out in the by-laws, and it can be changed only by a resolution without dissent. That is the safeguard.

Hon RICK MAZZA: I have some problem with that because, as I pointed out earlier, some of these schemes can be for an extended period—let us pick 50 years, for argument's sake. The minister is saying that the by-laws, from the beginning when the lessee buys into the lease scheme, determine what the fee would be for a postponement. Who knows what market values are going to be in 50 years, or the depreciation of money? Surely it is not locked in stone in the by-laws from day one when the lessee purchases a lot? Surely at the time that the lease is due to expire, there must be some way of determining a fair market value for a postponement of the lease?

Hon STEPHEN DAWSON: I am told that the by-laws could provide a formula in the first instance. They could also include other arrangements such as being based on an independent market valuation. The by-laws allow for both those things. The fee itself does not necessarily need to be prescribed in the by-laws. There can be a formula in there or, as I said, an independent market valuation.

Hon DONNA FARAGHER: Going back to what the minister said, if we take 75 per cent and someone is in the 25 per cent who does not agree, they would effectively give up their lot —

Hon Stephen Dawson: Surrender.

Hon DONNA FARAGHER: They would surrender; a much better word, minister. They would surrender their lot at the time of the original expiry day. I presume on that basis, with respect to the fee, that the distribution of the fee would be recalculated according to those who agree to the change to the expiry day. I presume that the 25 per cent who do not agree—I am just using that figure as a hypothetical—are obviously not going to pay a portion of the fee to postpone the expiry day. Can I get some clarity about how the fee is recalculated, if that occurs?

Hon STEPHEN DAWSON: There is no recalculation. The owner of the leasehold scheme becomes the owner of the surrendered lots. If it is 25 per cent and they decide not to continue, not to postpone, it is not the case that the 75 per cent would pay 100 per cent of the fee. They would pay only their share of it, because the surrendered lots become the property of the owner of the leasehold. No-one is getting hit for extra because somebody else decided not to participate.

Hon DONNA FARAGHER: So that I am absolutely clear, because the lot has been surrendered to the lessor, they get those back, and I presume they can do with them what they will. I will come back to that part in a moment.

Hon Stephen Dawson: The amount paid by each owner of a lot must be in proportion to the unit entitlement, but obviously the owner of the leasehold does not have to pay themselves.

Hon DONNA FARAGHER: Is that based on 100 per cent?

Hon Stephen Dawson: No.

Hon DONNA FARAGHER: Is it still covered across all of the lots?

Hon Stephen Dawson: It is covered across the lots, yes, absolutely.

Hon DONNA FARAGHER: So, there is no change there.

Hon Stephen Dawson: No.

Hon DONNA FARAGHER: All right, I have got that. What happens with the lots returned to the lessor? Let us do a hypothetical. Say there are 10 lots and two are returned. Can the lessor then sell those lots to someone else under the terms of a new expiry day? Is that correct?

Hon Stephen Dawson: That is correct.

Hon DONNA FARAGHER: I will take the interjection as indicating it is correct. If I can just go back to proposed section 20, just so I am absolutely clear about the role of the planning commission. We have gone around in a bit of a circle here, so I just want to end at the point we started. I want to be clear about the role of the planning commission. I think the minister said—but I am not sure—that the by-laws at the very beginning of the whole scheme can include the ability to postpone the expiry day. I am not sure whether I picked this up correctly, but did the minister also say that if it is not in the by-laws at that time, the initial point, then at a subsequent time the lessees or the strata company can put in place a new by-law to enable an expiry day to be postponed, and in that instance, I understand, it would then have to go to the planning commission for approval? Have I got that right?

Hon STEPHEN DAWSON: The member is correct, except a person would have to go to the planning commission in both cases. Is that clear?

Hon Donna Faragher: Yes.

Proposed section put and passed.

Proposed section 21 put and passed.

Proposed section 22: Approval under planning (scheme by-laws) condition —

Hon DONNA FARAGHER: This relates to the approval, again, under planning scheme by-laws. My question relates to local government. Could the minister give me a couple of examples of when local government would become involved?

Hon STEPHEN DAWSON: An example is when a development application is lodged. The local government may decide that an area of the common property should be set aside for, say, remnant vegetation. If the land has remnant vegetation on it and it gets set aside, that is an example.

Proposed section put and passed.

Proposed section 23: Requirement for local government approval —

Hon ROBIN CHAPPLE: I return to the point of there having to be approval by each local government. We know that the joint development assessment panels have a role in some cases of overriding local government. How is that catered for in proposed section 23, or is it not?

Hon STEPHEN DAWSON: I am going to provide that answer at the next sitting of the house. Before I ask to report progress, I want to provide an answer to Hon Donna Faragher in relation to the debate yesterday. Hon Donna Faragher asked why clause 16 deletes the reference in section 21F to unanimous resolution. The reason this has been done is that under the current act, when there is a requirement for resolution without dissent, there is usually a further statement that when the scheme is a two-lot scheme, the resolution required is a unanimous resolution. This has resulted in many provisions under the current act being unnecessarily long.

Progress reported and leave granted to sit again, on motion by Hon Stephen Dawson (Minister for Environment).

