Parliamentary Debates
(HANSARD)

FORTIETH PARLIAMENT
FIRST SESSION
2018

LEGISLATIVE COUNCIL

Thursday, 28 June 2018

Legislative Council

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THE PRESIDENT (Hon Kate Doust) took the chair at 9.00 am, read prayers and acknowledged country.

FAMILY AND DOMESTIC VIOLENCE — REFUGES

Point of Order — Question without Notice 514 — Ruling by President

THE PRESIDENT (Hon Kate Doust): I want to provide a ruling in relation to a question without notice requesting the tabling of a document. Yesterday, Hon Nick Goiran requested my ruling on a point of order on Legislative Council question without notice 514 asked by him to the Leader of the House representing the Minister for Prevention of Family and Domestic Violence. The rulings of successive Presidents of the Legislative Council have been consistent in stating that it is not the responsibility of the Chair to tell ministers how they should respond to questions. This is purely a matter for ministers, provided that their answers comply with the standing orders.

I therefore rule that there is no point of order. I do, however, make the observation that ministers face political consequences for how they answer questions. These, again, are matters for consideration by ministers when responding to questions consistent with the requirements of the standing orders.

PAPERS TABLED

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

STANDING COMMITTEE ON LEGISLATION

Thirty-sixth Report — "Animal Welfare Amendment Bill 2017" — Tabling

HON DR SALLY TALBOT (South West) [9.04 am]: I am directed to present the thirty-sixth report of the Standing Committee on Legislation entitled "Animal Welfare Amendment Bill 2017".

[See paper 1521.]

Hon Dr SALLY TALBOT: The report I have just tabled advises the house of the committee's findings and recommendations regarding the Animal Welfare Amendment Bill 2017. For the purposes of this inquiry, two members of the committee, Hon Nick Goiran, MLC, and Hon Simon O'Brien, MLC, were substituted by Hon Jim Chown, MLC, and Hon Dr Steve Thomas, MLC. The main purpose of the Animal Welfare Amendment Bill 2017 is to make amendments to the Animal Welfare Act 2002 to shift its focus away from being simply about preventing and punishing animal cruelty to establishing and policing nationally agreed standards and guidelines for animal health, safety and welfare. The bill does this by inserting provisions that would enable the making of regulations to bring into effect those animal welfare standards and guidelines. All states and territories except Western Australia and the ACT have done this already.

The committee unanimously recommends that those provisions of the bill necessary for giving effect to the standards and guidelines, being clauses 1 to 8, are made. However, the bill also contains a number of skeletal clauses believed by the department to be necessary to complement the adoption of the standards and guidelines, being clauses 9 to 13. These would allow for the making of further regulations that would elevate the nature of mere regulatory breaches into offences of animal cruelty, and would affect some of the statutory defences currently available under the act to persons charged with cruelty offences. A majority of the committee does not recommend the passing of those skeletal clauses, in particular clause 9(2), which is accepted by the department to be a Henry VIII clause. The department produced no evidence that this clause was necessary, and it is, in the view of the committee, the product of a lack of preparation.

Clauses 14 to 17 would, if passed, allow for the appointment of a new designation of Animal Welfare Act inspector, being designated general inspectors. This new type of inspector would enjoy a power of entry to non-residential premises and vehicles without notice, consent or warrant for the purposes of monitoring activities. A majority of the committee is of the view that this new breed of inspector is unnecessary, that the powers already available to inspectors are adequate, and that clauses 14 to 17 should not be made by the house.

The committee was informed by the department that a review of the act is intended to be launched sometime in the future. Such a review has been promised since 2016. A majority of the committee recommends that, save for clauses 1 to 8, the remainder of the proposed provisions should be taken away and worked upon as part of that review. A minority of the committee, while noting the concerns of stakeholders and the unease of members about Henry VIII clauses, recommends that clauses 9 to 17 of the bill are made. In order to encourage the department to progress the review with expedition, the committee unanimously recommends that any of the provisions of the bill that are accepted by the house be subject to a three-year sunset clause.

I commend the report to the house.

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

114th Report — "Fair Trading Amendment Bill 2018—Extension of time" — Tabling

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [9.07 am]: I am directed to present the 114th report of the Standing Committee on Uniform Legislation and Statutes Review entitled "Fair Trading Amendment Bill 2018—Extension of time".

[See paper 1522.]

Hon MICHAEL MISCHIN: On 27 June 2018, the Legislative Council referred the Fair Trading Amendment Bill 2018 to the Standing Committee on Uniform Legislation and Statutes Review for consideration and report. The reporting date is 14 August 2018, being the next sitting day after the 45-day period mandated by standing order 126 and I think also confirmed by the motion passed yesterday pursuant to standing order 128. The bill proposes to amend the Fair Trading Act 2010 to bring the Australian Consumer Law in Western Australia into alignment with the Australian Consumer Law in other jurisdictions.

On 27 June 2018, the committee resolved to seek an extension of time in which to report on any bill referred to it on 27 June 2018 or 28 June 2018. This extension of time is requested to enable the committee to properly discharge its reporting obligations to the house due to, firstly, the complexity of the proposed changes to the legislative scheme in the case of this bill; secondly, the need to consider the significant parliamentary sovereignty issues raised by the bill; thirdly, the committee's reporting requirements in relation to the Education and Care Services National Law (WA) Amendment Bill 2018; and, lastly, the commitments of committee members over the winter recess. The committee therefore requests an extension of time in which to report on the bill from 14 August 2018 to 18 September 2018.

Extension of Reporting Time — Motion

Hon MICHAEL MISCHIN: As a corollary to that, I move, without notice —

> That the committee requests an extension of time in which to report on the bill from 14 August 2018 to 18 September 2018.

I seek leave to continue my remarks at a later stage of today's sitting.

[Leave granted for the member's speech to be continued at a later stage of the sitting.]

Debate thus adjourned.

[Continued on page 4108.]

DISALLOWANCE MOTIONS

Notice of Motion

1. City of Busselton Standing Orders Local Law 2018.
2. City of Karratha Fencing Local Law 2018.
3. Shire of Quairading Animals, Environment and Nuisance Local Law 2017.
4. Cremation Amendment Regulations 2018.

Notices of motion given by **Hon Robin Chapple**.

5. Environmental Protection (Plastic Bags) Regulations 2018.

Notice of motion given by **Hon Aaron Stonehouse**.

ENVIRONMENTAL PROTECTION (PLASTIC BAGS) REGULATIONS 2018 — DISALLOWANCE

Notice of Motion

Hon Robin Chapple gave notice that at the next sitting of the house he would move —

> That the following words in regulation 3 of the Environmental Protection (Plastic Bags) Regulations 2018 published in the *Government Gazette* on 12 June 2018 and tabled in the Legislative Council on 26 June 2018 under the Environmental Protection Act 1986, be and are hereby disallowed —
>
> > ***barrier bag*** means a plastic bag without handles used to carry unpackaged perishable food;
>
> and in regulation 3(b) —
>
> > (i) a barrier bag; or
>
> and that the consequential numbering amendments be made to the definition of "prescribed plastic bag" in regulation 3(b).

EDUCATION AND CARE SERVICES NATIONAL LAW (WA) AMENDMENT BILL 2018

Discharge of Order and Referral to Standing Committee on Uniform Legislation and Statutes Review — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [9.13 am] — without notice: I move —

> That, pursuant to standing order 128, the Education and Care Services National Law (WA) Amendment Bill 2018 be discharged and referred to the Standing Committee on Uniform Legislation and Statutes Review for consideration and report in accordance with that committee's terms of reference not later than 45 days after the referral.

If I may give a brief explanation: this is to provide absolute certainty. Members will recall that the second reading speech of this bill, which I read in on Tuesday night, indicated the government had received advice that the bill did not necessarily require a standing order 126 referral but we thought, for the purpose of certainty, it would be a good idea to do it. To make it absolutely clear that the government is seeking to refer the Education and Care Services National Law (WA) Amendment Bill 2018, I am taking the precautionary step of moving this motion.

Point of Order

Hon NICK GOIRAN: I recall there was some discussion the other night and I understood at that time, which was pretty late on Tuesday night, that the Leader of the House had already indicated to the house that the bill had been referred to the committee. It is not clear to me how the house can now refer the bill to the committee when it is already with the committee.

The PRESIDENT: The bill was referred on Tuesday night. I think there might have been some other discussions after that. From what the Leader of the House has just said to the chamber, I think for clarity on this occasion, the government has decided to move this motion. I assume that there has been some discussion behind the Chair with the various other parties about this motion that we have in front of us.