MENTAL HEALTH — STEP-UP, STEP-DOWN FACILITY — KARRATHA*Statement*

HON JACQUI BOYDELL (Mining and Pastoral — Deputy Leader of the Nationals WA) [6.19 pm]: I rise this evening to make a couple of comments and put on the record my position in support of Mental Health Week and my long-held support for mental health facilities and services within regional Western Australia, in particular in my electorate of the Mining and Pastoral Region, as well as across the nation. I have spoken on many occasions about my support for mental health services and facilities, and I have been a long-time advocate for mental health services. That is why I was very, very surprised to hear comments today from the Minister for Mental Health that I in fact do not support mental health facilities. I was pretty unhappy about that, to be honest.

I want to put on the record the specific incident he was talking about. The Minister for Mental Health indicated that I do not support the step-up, step-down facility in Karratha because I agreed to attend a community meeting held by the Save Gregory Way association in Karratha. I agreed to meet with this group. For members who are not familiar with this issue, the step-up, step-down facility that is proposed to be built in Karratha is exceptionally needed and has been well planned, but there has been conjecture around the placement of that facility. Rightly, as the local member, I have been listening to the concerns of residents. This is the second location that the community of Karratha has considered. The first location was in Millars Well. The member for Pilbara, Kevin Michel, did exactly what I did—he listened to the concerns of the people who lived in Millars Well, because they did not want the mental health facility in their street. For people who are not aware of what a step-up, step-down mental health facility is, it is a residentially based facility to support people in the community to be connected to their family and friends for short stays; it is not designed for people who need the next higher level of support in a hospital. The member for Pilbara got involved in the argument about the original location of the facility in Millars Well. The people who live in Millars Well did not want the step-up, step-down facility there because they were concerned about the location being too close to a retail precinct and a primary school. The government said it would move the facility to Gregory Way, to a location that is 200 metres from a retail precinct and about the same distance to a primary school. The residents of Gregory Way have every right to approach local members and raise issues of concern that were previously heard and listened to by this government.

The Minister for Mental Health today suggested that because I was going to attend that meeting on 18 September—which was cancelled, by the way—it means I do not support the facility. That could not be further from the truth. In fact, when I came back from Karratha after that meeting was cancelled, I then had a phone hook-up with the Save Gregory Way group to listen to its concerns. I had previously done media in the north west in which I said that I felt there was a lack of understanding about what the facility was and what support it would bring to people in Karratha who needed it, and that I absolutely supported the facility 100 per cent. I have never questioned the need to have that facility. In fact, the decision around making that facility available to Karratha was made when we were in government. I have never objected to that facility.

Hon Stephen Dawson: Member, you did make the promise in government but you didn't deliver on it.

The DEPUTY PRESIDENT: Order! Hon Jacqui BoydeLL is making her statement. I want to hear it.

Hon JACQUI BOYDELL: Because the member has just returned to the chamber, I will not respond, but that was not actually what I was talking about.

I then wrote to the minister, Hon Roger Cook, on 5 October to express to him my support for the step-up, step-down mental health facility. I can table that letter if members would like me to. I told him in the letter —

There has been considerable community contention surrounding this much-needed and important facility, which has already led to a location change and considerable delays.

That delay in getting the facility built is not good for the people who need it. That is why I wrote to the minister. I wrote to ask him a number of questions about how I, as the local member, could provide some support to the community of Karratha to understand time lines of the build of the facility or with education, engagement and consultation, and I basically asked what the government intended to do to try to allay some of the concerns that

residents had. I wrote to the minister a week ago. Today, the minister has seen fit to suggest, through a Facebook post, that because I was going to attend a community meeting, I do not support the facility. If the minister is listening, I do not appreciate that. Maybe the Leader of the House or one of the ministers of this house might relay that message. I would ask him to apologise, because I have long been an advocate for mental health facilities. My intent on working on this issue has been very clear from the outset. I have been very clear with the Save Gregory Way association by saying, “Look, I support the facility. I hear your concerns. Here are some suggested ways we can try to address some of the issues that you have raised.” It is completely out of line for the minister to suggest that what I have done suggests that I do not support the facility. If he wants to draw comparisons, it was the minister and his government, and the member for Pilbara, Kevin Michel, who got the facility moved in the first place from Millars Well, which has now delayed the facility. Indeed, the member for Pilbara tabled a petition from those people in Millars Well opposing the facility being built there.

I am quite confused about the actions of the Minister for Mental Health. I am happy to meet with him any time to further a conversation on how we can have this facility built in Karratha, because that is my intent. If he had read the letter I sent him on 5 October, he would have known that that was my intent. Instead of using my very genuine efforts in Karratha as some political football today in commentary on this issue, he actually would have been aware of that. I ask him to do that. I ask him to respond to my letter. We can then move forward on the facility.

JOBS — CASUALISATION

Statement

HON CHARLES SMITH (East Metropolitan) [6.28 pm]: While we are talking about mental health, I just want to say how much I am looking forward to the government looking after our medically retired police at some point in the near future. As I am sure all members know, in my experience, every police officer suffers with post-traumatic stress disorder to some greater or lesser extent. Every serving and former member, including me, suffers with those issues.

I am not here to talk about mental health; I am going to talk about another matter that is close to my heart and which I have been pursuing over the last few weeks, which is a gradual trend that has been developing across Western Australia. In recent decades there has been a sharp fall in the share of full-time employment together with an ongoing and alarming trend of casualisation. There has been a slow death of full-time work across Western Australia.

It has come to my attention through various reports in the last six months or so that the Australian labour force is becoming more and more casualised—that is, the loss of full-time work to part-time and casual work. In May it was revealed that Australia tops the Organisation for Economic Cooperation and Development for insecure work. According to the Australian Bureau of Statistics, 40 years ago there were 5.5 full-time workers for every part-time worker. Today there are just 2.2 full-time workers for every part-time worker. Analysis by leading public policy expert Peter Whiteford shows Australia has the highest proportion of temporary employees in the OECD. He has also stated that the latest available international data from 2012 showed that in 2012 Australia had the highest proportion of temporary employees.