Debate Resumed

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [9.15 am]: To contribute to the debate and with respect to Hon Nick Goiran, as Chairman of the Standing Committee on Uniform Legislation and Statutes Review, I appreciate the clarity in that referral because of the difficulty that I raised about there not having been a vote of the house on this issue. From our perspective—I think I can speak on behalf of the committee—we appreciate the clarity that this resolution will provide.

Question put and passed.

EQUAL OPPORTUNITY (LGBTIQ ANTI-DISCRIMINATION) AMENDMENT BILL 2018

Introduction and First Reading

Bill introduced, on motion by **Hon Alison Xamon**, and read a first time.

Second Reading

HON ALISON XAMON (North Metropolitan) [9.16 am]: I move —

> That the bill be now read a second time.

In Western Australia, it is lawful for religious schools, including those receiving taxpayer dollars, to sack lesbian, gay, bisexual, transgender, intersex and queer staff, simply because of who they are. It is also lawful to expel LGBTIQ students and to refuse enrolment from students who come from rainbow families, such as those with same-sex parents. It is clearly unacceptable that in 2018 there are still gaps in legal protections for LGBTIQ members of our community that deny them access to basic rights such as freedom to choose where they can work and which school their child can attend. This discrimination has been in place since 1984 through a loophole in the state's Equal Opportunity Act. Section 73 of the act provides an exemption for religious schools that, amongst other attributes, allows them to discriminate on the basis of sexuality and/or gender history. The provision, which places religious schools above civil law, has been used many times and continues to be used today, with significant impacts on many people's lives and livelihoods. There is also considerable anecdotal evidence that LGBTIQ teachers and students continue to suffer from petty discrimination and disadvantage within some religious schools, such as being overlooked for promotion, having duties downgraded, or not being offered positions within the school structure, such as student councils or prefect ranks.

The Equal Opportunity (LGBTIQ Anti-Discrimination) Amendment Bill 2018 seeks to amend the Equal Opportunity Act 1984 by repealing and then replacing section 73. The repeal of section 73 serves to remove the ability of religious schools to lawfully discriminate against people on the basis of their sexuality and/or gender history. Repealing this section has the additional positive effect of preventing discrimination by religious schools on the basis of other attributes listed in the act, such as marital status or pregnancy, thereby upholding the human rights of many other members of our community and providing them a remedy if discrimination does occur. The insertion of a new section 73 creates an exemption that will allow religious schools to only discriminate on the

basis of religion when choosing which students to enrol in the school. This means that religious schools will still be able to prioritise enrolment of students who adhere to their faith. For example, a Jewish school may choose to enrol only Jewish students. These amendments bring Western Australia in line with Tasmanian anti-discrimination legislation, which is considered by many to be the best in Australia.

Although the positive effects of removing this section are widespread, the impact on LGBTIQ people will be particularly profound. It is important to recognise that in 1984, when the act was drafted, homosexuality in Western Australia was a criminal offence. All gay men were regarded as criminals and faced up to 14 years in prison for engaging in consensual sex in private. There were no anti-discrimination protections for LGBTIQ people in employment, housing and the provision of goods and services, and no partnership recognition for same-sex couples. It was a very different era, a time of great ignorance and fear around LGBTIQ people. Chief among these fears was the myth that gay people abused children and that there was a correlation between homosexuality and paedophilia. Of course, this dreadful and hateful propaganda was untrue, but many people three decades ago believed there was a connection and anti-homosexual lobby groups played to this fear and tried to scare people into thinking that LGBTIQ people were a threat and danger to children. This was the social and political environment in which the act was drafted, and the provision in question allowed religious schools the opportunity to feed into this ignorance and fear by utterly rejecting LGBTIQ teachers and students. Needless to say, almost 35 years later, we now live in a very different world. Attitudes have changed hugely, the old myths and prejudices have been exposed as fraudulent, and LGBTIQ people are now treated equally under almost all our laws, including the right to marriage. Yet this outdated piece of Western Australian legislation remains on the statute book and is an ugly reminder of the dark days of the past, and is still being relied on today.

It should be noted that the state of Tasmania abandoned this discrimination 20 years ago. In that state, religious schools have been prohibited from discriminating against LGBTIQ staff and students for two decades. During this period, not one religious organisation and no political party has called for the reintroduction of discrimination. There is absolutely no evidence from Tasmania that the law inhibits any religious school from practising its religious tenets. On the mainland, all states have, to varying degrees, some form of special religious exemption for religious schools, but none is written as badly, as harshly or as open-endedly as the one we have in Western Australia. Schools, including religious schools, should only ever hire, fire and enrol based on merit, not on the sexual orientation, gender history or marital status of the employee or student. Of course, limited exemptions remain. It is understandable that a religious school may want a religious education teacher or chaplain, for example, to be only of its direct faith and to live within its beliefs, but there is absolutely no excuse for a religious school to sack a gay geography teacher, a lesbian bursar or a transgender gardener, for example.

The ongoing discrimination also sends a terrible message to LGBTIQ students. There have been extraordinary strides in the civil rights and social acceptance of LGBTIQ people over the past two decades, and it is now very common for LGBTIQ students to come out at school or to be open about themselves in the school community. Such students need the love and support that they deserve and to be accepted and embraced. Some people may ask why an LGBTIQ teacher would want to work in a religious school or why a family would send an LGBTIQ student to a religious school. The answers are simple. Firstly, most religious schools in WA do not use this law and do not wish to, but often the danger for LGBTIQ students and staff is that school policy in this area is unclear and unknown and determined by the school hierarchy and principal. This can change suddenly when the principal does. A teacher may be safely employed one week and sacked the next. There is no consistent application or interpretation of this provision in the act. Secondly, many LGBTIQ staff and students identify as religious and see no inconsistency between their faith and their sexuality, an attitude adopted by many schools. Again, this can change suddenly without warning when school policy does. Thirdly, many staff and students may awaken to their sexuality or gender identity only after becoming part of the school community. It is manifestly unfair to sack a teacher or expel a student who had been a welcome part of the lifeblood of the school for several years but who then comes to terms with being LGBTIQ in later development or life. Fourthly, we now have the extraordinary situation in WA whereby LGBTIQ staff in religious schools can legally marry under commonwealth law and be fired for doing so under state law. Australia did not vote for this. This completely destroys the equality principle established by the passage of same-sex marriage legislation in 2018. Finally, schools are a large part of communities and families. Often they are an integral component of neighbourhood life, as families send several of their children to a particular school over many years. In this situation, it is truly appalling that one of these children could be denied the same access and education as their siblings simply because they are LGBTIQ. It is heartbreaking for any family or community to experience this after years of supporting the school.

In moving to end this discrimination, I point to the overwhelming opposition from the Australian community to this ongoing prejudice. In April this year, a YouGov Galaxy poll of more than 1 000 people across Australia found that 82 per cent of Australians opposed religious schools having the right to expel LGBTIQ students, 79 per cent opposed LGBTIQ teachers being sacked from religious schools if they get married under the new commonwealth marriage law passed this year, and 78 per cent of Australians said that religious schools should not be entitled to receive taxpayer funds if they discriminate against LGBTIQ teachers and students. It should be noted that support to end this discrimination was even higher than the yes vote resulting from the marriage equality postal survey held last year. The general community is very clear about this. It wants less discrimination against LGBTIQ people,

not more, and it especially does not want taxpayer funds spent in religious schools that discriminate in this fashion. This bill ensures that the mere fact that a student, teacher or member of staff happens to be LGBTIQ is not in itself grounds for internal disadvantage, reprimand, poor treatment, dismissal or expulsion; nor is it grounds to refuse to hire someone whose job is not expressly religious in nature.

In summary, this bill ends the provision currently granted to religious schools allowing discrimination against LGBTIQ staff and students, amends the Equal Opportunity Act 1984 to stop this discrimination, allows religious schools to dismiss staff or expel students who advocate or teach against the faith or tenets of the school, allows religious schools to discriminate in the hiring of teaching staff whose role has a specific religious purpose only, and strikes the right balance between protecting religious freedoms and maintaining the human rights of the LGBTIQ community. The state government has repeatedly said that it wants to end all discrimination against LGBTIQ people. This bill helps deliver on that promise.

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 1523.]

Debate adjourned, pursuant to standing orders.

ENVIRONMENTAL PROTECTION AMENDMENT (BANNING PLASTIC BAGS AND OTHER THINGS) BILL 2018

Second Reading

Resumed from 29 March.

The PRESIDENT: I give the call to the Minister for Environment. I am still a bit confused about whether you are Italian or Irish!

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [9.27 am]: Indeed! Let me tell you the story about my Italian heritage at some stage, Madam President, but not this morning, because today we are dealing with Hon Robin Chapple's Environmental Protection Amendment (Banning Plastic Bags and Other Things) Bill 2018. I am very pleased to contribute to this debate. The private member's bill proposes to restrict the sale or supply of the following plastic products: plastic bags, polyethylene and polystyrene packaging, products containing microbeads, balloons and plastic drinking straws.

I say at the outset that the McGowan government recognises the environmental impacts of plastic waste, particularly the adverse effects that plastic waste has on marine life through plastic ingestion and entanglement. I am aware of studies by the CSIRO and others that have demonstrated the significant impacts of damage caused by plastic pollution. Seabirds have been found with their digestive tracts filled with plastic fragments, turtles may confuse plastic bags and balloons with jellyfish, and marine mammals and fish get entangled in lost or discarded fishing gear. In fact, in recent weeks we have seen pictures of turtles in Western Australia that have died as a result of ingesting plastic bags. We have also seen pictures from further afield of bigger mammals that have washed ashore and after they have been opened up, it has been found that they had a substantial amount of plastic inside them, particularly plastic bags.

There is significant community support for action on plastic bags and that has been growing, as people understand the environmental impacts of plastic waste and the need to stop millions of bags entering the waste stream every year. I think the figure that we talked about was 670 million single-use plastic bags that are used annually in Western Australia and upwards of seven million that end up as litter. They are the ones that are being ingested by our marine mammals and birds.

There is a move to national action across the country. At the most recent Meeting of Environment Ministers we made significant gains. Having been around the offices of environment ministers for a number of years, it has always been a frustration of mine that there is not enough action. These things have been raised at that level for at least 15 years. I have to say that the most recent meeting I took part in was a very positive one. We met with the Australian Packaging Covenant Organisation and, as a result of that meeting, we have set a target of 100 per cent of packaging being recyclable, compostable or reusable by 2025. We have also agreed to waste-reduction strategies involving consumer awareness and education and industry leadership. That meeting advocated for the use of recycled materials, a phase out of microbeads from personal care products, and the collaboration through industry-supply chains to drive better packaging and recycling. At that meeting on 27 April this year in Melbourne, we met to set a sustainable path for Australia's recyclable waste. From my perspective, the time line we are working to is not short enough, but it certainly was a very positive meeting. The Australian Packaging Covenant Organisation represents about 900 leading companies across the country that are working together to deliver this target that I mentioned previously. The ministers endorsed the development of targets for the use of recycled content in packaging, which will be closely monitored.

I want to mention microbeads in particular. We received a report that day that announced that the voluntary phase-out of microbeads, which ministers initiated in 2016—less than two years ago—is on track. At this stage, 94 per cent of cosmetic and personal care products are now microbead-free. The ministers, nationally, remain committed to eliminating the final six per cent and examining options to broaden the phase-out of the product. That is what is happening so far through that process. I am not a fan of voluntary phase-outs. I am more of a fan of using regulation and legislation. But I have to give credit to industry for phasing out 94 per cent of those products within that two-year time frame, and work will continue to phase out the rest of those products.

I want to mention briefly the Senate inquiry that reported this week and was supported by all major parties. It has recommended that all single-use plastics be banned by 2023 and that a national container deposit scheme be established. I have a list of the recommendations from that Senate inquiry. It spoke of a great number of things. Many things in the report are very positive and I am pleased that that 2023 date is two years sooner than the date agreed upon by environment ministers. I have an issue with its recommendation for a national container deposit scheme. That is a difficult issue. South Australia has had a container deposit system in place for about 40 years, the Northern Territory has had its scheme in place for three or four years now, New South Wales brought its scheme into place last year, Queensland is bringing its scheme online in the next few months and we are due to bring ours in in early 2020. Because there are different schemes in operation across the states and territories, it really would be difficult to retrofit and tell South Australia, for example, that although its scheme has been in operation for 40 years it is no longer the best and we are going to have a national scheme. That would cause all sorts of angst and concern. The scheme in New South Wales is run by TOMRA Cleanaway. Queensland's scheme is about to start and will be run by the beverage industry. It would be a nightmare to try having a national scheme. That does not mean I do not support each state and territory having a scheme, and I am happy for those that have not come online to copy the other states. We all try to have nationally consistent schemes in this place, but what works in New South Wales, Queensland, the Northern Territory and Victoria does not necessarily work in Western Australia. I will not be signing up to a national container deposit scheme, but I will continue to work on the container deposit scheme that we are working on in Western Australia and that we have been consulting with industry on for most of the past few years. Internationally, we have seen some action take place.

Hon Michael Mischin: Is the minister prepared to take an interjection?

Hon STEPHEN DAWSON: Sure.

Hon Michael Mischin: Is each jurisdiction experimenting with different models of container deposit schemes and is Western Australia learning lessons from that involvement of experimentation by —

Hon STEPHEN DAWSON: Absolutely, member. Each state and territory has done things differently. We have all agreed on the products captured by the scheme—drinking receptacles between 150 millimetres and three litres, excluding wine. We have all agreed with what is in there, but each state and territory is doing it differently. New South Wales, for example, has reverse-vending machines. People put their bottles and cans into the machine and get back a voucher to either use in a shop or the refund can be donated. Queensland is doing something different. It has not started to roll out its scheme yet but it will roll out later this year. It will have about 12 per cent reverse-vending machines. That will work in some places. We have sat down and designed our scheme with industry, the community and government over the most of the past 12 months. We will learn from the schemes in those places and my plan is to cherrypick the best bits of those schemes to ensure that we have the best scheme.

Hon Michael Mischin: That is one of the benefits of being a Federation rather than having a national scheme set.

Hon STEPHEN DAWSON: Absolutely. It is about what works in those states and territories. The preference for governments in those states and territories would not necessarily be mine and they would not necessarily work for us. I am particularly keen to ensure that regional Western Australia can participate in this scheme. It will not be economical to have reverse-vending machines in every small Aboriginal community in the state, but there has to be something in place to allow those communities to pay the deposit and to get it back at the end of the day. It has been good to be able to learn from the other states. I certainly do not support a national scheme, but I do support us all acting in this regard.

I will touch briefly on the European Union. Over the past few weeks, it has made some announcements about plastic and single-use plastic. I have to put on the record that not all plastic is bad. Plastic has changed our lives in many respects and the innovation in that area has led to positive benefits in the health space, for example. But it is those single-use plastics that get used once and are then thrown away and end up in the litter stream, strewn across our roadsides or ingested by our wildlife, that we have to tackle. In an ideal world, we would re-use the plastic or, if we did not re-use it, we would recycle it by washing, flaking and remaking it into plastic to be used again. On 28 May, the European Commission issued new rules to reduce marine litter. It addressed the plastic bag issue in 2015 and 72 per cent of Europeans said that they had cut down on their use of plastic bags. The EU is now turning its attention to the 10 single-use plastic products and fishing gear that together account for 70 per cent of the marine litter in Europe. The new rules will introduce a plastic ban on certain products. The commission's press release states —

> Where alternatives are readily available and affordable, single-use plastic products will be banned from the market. The ban will apply to ***plastic cotton buds, cutlery, plates, straws, drink stirrers and sticks***

> ***for balloons*** which will all have to be made exclusively from more sustainable materials instead. Single-use ***drinks containers*** made with plastic will only be allowed on the market if their caps and lids remain attached;

It is interesting to note that while it is looking at banning sticks for balloons, it has not announced or worked towards a ban on balloons. That is a point of difference from the Environmental Protection Amendment (Banning Plastic Bags and Other Things) Bill 2018 brought before us by Hon Robin Chapple. The European Commission is also looking to introduce rules around consumption reduction targets, stating —

> Member States will have to reduce the use of plastic ***food containers*** **and** ***drinks cups***. They can do so by setting national reduction targets, making alternative products available at the point of sale, or ensuring that single-use plastic products cannot be provided free of charge;

It has also introduced obligations for producers —

> Producers will help cover the costs of waste management and clean-up, as well as awareness raising measures for ***food containers, packets and wrappers (such as for crisps and sweets), drinks containers and cups, tobacco products with filters (such as cigarette butts), wet wipes, balloons, and lightweight plastic bags***. The industry will also be given incentives to develop less polluting alternatives for these products;

The EU has also introduced collection targets —

> Member States will be obliged to collect 90% of single-use plastic ***drinks bottles*** by 2025, for example through deposit refund schemes;

Many European countries have a container deposit scheme and they are different in each state. A few weeks ago, I had the pleasure—I will mention this later in the evening—of going on a trip to Europe and seeing some of these schemes in operation. For example, places such as Lithuania have reverse vending machines. Everyone who sells cans or bottles has to take them back. That really has made for a very high recycling rate. It has reached the figure of about 92 per cent over the past two years. In different European states and countries, that figure is obviously different. The EU has also introduced labelling requirements —

> Certain products will require a clear and standardised labelling which indicates how waste should be disposed, the negative environmental impact of the product, and the presence of plastics in the products. This will apply to ***sanitary towels, wet wipes and balloons***;

The EU also introduced awareness-raising measures —

> Member States will be obliged to raise consumers' awareness about the negative impact of littering of single-use plastics and fishing gear as well as about the available re-use systems and waste management options for all these products.
>
> For **fishing gear**, which accounts for 27% of all beach litter, the Commission aims to complete the existing policy framework with producer responsibility schemes for fishing gear containing plastic. Producers of plastic fishing gear will be required to cover the costs of waste collection from port reception facilities and its transport and treatment. They will also cover the costs of awareness-raising measures.