Casual workers are more likely to suffer a substantial deficit in their rights and benefits compared with their counterparts employed on a permanent basis. For example, they are far more vulnerable to practices such as summary dismissal, especially during their probation periods; last-minute variations in their hours and schedules; poor treatment; and underpayment. Additionally, they are likely to be vulnerable in employee development, skill formation and promotion. Amazingly, around 17 per cent of casual workers are believed to have been with their current employer for more than five years.

Although some casual workers choose to be casual and are satisfied with their work, the vast majority of casual workers work on a casual basis as a way to find further permanent or full-time jobs. They want job security and wage growth, and I agree with Geoffrey Harcourt, professor of economics at the University of New South Wales, when he states —

... “giving top priority to full employment is the moral prerequisite for any just and equitable society”.

Policymakers continuously tell the public that there is a skills shortage in Australia. If there are indeed skills shortages in Western Australia and the wider nation, why is wage growth stagnating? That does not agree with the law of supply and demand. If there is a shortage, surely the value of work will increase. What we have seen over the last 10 years is wages declining in real terms. The reason is simple: many of these so-called skills shortages are artificial; they are simply ways to get in visa workers who are paid less than Australian workers. As the ABC reported in 2017, the majority of foreign workers are paid below national award rates. The result is that qualified Australians are unemployed. The ugly truth about our skilled immigration system is that it is not only destroying career prospects for our university graduates, but also discouraging employers from training our young people in favour of hiring cheap, ready-made workers from abroad. Australians want job security and successive governments like to promise that. How about governments encourage a change in our employment culture? Why do we not stop letting growth lobbyists tell governments that they need hundreds of thousands of employees in a field when there are many qualified Australians struggling to find work?

MOBILE BLACK SPOT PROGRAM*Statement*

HON MARTIN ALDRIDGE (Agricultural) [6.33 pm]: I rise to draw to the house's attention some deficiencies, indeed some inaccuracies, in a ministerial statement Hon Alannah MacTiernan made to the house yesterday, 9 October 2018, about the Mobile Black Spot Program round 4. By way of introduction, I remind members that the federal government announced on 10 June—four months to the day—round 4 of the Mobile Black Spot Program, a national program that co-invests with state governments and telecommunication companies to expand, largely, mobile base stations across Australia. Some \$25 million was available for round 4. The Minister for Regional Development delivered a ministerial statement yesterday during formal business. I have a number of concerns with the statement that she delivered to the house. To remind members, on 14 June—only four days after the federal government had announced round 4 of this program—I asked Hon Alannah MacTiernan the very simple question: does the government intend to partner with the Australian government and how much money did it have on the table? Members would realise that June was in the previous financial year, but almost four to five weeks prior, we had already had the 2018–19 state budget handed down. This question was about what the state government had in its budget and forward estimates for continuing to partner with the commonwealth. Her response to my question without notice 475 states —

I thank the member for the question. I want to point out to the member that no sensible government would put aside a budget allocation to co-fund a project that did not exist. Round 4 of this project did not exist until last Sunday. The member might recall that not only was it not in our budget because it did not exist, but it was not in the federal budget because it did not exist. Of course, now that it does exist, we are more than happy to look at it, and of course we will look at it.

That was the response by Hon Alannah MacTiernan on 14 June 2018. Fast-forward to yesterday, and it was interesting to learn that the second paragraph of the minister's statement says —

Our Government has funding in the Budget for Round 4 of the program, which we will willingly co-invest if we are satisfied there has been adequate engagement with WA on the black spot locations.

I am confused. I was told on three, four, maybe even five occasions on 14 June by Hon Alannah MacTiernan that it was impossible for the government to have funding in the budget because the program did not exist, yet she made a statement to this house yesterday that there is funding in the budget. I might be mistaken—perhaps the Parliament has passed another budget since 14 June and yesterday's date of 9 October, but I do not think that to be the case, unless I was absent for a significant period. The budget we are dealing with now is the same budget that we were dealing with when I asked that question in June. That is only one inaccuracy that I think exists. The minister went on to say —

Last week I wrote to the Federal Minister seeking an extension the Database registration deadline by three weeks to 1 November 2018.

There is obviously a word missing from that paragraph, but I assume it meant to read, “Last week I wrote to the federal minister seeking an extension to the database registration deadline by three weeks, to 1 November 2018.” The deadline for submissions is 11 October. That is tomorrow. The minister made the statement yesterday, 9 October. The first the commonwealth government learnt of this was when the minister stood in this house and made that statement during formal business yesterday. The minister said to this house, “Last week I wrote to the federal minister”, which of course is nonsense. The question that I asked the parliamentary secretary representing the minister today clarified for the house that the minister had not written to the federal minister last week, as she told the house yesterday. In fact, due to an oversight in her office, she posted the letter only yesterday. I am not sure how many inaccuracies we can get from this minister, but it seems to be a repeated act that she is good at. It certainly concerns me that the way in which we engage with the commonwealth government over an important program such as the Mobile Black Spot Program is that a minister stands in this house and suggests that two days prior to a deadline the commonwealth should extend the deadline for a national program, in which we are bidding with other states and territories for a piece of a \$25 million pie—not a big pie at all. The minister is not aiming high enough when she suggests that we should be targeting only \$3 million in federal investment and \$3 million in co-investment by the state. We cannot expect the commonwealth government to simply put everybody on hold two days out from that deadline while she has a bit more time, as if four months has not been enough for the state government to get its act together and make a submission. I contend that if we miss out on our fair share of the \$25 million, it will be by the actions of this minister, who was asleep at the wheel when it came to her portfolio. How many more mistakes will this minister be allowed to make? If the Premier does not wake up, when will the backbench wake up? This minister is not capable of discharging her duties as a minister of the Crown.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon MARTIN ALDRIDGE: This is yet another example of this minister not being up to the job. We would think that given she has a parliamentary secretary in the same house as her, he might be able to carry some of the burden for the minister.