These draft guidelines will go to the European Parliament and Council for adoption. It is interesting to see what the European Commission is doing. It certainly believes that its directive will bring both economic and environmental benefits. The new measures will —

- avoid the emission of 3.4 million tonnes of CO_2 equivalent;
- avoid environmental damages which would cost the equivalent of €22 billion by 2030;
- save consumers a projected €6.5 billion.

That is something to remember. Obviously, this is about protecting our unique environment for future generations, but there are economic benefits to be had from phasing out this material from acting in this space. There is also the benefit of a reduction in CO_2 emissions. Europe has at least acted and what we have said in the last few weeks is that we will look to Europe and the action happening there. We will start a consultation with the community about what next for us in the phasing out of plastic or single-use plastic.

We all know volunteers who spend thousands of hours every year cleaning our beaches and removing plastic waste from our coastlines and waterways. A number of great organisations are out there, such as Tangaroa Blue Foundation, Keep Australia Beautiful Council and others, which not only clean up the waste, but also carefully record the type of waste and, where possible, the origin of that waste. Data collected by CSIRO in 2017, I believe, and which was reported in the final report of the Australian Packaging Covenant Organisation, indicates that up to three-quarters of the litter polluting our coastlines and marine environments is plastic. High amounts of litter occur on beaches near urban areas, and most of this plastic originates from land-based sources, so items such as plastic

bags, again, drink bottles, lolly wrappers, drinking straws, fishing line and bait wrappers are commonly littered. Commercial and recreational fishing activities also contribute to this pollution. We find things such as broken crab and lobster pots, ropes, fishing line, nets, floats, glowsticks, bait boxes and straps regularly feature on our beaches. Although I am not proposing to ban those things, a conversation certainly needs to occur with both our recreational and commercial fishing industries in this state to work out how we can work together to ensure that we are not leaving this stuff behind when we are fishing commercially or recreationally, because at the end of the day, it ends up in our waterways and is ingested by our marine life and animals. We also see marine debris originate from international shipping, and occasionally we see waste disposal of it at sea. This includes things such as medical waste, fluorescent lights, food and cooking utensils, tools and containers. This information came out of a "West Australian Beach Clean-up Report 2016", which can be accessed on the Tangaroa Blue website. If anyone wants to check in to see the facts or the evidence associated with these issues, it is readily available online and I am happy to put them in the right direction.

The marine environment is the focus of this information because it is where we are aware of the most devastating impacts of plastic pollution. Before I discuss the issues around the private member's bill, I want to highlight briefly how government, business and the community are taking action to help change behaviours and reduce the environmental impact of single-use plastic waste. As members in this place would know, the McGowan Labor government is progressing its commitment to implement a container deposit scheme as part of its plan to address plastic pollution. We made that commitment at the last election and, in fact, the previous government made that commitment too, but it just did not get a chance to act before the election and the change of government. I am aware that Hon Sally Talbot in this place has previously moved a private member's bill to get Parliament to act on introducing a container deposit scheme. It was unsuccessful at the time, but I am pleased that now, Hon Sally Talbot, we are in a position to —

Hon Dr Sally Talbot: There has been cultural change.

Hon STEPHEN DAWSON: There has been cultural change. There also has been societal change. I am pleased that Hon Sally Talbot's work has not been in vain and we will get to deliver on the outcome that the member chose to deliver on.

Hon Dr Sally Talbot: Thank you, minister.

Hon STEPHEN DAWSON: I thank the member for her work in the past on this matter. We are working on our scheme. The scheme will reduce litter and increase recycling rates. More than 90 per cent of the respondents to an online survey put out last year supported a container deposit scheme in Western Australia. Under our scheme, consumers, like those in other states, will be able to receive a 10c refund on all eligible beverage containers, including containers for soft drinks, flavoured milk, bottled water, beer, cider and sports drinks. My view is that the container deposit scheme will contribute to the protection of Western Australia's unique environment and wildlife and our spectacular scenery. It will save those things from the impacts of litter. The scheme also has significant business development and job creation opportunities. I think I have said in this place previously that there are three times more jobs associated with recycling than there are associated with landfill. That is significant. As a government that is focused on job creation in this state, it is certainly pleasing that we are helping to protect the state's unique environment and also creating jobs. It is a win–win for the environment and the economy in this state.

As members know—I thank Hon Robin Chapple for his placement of a bag on our seats this morning—we are implementing a lightweight plastic bag ban through the Environmental Protection (Plastic Bags) Regulations 2018, which are due to commence on 1 July. It is disappointing to see both Hon Robin Chapple and Hon Aaron Stonehouse move disallowance motions to those regulations today. I have not seen the proposed impact of Hon Robin Chapple's disallowance motion. I suspect it means that a barrier bag will no longer be excluded from being a prescribed plastic bag, so it would be subject to the offence provisions in part 2 of the regulations. Barrier bags are essentially those bags we get when we buy some meat at the deli in the supermarket. The effect of Hon Robin Chapple's disallowance motion, if it passes down the track, would be to criminalise giving out that bag. If someone were to give out a barrier bag, they would face a $5 000 fine. It is a very punitive measure. We and governments across the country have not banned those barrier bags for reasons of hygiene. We are all aware of the types of illnesses that we can get from things such as uncooked meat, chicken—whatever. These bags are necessary. Could we use fewer of them? Possibly. We could certainly use fewer bags for our fruit and vegetables, for example. I have said before in this place—probably last week during the Standing Committee on Estimates and Financial Operations hearings—and I will say it again: I think the amount of plastic used on our fruit and veg in this state is scandalous. It frustrates me greatly when I go to the fruit and veg aisle and see four apples or whatever on a polystyrene tray in plastic cling wrap. It also frustrates me greatly when I go to buy mushrooms, for example. Obviously people can pick their own loose mushrooms and put them in a brown paper bag, but they also have mushrooms wrapped in plastic, plastic, plastic. Those are often cheaper; goodness knows how it can be cheaper to place them in a tray, because it obviously costs something for a worker to put them in there and for the plastic cling wrap to go over the top, but for whatever reason, it is often the case that it is cheaper to buy them in those packs than it is to put them in the paper bag.

Hon Alannah MacTiernan: They are the less perfect objects, I think.

Hon STEPHEN DAWSON: I do not actually think they are. I do not think they are less perfect; it would obviously cost the supermarkets more to place them in those things, but for whatever reason, they charge people less to choose their own. Anyway, I refuse to take the ones wrapped in plastic; I put my own in a bag. I would like to see more people doing that, and we will certainly work with the supermarkets over the next little while to see what we can do to phase out the use of single-use plastic for fruit and vegetables. I have to say, to the credit of Coles in particular, it has indicated that over the next 18 months to two years it will reduce its use of single-use plastic and look at alternatives, and that is a good thing.

As I said, our bag ban will begin from 1 July. From this weekend, single-use lightweight plastic shopping bags will be banned in this state. Although those bags make up a small percentage of the waste in litter streams, they can have a disproportionate impact on the environment, including the aforementioned effects on our marine life and our birds et cetera. They break up into smaller pieces and become microplastic pollution, which is then ingested by smaller animals and can move into the human food chain. The scariest thing is that not only are birds, mammals and fish ingesting microplastics, we, too, are ingesting them. I dare say that somewhere down the track, some medical or health professional will tell us that what we have been doing for a long time is a danger, but we will leave that up to learned people in the future. However, we are taking action at the moment to ensure that we move away from that and that single-use plastic bags do not end up in the litter stream and being ingested by us at the end of the day.

We did a fair bit of community consultation to gauge the community's response to the introduction of a ban on single-use lightweight plastic shopping bags, and around 95 per cent of the more than 4 400 respondents to our survey supported the proposed ban, and 92 per cent supported banning biodegradable, degradable and compostable bags, which also break down to form microplastics, so there is significant support out there. There are a number of people in the community—including in this place, as we know from Hon Aaron Stonehouse's disallowance motion this morning—who do not like this ban. It might be an inconvenience or at least an issue for some people—it possibly will be—but other countries have done it for a long time and I think we can do it, too. I know Hon Donna Faragher is looking forward to 1 July and bringing her bags to the supermarket.

Hon Donna Faragher: I have so many of them it's unbelievable.

Hon STEPHEN DAWSON: The single-use ones?

Hon Donna Faragher: No!

Hon STEPHEN DAWSON: The other ones. Good!

Hon Alannah MacTiernan: That's right. You need to recycle the recycling bags.

Hon STEPHEN DAWSON: That is probably our next thing, but I know that as a former Minister for Environment, Hon Donna Faragher will be onside from 1 July. She has already been doing it, but from 1 July she can take pride in the fact that in this state we will no longer be issuing single-use plastic bags. It is a good thing for us, a good thing for our kids, and a good thing for the environment.

So, 95 per cent of those respondents supported the proposed ban, and 92 per cent supported banning biodegradable, degradable and compostable bags. For more than a decade, communities, state, territory and commonwealth governments and the retail industry have attempted to slow the consumption of lightweight plastic shopping bags and their progress into the litter stream. There have been voluntary codes of practice in place for retailers that, in some cases, were initially successful but were not continued. Promoting alternatives to plastic bags has had moderate success; however, the number of lightweight plastic shopping bags used every year continues to grow and a ban really has become necessary. As we know, the community supports that too.

These new regulations allow for a more responsive approach than new legislation would. They have a greater ability to be updated to ensure that the ban meets any future identified need to further reduce plastic bag litter. For example, in future the bag type, thickness or material could all be changed; regulations give us the opportunity to do that. With new legislation we would also have to have further regulations; or, if there are no regulations, we would have to bring in another piece of legislation, and we all know how difficult it sometimes is to get legislation through this place.

The McGowan government's lightweight plastic bag ban will prohibit the supply of plastic shopping bags that are made in whole or in part of plastic, have a thickness of 35 microns or less, and have handles. The ban includes biodegradable, degradable, compostable and photodegradable bags, all of which break down into microplastics. Our Western Australian ban is consistent with the approach taken in other Australian jurisdictions. It will allow major retailers and food outlets in Western Australia to implement the same changes as have been implemented in other states and territories and will minimise the cost of operating under different regulatory regimes. That is again an important point to make: when we have nationally consistent legislation and regulations in this space, it will make things easier for the big companies that operate across different states. Obviously a number of other states already have a ban in place. Queensland is also coming on board from 1 July, and I was pleased to read last night that Victoria has announced that it also will finally have a ban, although it will be put in place a little later.

Nationally consistent legislation will really help companies operating across different states to have the same approach across the board. Having worked for environment ministers, I remember that industry has rarely been onside in this general space, particularly with regard to the container deposit space. Big beverage companies have fought against the introduction of such schemes for many, many years, and it is pleasing that during my time as Minister for Environment, those companies have changed their tune and are now on board and are seeking to help shape or run schemes in different states and territories.

I know from being a minister in this place that consultation is vital. We need to bring at least 50 per cent plus one on board. As a minister, I have prided myself on the level of consultation that has been undertaken with both the community and industry over the last 14 months on the banning of lightweight plastic bags and the container deposit scheme. We need to have people at the table and in the tent and we need to bring the community along with us to ensure that we can do this.

I will again touch on the issue of barrier bags. They are required for food safety. Bin liners and thicker plastic department store bags are not included in the statewide ban. However, as I pointed out earlier on, regulations will allow for a more responsive approach than would a new act, and they provide greater ability to update legislation in the future. Those are not included at this stage, but we will keep an eye on the issue and work with industry to see where else we might go.

At the national level, we are working with other states and territories and retailers to reduce and phase out thicker department store bags. Those conversations are happening at the moment across the country between the environment ministers and the Australian Packaging Covenant Organisation Ltd to see how we might phase them out. That work is at an early stage, but I have to say that we are very hopeful that retailers will understand the need to phase out the use of these bags and to find alternatives without the need to regulate. Can it happen? I used to be sceptical and not so sure about leaving things up to industry, but again I have to say, having seen the efforts and work by industry on the phase-out of microbeads and the fact that 94 per cent of them have been phased out over the last two years, I have a level of confidence now that I did not have previously. We will continue that work and there is a commitment from federal, territory and state environment ministers to continue that work. In fairness, the community demands it. Although support for the banning of these bags is not as significant as it is for single-use lightweight plastic bags, there is certainly a growing appetite in the community to act and to take further action.

Hon Robin Chapple's bill seeks to ban plastic bags, plastic drinking straws and balloons. Exceptions apply to medical or health-related products; policing and security products; meteorological balloons; plastic bags that are made wholly from biodegradable material that is suitable for composting; and classes of products exempted by the minister pursuant to section 6(1) of the Environmental Protection Act 1986.

The bill seeks to prohibit microbead plastics. As I have said, work to phase out microbeads in cosmetic and cleaning products is well advanced. We have across the country been working on that and we remain committed to eliminating the final six per cent of microbead plastic products. We will also examine options to broaden the phase-out to other products.

As I have mentioned, the bill also proposes to ban balloons. Again, that is different from the action that is planned in Europe. I am on the record as saying that I am a parent of a child aged three and a half, and I have participated in parties at which balloons have been flown.

Several members interjected.

Hon STEPHEN DAWSON: I probably have blown up a few balloons in my time, too, can I say, not only at children's parties, but also at the occasional party stall and at fairs right around my electorate. I will continue to have conversations with the community on the phase-out of balloons. A number of parents have suggested that I would be a party pooper if I banned the use of balloons. Equally, other parents have said the opposite—that they would like balloons to be banned.

Hon Alison Xamon: That is because they care about their children's future.

Hon STEPHEN DAWSON: I will take that interjection, because the member is suggesting that somehow I do not care about my child's future, and that is not the truth.

However, there is a range of views in the community about balloons. I do agree that too much helium is used. Helium-filled balloons are the ones that end up in our waterways and are ingested by marine animals and by fish. I support the activity that is being undertaken by a number of local governments around the state. Historically, balloon releases have occurred as part of community events and commemorative occasions. The Western Australian Local Government Association has undertaken work on this issue since about 2015, when it recommended that local governments not organise or approve the release of helium-filled balloons at events. That is a good thing. Local governments such as the Towns of Cottesloe and Victoria Park have taken action in this space. I support them in taking that action. However, I am not proposing to ban balloons today. I believe that we should all be very conscious of our use of balloons, particularly helium-filled balloons, and should phase them out. However, a statewide ban on balloons is not being considered by the government at this stage.

The bill also proposes a ban on plastic drinking straws. Plastic drinking straws are generally an unnecessary single-use item. Straws find their way into the litter stream, particularly as an element of fast-food waste, and add to the number of plastic items littering our environment. In 2016, 13 per cent of littered takeaway food items were plastic drinking straws. Again, this work is available. It came out of a survey on *National Geographic*. I can provide the information to anybody who wants it. It is relatively simple for people to refuse straws and for businesses to provide straws only when requested. It is pleasing that the Parliament acted recently—I think at the behest of Hon Diane Evers—and is no longer giving out plastic straws. It is providing paper straws, but only when someone asks for a straw. So that is a double win or double bonus. Should we ban plastic straws, as this bill proposes to do? I believe we could do more work on straws. I propose to work with industry, the Australian Hospitality Association and others over the coming months to see what we can do to reduce the use of plastic straws and to encourage small businesses to provide a paper straw option.

However, there is a problem in that many people with disability and many seniors in Western Australians use plastic bendable straws. I have not seen paper alternatives for those straws. I happy to commit to work with industry to look at what other options are available, particularly as Minister for Disability Services, but also for senior Western Australians, to ensure that if we do phase out the use of plastic straws, other options are available and we are not creating issues for those big groups in our community, bearing in mind that one in five people has a disability. That is not to say that one in five people would use a plastic bendable straw. However, a number of Western Australians use those plastic straws, and we need to find an alternative. We do as a government support businesses changing the way in which they provide single-use plastic items for their customers. We also support raising awareness of the wasteful nature of plastic drinking straws. We are considering further action, but I think that further action will be working with industry in this state, and with the Australian Hospitality Association and others, to see what we can do to phase out the use of those things.