Hon Nick Goiran: I think he was supposed to post a letter. That might've been the problem!

Hon MARTIN ALDRIDGE: Perhaps! Since the parliamentary secretary has been banned from more modern forms of communication, such as Twitter, perhaps he would be more familiar with Australia Post. Nevertheless, when it next suits the minister to come to the chamber, when she returns from urgent parliamentary business, I think she ought to correct two points of the ministerial statement that she made. She did not write to the federal minister last week. She wrote to the minister when she sent the letter after she made a ministerial statement in this place. She also needs to clarify whether this money is in the budget. In June this year, she told this house that the money did not exist, but in her ministerial statement this week she said that the government has funding in the budget. I think this minister needs to return to the house and explain herself.

COMMUNITY-MANAGED MENTAL HEALTH SERVICES

Statement

HON ALISON XAMON (North Metropolitan) [6.41 pm]: I rise to make some comments about the shocking turn of events that occurred over the weekend, which was a devastating start to Mental Health Week. That, of course, was the stabbing of the mental health social worker in Rockingham who has subsequently died. I do not intend to dwell on the circumstances around the incident. I understand it is now before the courts and will undoubtedly be subject to a coronial inquiry. I want to respond to some comments that were made by a number of people subsequent to the incident because I think it is important to get some clarification on the record for members. I begin by expressing my wholehearted support for the community-managed mental health sector, which is a wonderful part of our mental health sector and delivers important services for people in the community where they need them.

Some concerns that have been raised suggest that the move to extend community-managed mental health services within the overall continuum of services available within the mental health spectrum is, somehow, a step in the wrong direction. I emphatically reject that assertion! Our community-managed mental health sector is run by incredibly dedicated people and organisations and the need to extend the nature of the services that they provide is great. It has never been intended as a way to cheaply outsource mental health services. That is not the purpose. It is recognised that community-managed mental health services are able to provide services in the community in a very responsive, nimble and community-focused way. They are increasingly staffed by clinical mental health professionals and highly dedicated and qualified staff. To ensure that we are assisting people to live well within the community, we need more of these services and people who are able to deliver services directly to people's homes.

It is not normal process, nor does it need to be, for people to go in pairs to see people who have mental health issues and, as such, it is not funded that way. Some unfortunate commentary suggested that people always needed to go in pairs and that, indeed, was the only appropriate model. The community-managed mental health services that I have had the pleasure of dealing with over many years have been very diligent about safety for their workers and ensuring that they take all necessary precautions. I take great umbrage at the underlying assumption that people who have mental health issues are inherently dangerous or inherently unpredictable. I am sorry, but I think that is a stigmatising and very dangerous falsehood! It is an extraordinarily unhelpful narrative to be spread. I suggest that it is exactly that sort of narrative that leads to entire communities making the mistaken assertion that it is dangerous to have, for example, step-up, step-down services. They are fantastic services, which, frankly, we need to have right around the state. It is precisely because people hold those incorrect and quite dangerous stigmatising views that, as people who care about people with mental health issues, members in this place are beholden to challenge those stigmatising falsehoods whenever we hear them. Most people in the community with mental health issues are just like you and me, but at a point in their life they experience anxiety, depression, post-traumatic stress disorder, or a whole range of other issues, and they simply need support. They often want a reconnection with community and are simply looking to lead the best lives that they can. I have no doubt that every single one of us in this place has experienced mental health issues themselves or had people close to them experience them, so they would recognise how absurd it is to suggest that any dealings with people in the community with mental health issues are inherently dangerous and problematic. I have been very disappointed that that was a knee-jerk reaction that came from some sectors within the community, but I recognise that some of that seems to have stopped. Nevertheless, representatives of the community-managed mental health sector have expressed their distress about what these sorts of incidents and the way that people respond to them will mean for the sector and the people they support. We need to be very mindful about the language we use and challenge those assertions when they are expressed because, frankly, they are out of line.

I express my heartfelt condolences to the family of Jacqueline Francis. I am sure that I am not the only person in this place who offers their deepest sympathies, particularly to her daughter, her family and her loved ones. I also offer my deepest sadness and sympathy to Jacqueline's colleagues at Neami National, which is the organisation

that she worked for. Neami is a very well regarded national mental health service and we are lucky to have its services in this state. At the moment, the staff at Neami are devastated and are acutely feeling the loss of one of their colleagues. Everyone is determined to ensure that those involved in trying to get to the bottom of what happened in this instance are given as much information as possible.

It was a very sad start to Mental Health Week in the state. I imagine it affected quite a few people who care very much about this week. I ask people to remember that our community-managed mental health sector is invaluable and does an extraordinary job, as do the workers in it. Please remember that people who are experiencing mental health distress are not inherently dangerous or unpredictable. It could be you or it could be me.

**STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS —
AGENCY ANNUAL REPORT HEARINGS**

Statement

HON NICK GOIRAN (South Metropolitan) [6.49 pm]: I rise to briefly raise my concerns about the annual report hearings process that we will shortly be embarking on. Members will be aware that it is customary for the Standing Committee on Estimates and Financial Operations to interrogate the annual reports of agencies and departments, and that in recent times the committee has instigated what is referred to as the electronic lodgement system. I have previously mentioned that is a good system that has been a good innovation in the work of the committee, the chamber and the members. Members were asked to submit any questions they might have in advance of those hearings by 5.00 pm today—nearly two hours ago. Shortly after midday today I and, I assume, other members received an email from the committee to let me know that the committee has quite sensibly decided to reopen the electronic lodgement system. One might ask: why has the committee felt the need to do that? Of course, Mr Deputy President, the committee has been forced to take this commonsense approach because the McGowan government has decided not to table a range of annual reports.

Yesterday I raised a point of order, which drew some chagrin from the Leader of the House because, in the case of the Department of Communities, the government had promised that it would table its annual report by 9 October. As matters have since progressed, the Department of Communities has tabled that report. That is one of the departments that I had to submit some questions on, and thanks to the work of the committee, I now have an extended period of time in which to do that. The committee told us in the email sent earlier this afternoon that members can now ask these questions until Thursday, 18 October. Mind you, members can ask questions until 18 October only if it is for a department or an agency that was late in tabling its report. The Department of Communities is one of those, so I will definitely be asking some extra questions. Rest assured, I have already lodged a range of questions because I did not know until 12 o'clock today that I would have extra time to do so, but I will definitely ask some more questions thanks to the very good commonsense decision made by the committee.

My point is: what is the list of agencies and departments that have tabled their reports late? We know that the Leader of the House definitely does not know what is on that list, because in question time today I asked whether all the reports had been tabled, and she said, "I don't know." If the Leader of the House, who is the most senior member of the McGowan government in this chamber, does not know, who would know? Maybe that is why the Minister for Regional Development has been having all kinds of problems with Australia Post and things like that recently, because they are so busy trying to scramble to table late reports. It was all supposed to be done by 30 September, of course, and then they told us it would be done by 9 October, but that was yesterday, and apparently it has still not been done.

At least two of my colleagues have mentioned to me that there are definitely agencies and departments that are yet to table their reports. I have done no analysis; I have better things to do than to do a reconciliation table of all the agencies and departments that tabled annual reports by 30 September and those that have not yet done so. But apparently I am now expected to do that, because if I do not do that, I will not know until 18 October which departments I can ask questions of, because the electronic lodgement system that is about to be reopened by the committee will be available to me only for those particular agencies and departments that have tabled their reports late. Which are those departments? I do not know which departments they are.

Hon Adele Farina: The bills and papers office would probably be able to help you there. Let's also note for the record that this isn't the first time annual returns are late. It happened frequently under your government as well.

Hon NICK GOIRAN: Mr Deputy President, I am disturbed that I have only four minutes in which to respond to this interjection from my learned friend Hon Adele Farina. She makes a couple of good points. She said that I could go to the bills and papers office. In other words, I should go and waste the time of the parliamentary bills and papers office to do this reconciliation. Why would it have to do that? It would have to because the government is late in providing its annual reports. The second thing that the honourable member, my good and learned friend, said to us was, "Hang on; when you guys were in government, you tabled things late."

Several members interjected.

The DEPUTY PRESIDENT: Order! I am trying to listen to Hon Nick Goiran.

Hon NICK GOIRAN: As I have said before, Mr Deputy President, if there has been a bad standard in the past, do not follow it. Do not be proud to say, “Hang on a second; you guys tabled it late, so this is terrific. It’s a competition and we’ll table reports even later because it is excellent to table reports late!” How ridiculous is that?

Several members interjected.

The DEPUTY PRESIDENT: Order! Order!

Hon NICK GOIRAN: It is not a competition to see who can table the latest. The point is that the Standing Committee on Estimates and Financial Operations made a resolution today that was so important, Hon Alanna Clohesy, that the committee decided to email us all to let us know that we have until 18 October to lodge questions, but only for certain departments, and it is going to keep secret which departments they are, and do not ask the Leader of the House because she does not know. This is a farce, and I am asking the government to expedite the tabling of a list of those particular departments and agencies that still have not tabled their annual reports. That is not asking too much. When we were last sitting, Hon Stephen Dawson tabled a list of all the letters from people who had written to the Treasurer—he is a very, very good minister and is the only one who does anything—to say that they could not comply. They should have to do that again because some of them still have not complied.

It would be very interesting to see what would happen if one of these lazy departments, lazy agencies or lazy ministers, who are too busy messing around with Australia Post or whatever else is going on, does not table their annual reports until after 18 October.

Hon Adele Farina: I’m sure the committee will consider that.

Hon NICK GOIRAN: The honourable member speaks with such confidence for a person who is not on the committee. This is descending into high farce.

Several members interjected.

The DEPUTY PRESIDENT: Order! It is not going to descend into anything except me listening to Hon Nick Goiran in silence.

Hon NICK GOIRAN: Thank you, Mr Deputy President. This is descending into high farce because the McGowan government is incapable of picking up a document and tabling it in Parliament. How complicated is it for the government to table an annual report? I could not believe that yesterday the Department of Communities, when it knows full well that formal business takes place at one o’clock on a Tuesday and that its minister could table —

Hon Stephen Dawson interjected.