The bill also proposes to ban the use of polystyrene and polyethylene packaging. I assume that this aspect of the proposed bill is aimed at the over-packaging by supermarkets of fresh produce with single-use plastics. Polyethylene is generally considered a recyclable plastic, and polystyrene less so. Like other plastics, both polystyrene and polyethylene end up in our environment, and both contribute to land and marine pollution. There are additional issues with polystyrene in that, because of its expanded rigid form, it occupies a significant volume of landfill, and it is rarely recycled. Those plastics are also light and therefore highly mobile, which contributes to windblown plastic pollution. As I said earlier, the use of these plastics, particularly in packaging fruit and vegetables, is scandalous. I would encourage consumers to vote with their feet and use their purchasing power to buy unpackaged fruit and vegetables and to demand change from their supermarkets. It is not the intention of the government to ban these products at this stage, particularly if they are necessary to maintain food hygiene. However, I do support moves by the community to demand a greater commitment from retailers to sustainability and waste reduction. We are at the national level working on what we can do to phase out these products and to ensure that if these products are used, they are 100 per cent recyclable or compostable or reusable in the future.

On that note, I place on the record and commend the decision by Woolworths, Coles and IGA to voluntarily phase out the use of single-use plastic bags ahead of the plastic bag ban that will come into operation on 1 July. It is great to see that those major grocery chains are getting behind this push to reduce the scourge of plastic on our environment. Even though Hon Aaron Stonehouse does not agree, I think they are acting because the community demands it.

Hon Aaron Stonehouse: I do accept that.

Hon STEPHEN DAWSON: Good. They have acted. It was pleasing that after I phoned them over 12 months ago now to say that it was my intention to bring in this ban in this state and to ask them what was their view, to their credit they both responded positively and announced that that is what they would do. There are retailers who have been doing good stuff for a very long time. Part of the Wesfarmers family is Bunnings. Bunnings has changed its practices as well over the past few years. If members are lucky enough to have a Bunnings in their community, they would know that people have not been able to get single-use plastic bags at Bunnings for some time. Bunnings makes available empty cardboard boxes at the front of the store and people can either use those boxes or spend some money and buy a green bag. I hope that other retailers, such as Coles and Woolworths, will also offer this option to consumers over the months and years ahead. At the moment, all the products that come into their shops are in boxes. I presume those boxes are broken down and sent off for recycling. I think consumers would support the option of those boxes being kept at the front of the store so that they can use them to take home their shopping and recycle them in their own bins. It is to the credit of some of the smaller IGA stores that they offer that option already. I hope some of the bigger supermarkets will do that as well. I have heard people say that they do not have the space to do it. I think they could make the space to do it.

Hon Donna Faragher: Just for the sake of clarity, with respect to the single-use plastic bags, which will obviously end as of 1 July, is there a mechanism as to the size of the bags? I recall that there was some concern, particularly in South Australia, where they actually phased out single-use plastic bags and then some slightly thicker plastic bags were still able to be utilised. One of the ways that some businesses were getting around it was by offering those bags at no cost. Is that included here?

Hon STEPHEN DAWSON: What the regulations state—not the bill—is that the ban applies to bags of less than 35 microns. The single-use bags that are available at the cash registers are banned. The legislation does not ban thicker ones. What Coles in particular has done is to put a fee on the thicker ones. It is a 15c fee, with 10c going to charity and 5c covering the cost of the bag. In places like Ireland, which just brought in a fee for single-use plastic bags rather than banning them, there was a significant decrease in the number of people taking a bag. We have kind of got both. We are banning bags based on the thickness. We are open to looking at it. The regulations allow us to monitor whether there is a significant uptake in those thicker bags, even though people are paying for them. If that is the case, we can go back and put some more regulations in place.

Hon Donna Faragher: I know that that was an issue in South Australia in the early days—people were getting around the regulations with the thicker bags.

Hon STEPHEN DAWSON: I think that has been the case in some places. We are going to monitor that. Certainly by retailers putting a fee on those thicker bags, I think people will vote with their feet and will not want to pay a fee for a bag, even if some of the cost is going to charity, so they will bring their own. I have spent more time in supermarkets in the past 12 months, and particularly in the last month, than I have done probably in my life. It is very pleasing to see people already doing the right thing. When we gave out some bags to the community in Port Hedland on Friday, I was particularly pleased to see young people coming in with their bags, in advance of the ban, and doing their shopping. I am very conscious of ensuring that we do not move from the single-use, less-than-35-micron plastic bags to the thicker ones in big numbers. We will keep an eye on that. I want to place on the record that those major grocery chains have got behind this push to reduce the scourge of plastic on our environment.

Regulation for the public good does have a very important role to play, but it should be used only after robust consideration and the expiration of alternative options. We are not ready to expand bans to other plastic products at this time, although I place on the record that we are doing a range of work. We are consulting with the community and working with our federal, state and territory colleagues on a national level to see what we can do collectively to ban this stuff. We are also working with industry in Western Australia to see what we can do.

I want to briefly mention the China Waste Taskforce, which my parliamentary secretary, Reece Whitby, is chairing at the moment. That came out of China's decision to stop taking certain types of waste—that is, waste that had higher than a certain contamination threshold. That has caused issues for companies around the world and across Australia, but less so in Western Australia because not as much of our waste went there. However, it did cause us some concern, but that has also created an opportunity. The member for Baldivis is meeting with the task force, which is made up of industry, community and local government representatives, to work out what we can do in the short, medium and long term to ensure that we are dealing with the issue. Some of that involves educating the community about what we can and cannot recycle. Far too many of us think that everything can go in a recycling bin, but at this stage it cannot. That does lead to contamination. We are also looking at the types of things that government can do to foster innovation and create opportunities for industries to grow in this state. One positive from a container deposit scheme will be that whoever runs the scheme will have to make sure that the material is recycled. As I briefly mentioned earlier, I was in Europe a couple of weeks ago to look at some of the waste facilities over there. People were very generous with their time and with the information they shared with us. The task is probably not as onerous as I had first imagined. The bureaucrats in this state are a little uneasy about the government putting money on the table to encourage industry to grow, given that some years ago money was put into a glass recycling facility that fell over when China decided to pay more for glass. They are conscious of that. I think that we have a real opportunity in this state to create an industry. It may well be that we have to work with South Australia or the Northern Territory to ensure that we have the volume of waste that is needed, but certainly those opportunities exist. I am making sure that, as Minister for Environment, we are working on those. That task force is good. It is meeting monthly, I think. Hopefully over the next couple of months, there will be some announcements about what we should do in that space to help industry and to mitigate the risks associated with China's decision, which may create opportunities to have our own recycling facility onshore or allow for our material to be source-separated so that it is less contaminated, ensuring that there are markets for it overseas.

To finish, I agree with Hon Robin Chapple on the importance of reducing plastic pollution. I acknowledge the efforts he has gone to in preparing this bill. I appreciate the bag that he gave us today. However, the government will not be supporting the bill today. We are doing further work in this space. We will bring further regulations to this Parliament in the coming months. We will also continue to have a dialogue with the community over coming months. We will learn from the announcements from Europe and we will see what next we can do. Together, we are committed to acting on single-use plastics in this state. We will continue our efforts in Western Australia. Our waste strategy is due out in the next few months. We have a litter prevention strategy that looks to reduce the amount of waste generated. We want to prevent littering. We want to increase the recovery of materials from the waste stream. We look forward to this weekend's ban and our upcoming container deposit scheme. With those words, I will conclude my remarks.

HON ALISON XAMON (North Metropolitan) [10.16 am]: I rise to indicate my wholehearted support for this visionary and important private member's bill, which has been put forward by my colleague Hon Robin Chapple. The Environmental Protection Amendment (Banning Plastic Bags and Other Things) Bill 2018 seeks to amend the Environmental Protection Act 1986. It is important. It will attempt to restrict the supply of plastic bags, balloons, plastic drinking straws, and polyethylene and polystyrene packaging, and prohibit the supply of products containing plastic microbeads. I think that history is going to look on this bill kindly. I recognise that we are right in the middle of a public debate on this. As usual, the Greens are taking the lead in this area. I think we will ultimately find that these changes will occur, but hopefully sooner rather than later.

As has been said, from next week—1 July 2018—the supply of lightweight plastic bags will be banned in WA. This legislation is generally supported by the community and industry and will bring WA in line with South Australia, Tasmania, the Northern Territory and the Australian Capital Territory. The problem, of course, is that plastic shopping bags do not break down and have a devastating impact on marine wildlife and birds. They are far too often mistaken for jellyfish, particularly the small bags that are used to package fruit and vegetables. Those bags are ingested by turtles, birds, seals and whales. Because they cannot be digested, they stay in the animal's gut, blocking it, and the animals slowly die. It is a terrible death. Anyone who spends any time on our coastline or riverbanks, especially in urban areas, will have seen plastic bags or shreds of plastic bags. The ban is a positive step to try to prevent this sort of needless pollution. But we can, and we do need to, go further.