Hon NICK GOIRAN: No, the department could not do it for one o’clock; it had to do it at a very shifty time, at five o’clock, which was as late as possible. Why was it done so late? It was done so late because that would give people minimum opportunity to ask questions through the electronic lodgement system. This is just so shifty, Mr Deputy President, and I am sick of it. I ask the only good minister around here to ensure that tomorrow a list is tabled of all the agencies and departments that are yet to table their reports so we are all on the same page, and, in particular, for the benefit of the Leader of the House, who earlier today told us what she does not know.

HUMAN REPRODUCTIVE TECHNOLOGY AND SURROGACY LEGISLATION AMENDMENT BILL 2018

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Alanna Clohesy (Parliamentary Secretary)**, read a first time.

Second Reading

HON ALANNA CLOHESY (East Metropolitan — Parliamentary Secretary) [7.00 pm]: I move —

That the bill be now read a second time.

This bill amends the Human Reproductive Technology Act 1991—the HRT act—and the Surrogacy Act 2008 to enable male same-sex couples and single men access to surrogacy to become parents. The McGowan government is committed to upholding the values of equality, fairness and diversity.

The broadening of access to surrogacy proposed under the bill adds to the family formation options of adoption and fostering that are already available to male same-sex couples and single men in WA.

The changes will bring WA into line with all other Australian jurisdictions that permit male same-sex couples to engage in altruistic surrogacy, with the exception of the Northern Territory, which has no relevant laws. The main amendments to the current legislation within this bill are in response to the 2013 amendments to the commonwealth Sex Discrimination Act 1984, which made discrimination on the grounds of sexual orientation, gender identity and intersex status unlawful in all states and territories.

Commonwealth regulations that were in place exempting the HRT act and the Surrogacy Act from application of the Sex Discrimination Act expired on 31 July 2017. Failure to respond to this would be unwise due to an unacceptable risk of litigation and the prospect of provisions of the relevant state legislation—the HRT act—being held by

a court to be invalid. The amendments will, firstly, provide equitable access to surrogacy through the use of assisted reproductive technology for male same-sex couples and single men; and, secondly, enable licensed fertility clinics and practitioners to provide such services without discrimination on the basis of sex and sexual orientation in compliance with commonwealth and state legislation—the Western Australian Equal Opportunity Act 1984.

One benefit we expect to see following the enactment of this bill is that we may reduce the impetus of people to travel overseas to create a family. In many cases of overseas surrogacy, the children never know who their egg donor is or who gave birth to them. For the children and arranged parents, there are difficulties in establishing legal parentage, which impacts on the rights of these children.

The key changes to the legislation being proposed in this bill include availability of IVF and surrogacy. Under the existing provisions of the HRT act, single women, irrespective of their sexual orientation, heterosexual couples, and female same-sex couples will be able to benefit from access to IVF or surrogacy based on their medical need. The proposed changes will expand that access to surrogacy to include male same-sex couples and single men, irrespective of their sexual orientation. This is achieved by amending section 23 of the HRT act to allow an IVF procedure to be carried out for the purposes of a surrogacy arrangement where there are “medical or social reasons”. “Medical or social reasons” is defined under new section 19(IA) of the Surrogacy Act to mean an eligible woman or man in the case where there is one arranged parent; in the case where there are two arranged parents, a married or de facto couple who are an eligible woman and a man; or two eligible women or two men. “Eligible woman” is defined in section 19(2) of the Surrogacy Act to mean a woman who is likely to be unable to conceive a child due to medical reasons not by reason of advanced age or excluded for a prescribed reason; or although able to conceive a child, is likely to be unable to give birth due to medical reasons; or although able to conceive a child, any such child is likely to be affected by a genetic abnormality or a disease. For all practical purposes, “social reasons” in terms of access to surrogacy is intended to apply to male same-sex couples and single men. Women will still need to meet the existing criteria of having medical reasons to access IVF and surrogacy, including providing the least invasive treatment necessary in order to have a child.

Circumstances for seeking a parentage order: Section 19 of the Surrogacy Act is amended to enable an application to be made for a parentage order in circumstances where there were “medical or social reasons” for the surrogacy arrangement at the time the arrangement was entered into. Eligible male same-sex couples and single men will be able to apply for a parentage order provided all the usual requirements under the act are met.

Fertility preservation for medical reasons: Doctors have expressed uncertainty about whether a woman who is presently fertile, but who is soon to become infertile as a result of a disease, condition or treatment, such as chemotherapy, is permitted to have her eggs fertilised to create an embryo through IVF for future use. This bill is intended to make clear that a woman can be eligible for IVF treatment if there is a likelihood of her becoming infertile or unable to give birth as a result of disease, a medical condition or medical treatment. To effect this change, the words “likely to be” will be inserted immediately before the words “unable to conceive a child due to medical reasons” and “unable to give birth to a child due to medical reasons” in the eligibility criteria for IVF under section 23 of the HRT act, as well as the corresponding provisions in section 19 of the Surrogacy Act.

Advisory, investigation and search powers in surrogacy: The proposed amendments provide an opportunity to strengthen some of the advisory, investigation and search powers in relation to surrogacy regulation. Changes to section 14 of the HRT act make it clear that the functions of the council extend to advising the minister and the CEO of the Department of Health on matters of administration and enforcement of the Surrogacy Act. The existing section 54 of the HRT act authorises an officer to investigate a breach or possible breach of that act. Proposed section 55A of the HRT act will extend that authority to an officer to investigate a breach or possible breach of the Surrogacy Act. The provision will also permit a justice, when duly satisfied on the evidence, to exercise the same power available under section 55 of the HRT act to issue a warrant to an authorised officer or member of the police force to enter and search, and seize records and other evidence, in relation to an offence or suspected offence under the Surrogacy Act.

Related amendments and minor corrections: This bill incorporates a number of amendments to the HRT act that flow from the changes to allow male same-sex couples and single men access to surrogacy and fertility preservation for medical reasons.

Finally, a number of sections of the HRT act will also be amended to correct some minor errors and outdated references to other acts.

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

I commend the bill to the house and table the explanatory memorandum.

[See paper 2036.]

Debate adjourned, pursuant to standing orders.

House adjourned at 7.09 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

LEGAL AFFAIRS — BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT

1594. Hon Robin Chapple to the Leader of the House representing the Attorney General:

I refer to Section 57 (2) of the *Births, Deaths and Marriages Registration Act 1998* that states, 'If, in the Registrar's opinion, a word or expression appearing on an entry in the Register is, or may be regarded as, offensive, the Registrar may issue a certificate under subsection (1)(a) without including the word or expression', and I ask:

- (a) will the Minister please provide a list of all words and expressions deemed offensive and redacted from certificates issued by the Registrar;
- (b) if no to (a), why not;
- (c) the term 'Aboriginal' has been removed from certificates issued by the Registrar exercising this power, is the term Aboriginal offensive;
- (d) if no to (c), why was the term 'Aboriginal' then removed;
- (e) if yes to (c), why was this decision made, who made the decision and when;
- (f) were any stakeholder groups consulted about whether the use of the term 'Aboriginal' on certificates was offensive and whether they thought it should be redacted;
- (g) if no to (f), why not; and
- (h) if yes to (f), please list who was consulted and when?

Hon Sue Ellery replied:

- (a) Any information (such as a person's race) that is not legally required on a certified copy of a Birth Certificate is redacted.
- (b) The Registry keeps all original copies of birth, death and marriage certificates. These original documents form part of the written history of our State and cannot be edited in any way. Nothing is redacted from these original documents.
- (c) No.
- (d) In relation to a certified copy see answer (a). If a person wants an uncertified historical certificate for an ancestor, such as for family history purposes, they can ask for, and be given, a copy of the ancestor's original certificate. This would include all of the historical information listed on the original form, including race if a comment had been made by the registrar at the time of registration, that is, as if it was originally entered by the registrar at that time. There is a reduced fee for accessing birth extracts for historical or family research.
- (e) Not applicable.
- (f) No as there is no legal requirement to include that information.
- (g) Refer to answers (a) and (d) and this practice is maintained by all State and Territory Registries.
- (h) Not applicable.

PREMIER — OPTUS STADIUM VISITS

1596. Hon Martin Aldridge to the Leader of the House representing the Premier:

I refer to Legislative Council questions on notice Nos 1044 and 1409, and noting that I am not seeking specific details of the Premier's vehicle movement in and out of the stadium, I ask again:

- (a) given the Government's ban on ride sharing services and private vehicles accessing the Perth Stadium and the Premier's encouragement for the utilisation of public transport, how does the Premier access the stadium by car when others cannot enjoy such a privilege; and
- (b) do the Premier and Ministers set a double standard by using ministerial and private vehicles to access the stadium for events such as music concerts?

Hon Sue Ellery replied:

- (a) I refer the member to the answer to Legislative Council question on notice 1409.
- (b) I refer the Hon. Member to Standing Order 105(1)(b) regarding seeking an opinion.

LEGAL AFFAIRS — LIMITATION ACT

1598. Hon Nick Goiran to the Leader of the House representing the Attorney General:

I refer to the *Limitation Act 2005*, that has been amended to provide for child sexual abuse actions, and I ask:

- (a) will the Attorney General carry out a review of the current limitation period that sees other actions for a minor under the age of 15 expire within 6 years;
- (b) will the Attorney General carry out a review of section 39 of the Act which currently provides for an extension, but not if the reason a minor's action has not been commenced is because of a recalcitrant parent or guardian;
- (c) if no to (a) or (b), why not; and
- (d) if yes to (a) or (b), when will a review commence?

Hon Sue Ellery replied:

- (a)–(b) There are currently no plans to do so.
- (c) Section 6A(7) of the *Limitation Act 2005* requires that there is a review of the operation and effectiveness of, amongst other provisions, the removal of limitation periods for child sexual abuse actions as soon as practicable after three years of their coming into operation. The matters referred to in (a) and (b) will not be reviewed before the conclusion of the review of the removal of limitation periods for child sexual abuse actions.
- (d) Not Applicable.

HEALTH — REGIONAL AND COUNTRY AMBULANCE SUB-CENTRES — DISPOSABLE LINEN

1601. Hon Robin Chapple to the parliamentary secretary representing the Minister for Health:

- (1) Do regional and country ambulance sub-centres use disposable linen?
- (2) If yes to (1):
 - (a) when did this change and what is the reason for the change;
 - (b) what are the various forms of disposable linen made from; and
 - (c) who pays for the cost of the disposable linen?