The community has responded positively to the plastic bag ban. Through voluntary community action, the community is showing that it has a strong appetite to go further to tackle the other visible forms of litter that exist in our surroundings. People have for some time been creating alternatives to using all disposable plastic bags and not just the ones that will be banned as of 1 July. Many cafes, bars and restaurants, and customers themselves, are declining to use plastic straws with their drinks. It is good that the Parliament has now sought to lead the way in the banning of plastic straws in our immediate surrounds. Thanks go to my colleague Hon Diane Evers for her efforts to change that within our Parliament.

A community-led campaign to stop using balloons, particularly releasing balloons into the atmosphere, has gained traction and several Western Australian local councils have now banned balloon releases. People are beginning to favour using reusable decorations and bunting instead of balloons for their children's parties and various celebrations, and are considering new ways to commemorate and symbolise the passing of their loved ones, such as tossing flowers into the ocean instead of releasing helium balloons into the sky, which can cause so much damage. Where possible, people are lobbying their local shops and suppliers to reduce polyethylene and polystyrene packaging and, in some cases, this action is also being led by suppliers.

I want to give my thanks to many people and groups for doing this important work. In that, I include Sea Shepherd Australia's marine debris campaign. Members of the Western Australian public understand and care about the problem of plastic waste and I think they want to see change.

The opportunity to undertake that change is now. The Premier himself has recognised that there is an appetite to go further. He now has a KeepCup—good on him—and has that suggested that further government restrictions on plastic products are on the way. The Environmental Protection Amendment (Banning Plastic Bags and Other Things) Bill 2018 presents that opportunity, so I am very keen to hear the government's response, but I am disappointed that it is indicating it is not prepared to support the bill at this stage. Who knows? The passage of time may change that view. We are intelligent people who love our marine life and wild places, so we can begin to do things better.

I bring to the Premier's attention an article in Saturday's *The Weekend West* about the Star of the Sea Catholic Primary School in his Rockingham electorate, which has adopted a goal of being completely plastic-free by 2020. This year the school introduced a rule requiring students to take home any plastic packaging used for wrapping food. If food waste cannot be fed to the school's chickens or worms or be composted, it has to go home, and the canteen is using paper bags and compostable containers as much as possible. The upshot is that less packaging is being used and the school of 750 students has halved the amount of rubbish it sends to landfill. It also reported that the school grounds are much cleaner.

We can do things differently. It is only a short time ago that our community did not rely so heavily on single-use plastics. Indeed, I am old enough, Madam President, to remember the Charlie Carter's paper bags being the norm when my parents brought home the vegetables and groceries. I am showing my age; I recognise that, but it is true I have much life experience!

The PRESIDENT: Member, some of us can remember picketing Charlie Carter's too.

Hon ALISON XAMON: Madam President, I was in primary school then.

Cutting out disposable plastics will improve our amenity and health, as well as help our wildlife, so we really need to look at going down that path.

I will say a little bit about plastic microbeads. This bill would also ban microbeads. They are small, manufactured plastic particles, usually less than two millimetres in diameter, which do not degrade or dissolve in water. From around the 1990s, microbeads were added to face washes, personal care and cleaning products as an abrasive or exfoliant to bulk out the product, prolong shelf life or enable the timed release of active ingredients. As most sewage treatments do not capture microbeads, they end up in the ocean where microbeads are very good at absorbing toxins in the water. They can thus end up absorbing more toxins from the surrounding ocean. Being tiny, the microbeads are then eaten by fish and the toxins enter the fish's flesh. In this way, the toxins are passed up the marine food chain, including into fish species that humans eat. The good news is that, following the lead of other countries in banning microbeads, including the United Kingdom and United States, microbeads are being voluntarily phased out in Australia. This bill would make sure they were eliminated entirely, and not before time.

Some important change has been achieved on microbeads, but more is required. I take the opportunity to point out that all plastic waste eventually becomes microplastics, so we need action on other plastic items too. Our waste problem will only get worse unless the government starts to show strong leadership. Support for this bill would represent that opportunity.

Nationally, this week the Senate Standing Committees on Environment and Communications completed its inquiry into waste and recycling in Australia. It has called for a ban on single-use plastics by 2023, a national cash-for-containers scheme, and mandatory targets for the recycled content of materials bought by the federal government. These are important steps and achieving those outcomes will take cooperation by the state and federal governments. Again, the McGowan government could show its willingness and leadership in this space by changing its mind and agreeing to pass the Environmental Protection Amendment (Banning Plastic Bags and Other Things) Bill 2018.

I wanted to make those brief comments. I think that people are generally fairly devastated when they see footage of turtles with straws up their noses. I think people are distressed when they see that sort of degradation of our precious environment and the apparently limitless amount of plastic floating around in our oceans. It is an ugly and distressing sight. Nationally and overseas, at times traditionally conservative parties are increasingly coming out to stop the scourge of plastic, particularly single-use plastic. Importantly, scientists are now making it clear that this action is necessary. Increasing numbers of people in the community approve actions that are deemed to be necessary in this space.

I urge this state government to consider what message it will send to the Western Australian public because I think it is the wrong message to send that it does not support action in this space. What message would that send to the schoolchildren in the Premier's own electorate, who have shown such leadership at their level to take action to cut out disposable plastics? They are the future; good on them. I think that people will be closely watching this debate. We have seen an enormous shift in public sentiment around the issue of single-use plastics even just in the last few years. As usual, the Greens are taking the lead and I look forward to ensuring that government shows leadership as well.

HON DR SALLY TALBOT (South West) [10.28 am]: I have only a short time, so I will put just a few comments on the record. I genuinely look forward to the Environmental Protection Amendment (Banning Plastic Bags and Other Things) Bill 2018 coming back again, Hon Robin Chapple, because I think that the comments I made earlier about the need for cultural change is probably the most important thing. That is one of the things that we can do in this place. We tend to view the role of parliamentarians as being agents of change by passing legislation, but sometimes we just have to have these conversations and we just have to do good, old-fashioned consciousness-raising about these issues.

A number of points made by Hon Stephen Dawson in his general survey of the move towards a changed attitude to plastics show that at least some of the change that we see is brought about by individual commitment rather than legislative change. But, as Hon Stephen Dawson said, there is a role for educative laws. I certainly think that there is a place in chambers such as this all over the world for informed debate on removing environmental hazards, but also on things like sugar content in drinks, fat consumption, obesity and all sorts of different measures that rely on people making the changes themselves. Their path along that route to change can be eased by changing public opinion about these things.

I have been on this mission for some years, as a lot of honourable members know. I introduced a bill for a container deposit scheme and it got some considerable debate in the other place, which I was very pleased about. It is with genuine delight and relief that I look to my colleagues in the Labor Party and see that these measures are now being put into statutory form. I look forward to seeing the legislation and participating in not only the parliamentary debate, but also the campaign to get people to embrace the idea of changing their practices in their homes and workplaces. We have taken some steps. With all these kinds of social changes, I think it is inevitable that in some sense the legislation will never go quite as far as some people would like. I issue something in the nature of a warning to my colleagues in this place who might be on the progressive end of these changes on all sorts of matters, but specifically on the reduction of plastic, that sometimes they just have to take small steps at the start.

We have to bring the community with us. We have to make it possible for people to make more radical changes in their lives if that is what they want to do, but we have to fundamentally make it easy for people to do it. That has always been my concern about some of the intents to legislate for the reduction of plastic, whether it is plastic bags, straws, bottles, balloons or takeaway food containers. We have to make it easy for people. It has been my longstanding criticism of the system in South Australia, which is often lauded as a role model for the rest of the country. Actually, its container deposit scheme is not that good. It is run by industry, for heaven's sake. That is not necessarily a model that we would want to adopt. These are the discussions we have to have. If we talk to the local scouts, who have been recycling for years, about container deposits and plastic bag bans, we find that they are right there. But these are complicated matters for legislators. The community deserves a legislature that is capable of getting its head around the complex things. I welcome the debate on this matter that we are having today.