Hon Alanna Clohesy replied:

I am advised that:

- (1) All country ambulance sub-centres in the Wheatbelt and South West regions use disposable linen along with some country ambulance sub-centres in the Mid-West and North-West regions.
- (2)
 - (a) The use of disposable linen commenced under the previous Government in 2015 in the Wheatbelt and subsequently across the regions listed in question 1. The use of disposable linen in Emergency Departments and similar environments is considered best practice from an infection control perspective and in line with the National Safety and Quality Health Service Standards (Standard 3).
 - (b) The disposable linen used by St John's Ambulance (SJA) is nonwoven polypropylene.
 - (c) SJA is the Government's contracted provider of these services and purchases the disposable linen.

STATE DEVELOPMENT, JOBS AND TRADE —
WESTERN AUSTRALIA WORTH SHARING CAMPAIGN**1607. Hon Peter Collier to the minister for Regional Development representing the Minister for State Development, Jobs and Trade:**

I refer to the Western Australia Worth Sharing campaign, and I ask:

- (a) how many exporters has the Minister written to regarding the future of this program:
 - (i) will the Minister table a copy of this correspondence, if not, why not;
- (b) what is the current status of the Western Australia Worth Sharing program;
- (c) if the Western Australia Worth Sharing program is being discontinued, why was this decision made; and
- (d) what funds had been committed to the development and operation of this program, so far:
 - (i) under the previous Government; and
 - (ii) under the current Government?

Hon Alannah MacTiernan replied:

The Department of Jobs, Tourism, Science and Innovation advises:

- (a) All 68 of the Western Australian producers who took part in the Western Australia Worth Sharing campaign were written to or contacted by the Department.
 - (i) A copy of the letter is provided [See tabled paper no 2034.].
- (b) The Western Australia Worth Sharing campaign has ceased. The website was shut down on 26 July 2018.
- (c) The Government of Western Australia had committed to develop a State Brand for Western Australia to be used across all industries both domestically and internationally. This brand is currently under development.
- (d) To date \$1,990,795 has been spent on the campaign.
 - (i) \$1,697,697 under the previous Government; and
 - (ii) \$293,097 under the current Government.

PREMIER — MEETINGS — SOUTH METROPOLITAN REGION

1608. Hon Nick Goiran to the Leader of the House representing the Premier; Minister for Public Sector Management; Federal–State Relations:

I refer to the email from the Premier's office, dated 28 August 2018 and received at 4:49pm from your Appointments Secretary, and I ask:

- (a) for what period of time was the Premier in the South Metropolitan Region;
- (b) further to (a):
 - (i) how many meetings, events, functions or similar did the Premier attend;
 - (ii) who attended each of the meetings, events, functions or similar with the Premier; and
 - (iii) did the Premier receive or create any documents during or in preparation for the meetings, events, functions or similar;
- (c) if yes to (b)(iii), what were those documents;
- (d) further to (c), will the Premier table those documents;
- (e) if yes to (d), when; and
- (f) if no to (d), why not?

Hon Sue Ellery replied:

The Premier had no engagements in the South Metropolitan Region on 29 May 2018.

REGIONAL DEVELOPMENT — GASCOYNE DEVELOPMENT COMMISSION —
CHIEF EXECUTIVE OFFICER

1618. Hon Robin Chapple to the Minister for Regional Development:

- (1) Will the Minister please list the details of travel that Mr Gavin Robins has undertaken as the Chief Executive Officer for the Gascoyne Development Commission, Carnarvon Office, including dates, cost and reason for travel?
- (2) If no to (1), why not?
- (3) If no to (1), will the Minister advise who can provide the answer?

Hon Alannah MacTiernan replied:

- (1) [See tabled paper no 2035.]
- (2) Not applicable.
- (3) Not applicable.

STATE CORONER — COMPUTERISED TOMOGRAPHY SCANNER

1634. Hon Alison Xamon to the Leader of the House representing the Attorney General:

- (1) Has the Coroner now been provided with a CT scanner?
- (2) If no to (1), why not?
- (3) If yes to (1):
 - (a) when did the scanner become operational; and
 - (b) how many autopsies have so far been avoided due to the availability of the scanner?

Hon Sue Ellery replied:

- (1) No, it is expected that a dedicated CT scanner for the State Mortuary (PathWest) will be deployed in February 2019.
- (2) PathWest is currently in negotiations with a preferred vendor on terms and conditions, prior to awarding the contract. There is a 16 week build and delivery schedule for the CT scanner and PathWest is also running the upgrade and refurbishment of a room to house the CT scanner in parallel to this process.
- (3) Not applicable.

LEGAL AFFAIRS — DOWRY-RELATED ABUSE — LEGISLATION

1637. Hon Alison Xamon to the Leader of the House representing the Attorney General:

I refer to the recent passage of legislation in Victoria to address dowry-related abuse, and I ask:

- (a) has any consideration been given to expanding Western Australia's family violence legislation to address dowry-related abuse;
- (b) if yes to (a), please provide information about any proposed amendments, including relevant timeframes; and
- (c) if no to (a), why not?

Hon Sue Ellery replied:

- (a) There has been some consideration to expanding Western Australia's family violence legislation to address dowry-related abuse however there is little information available regarding the extent of such abuse.

In response to the limited information available, on 26 June 2018, the Senate referred the practice of dowry and the incidence of dowry abuse to the Legal and Constitutional Affairs Reference Committee. The Committee will investigate: the extent and nature of such abuse; its relationship to family violence; the adequacy of the family law system; and the *Migration Act 1958* (Cth) in acknowledging such abuse.

The Committee will make specific recommendations regarding legislative change that the Government will consider.

- (b)–(c) The Committee is due to report on 6 December 2018. Accordingly, the content and recommendations from this report will need be considered to determine if and what amendments are required. There is currently no amendments proposed.