There is one thing that disturbed me after the McGowan Labor government made the announcement about banning single-use plastic bags. As honourable members know, my home is in Denmark in the south west. Denmark is renowned as being a bit of an activist community. We are very green, not necessarily in the political sense, but environmental consciousness is pretty high in quite a significant majority of the community in Denmark. Only a matter of a few weeks after Hon Stephen Dawson made the announcement about plastic bags, I walked into the local IGA and found that the use of glad wrap–type plastic had absolutely exploded. I could not believe it. I was looking at the fresh fruit and vegetables—I know that Hon Stephen Dawson talked about this—that are displayed around the edges of the supermarket. As we all know, the fresh stuff can be found around the edges of the supermarket; people should never go down the middle aisles. Is this news to Hon Tjorn Sibma?

Hon Tjorn Sibma: No. I just don't know why you would stick to the periphery.

Hon Dr SALLY TALBOT: If people stick to the outside of the supermarket, they will keep their calorie intake down. I was walking around the edges of the supermarket in the big IGA in Denmark and I found it was awash with plastic. I thought: what on earth is going on here? I took some photos. I do not know whether people raised a few eyebrows at what I was doing, but I was taking photos of bananas wrapped in plastic and two or three sticks of celery wrapped in plastic. I sent the photos to Hon Stephen Dawson. I am not claiming credit for the reduction in that aspect of plastic use, but I have noticed that it is now being talked about everywhere; that is, we do not need to wrap an avocado in half a kilogram of plastic to sell it or keep it fresh. We have to keep on with this. We have to point out that it is wrong.

One of the ideas I have often toyed with in recent years is a bit of a civil disobedience campaign whereby we stand at the checkouts and unwrap the plastic on everything we have bought and leave it at the checkout. I ran this idea past one of the national activist groups in Australia that have campaigned for years about the reduction of plastic, and it was a little uneasy to see a member of Parliament advocating a civil disobedience campaign. Hon Stephen Dawson is absolutely right; we need to continue to work with the producers to get this done. We have to make the point that it is not good enough to arrive home with our shopping and half fill a rubbish bin with the plastic that we have discarded from things like avocado and celery. It is just insane. We have to change all that.

I look forward, perhaps in the second half of the year, to having another session like this and I will resume my remarks then.

Debate adjourned, pursuant to standing orders.

MOORA RESIDENTIAL COLLEGE — HON DARREN WEST — COMMENTS

Matter of Privilege

HON JIM CHOWN (Agricultural) [10.36 am]: I rise under standing order 93 to raise a matter of privilege. For the reasons I will outline, I request, Madam President, that you consider that the matters I raise here have sufficient substance to establish a case for further consideration by the Standing Committee on Procedure and Privileges and for its decision on whether there have been breaches of privilege resulting in substantial interference in the Legislative Council proceedings resulting from statements made to the house based on information provided by Hon Darren West.

This is not an action that I take lightly. Indeed, during my nine years in this place, I have never previously been involved in circumstances in which I felt compelled to request such an action. However, from recent information provided by Hon Darren West to the Leader of the House and the leader's answers to my questions in reliance on the information provided, I hold grave concerns for the integrity of the Legislative Council's information-gathering and accountability functions in relation to this matter. In this regard, I table two statutory declarations that I read into the house on 14 June 2018.

Leave granted. [See paper 1524.]

Hon JIM CHOWN: Having raised this matter on a number of occasions previously, I do not intend to take up much more of the time of the President, nor of members; however, I remain committed to having this matter resolved.

The matter relates to commitments that Hon Darren West is said to have provided to two Moora shire councillors regarding his willingness to engage an independent assessor to assess the repairs required for Moora Residential College to remain open and operational and his undertaking to provide $500 000 if that was the amount required to repair the college. Both statutory declarations were delivered to and received by Hon Darren West on Tuesday, 26 June 2018. In addition, I also read both statutory declarations in their entirety in the house while Hon Darren West was present during my speech delivered on 14 June 2018. Under standing order 40, Hon Darren West had ample opportunity but chose not to provide a personal explanation regarding his version of events in reply to questions I have asked and the statement I made.

Members are aware that statutory declarations are binding under law and are required to be factual in their subject matter; otherwise, severe repercussions are prescribed under the Criminal Code of Western Australia. These include a maximum prison term of five years or, for a summary conviction, a maximum of two years' imprisonment and a $24 000 fine. Suffice it to say, answers provided by the Leader of the House in reliance on information provided to her by Hon Darren West are in stark factual conflict to information received from the two shire councillors, as outlined in the two statutory declarations I have just tabled. One version of either Hon Darren West's or the councillors' conversation is factually incorrect and the veracity of each version ought to be tested. It is my view that, in the event that Hon Darren West had intentionally provided factually inaccurate information to the Leader of the House and she has based answers to my questions on that information, he has interfered substantially with the proper conduct of Legislative Council proceedings.

For completeness, I believe it is worth replying to comments recently reported in the *Farm Weekly* of 21 June 2018 and attributed to Hon Alannah MacTiernan, in case they are views possibly shared by others. I am not suggesting Hon Alannah MacTiernan confirmed that the commitments were provided by Hon Darren West. However, she did comment on the conversation's setting by stating, "You've got to look at the context. It was a festive dinner. It wasn't a formal meeting." My reply to that is twofold. Firstly, a parliamentary secretary is a senior member of the government who in any public forum, whether it be an official engagement or otherwise, is wholly responsible for their actions and utterances, especially those utterances about government policies and actions. Secondly, despite any perceived informality in which the statements may have been initially made, any informality was removed when the related questions were raised and answered twice in this place, based on the information provided by Hon Darren West. Although I do not condone such practices, it may be that some members think little of providing inaccurate or misleading commitments when out in the community. However, if a member provides misleading information for responses to questions in this place and he or she knows that information to be inaccurate, he or she is intentionally misleading the house and, in doing so, the member may well be determined as having committed a contempt of Parliament.

The subject matter of the statutory declarations now tabled is of immense public interest in Western Australia, particularly regional Western Australia, as well as this house of Parliament. The government's policy to close Moora Residential College is extremely controversial in regional Western Australia, if not the entire state. The Standing Committee on Procedure and Privileges is the only authorised parliamentary body with the ability and power on behalf of the Parliament and the public to clarify whether the said statements are correct or otherwise. If the statutory declaration signees are correct, then Hon Darren West, by his responses to the Leader of the House in regard to questions without notice 284 and 329, has raised a concern of privilege regarding the integrity of the Parliament's information-gathering and accountability functions. In the event that the President refers this matter to the Standing Committee on Procedure and Privileges, it would, of course, be for the committee to determine which version of the contradicting events is correct and whether there was any justification for making the factually incorrect statements that would be reiterated in this house.

On the grounds that I have outlined here and through the documents that I have tabled, it is my firm opinion that the matter of whether Hon Darren West has misled the house, by providing factually inaccurate information for use in answers to this house, ought to be considered and determined by the Standing Committee on Procedure and Privileges. Madam President, to resolve this matter, I believe I have no alternative but to request your consideration to refer this matter of privilege to be investigated by the Standing Committee on Procedure and Privileges of the Legislative Council.

The PRESIDENT: Hon Jim Chown has raised a matter of privilege under standing order 93. It is my intention to defer the matter, to have a look at the documents tabled today and to review today's *Hansard* and the *Hansard* from previous days about this particular matter. It will be my intention to take some time to look at that and provide a ruling to the house at a later stage.

HON SUE ELLERY (South Metropolitan — Leader of the House) [10.44 am]: Madam President, can I just ask a question to check the language? My understanding of standing order 93 is that, in the first instance, you need to give consideration to whether the issue is a matter of substance. Have you already determined that?

The PRESIDENT: No, I have not. I said that I will take all that information on board and go away, give it consideration and then come back at a later stage with a ruling.

TOWN OF CLAREMONT WASTE LOCAL LAW 2017 — DISALLOWANCE

Discharge of Order

Hon Martin Pritchard reported that the concerns of the Joint Standing Committee on Delegated Legislation had been satisfied, and on his motion without notice it was resolved —

> That order of the day 8, Town of Claremont Waste Local Law 2017 — Disallowance, be discharged from the notice paper.

ESTIMATES OF REVENUE AND EXPENDITURE

Consideration of Tabled Papers

Resumed from 27 June on the following motion moved by Hon Stephen Dawson (Minister for Environment) —

> That pursuant to standing order 69(1), the Legislative Council take note of tabled papers 1340A–D (budget papers 2018–19) laid upon the table of the house on Thursday, 10 May 2018.

Debate adjourned, on motion by **Hon Ken Baston**.

CORRUPTION, CRIME AND MISCONDUCT AND CRIMINAL PROPERTY CONFISCATION AMENDMENT BILL 2017

Committee

Resumed from 27 June. The Deputy Chair of Committees (Hon Adele Farina) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

Clause 1: Short title —

Progress was reported after the clause had been partly considered.

The DEPUTY CHAIR: I might remind members that last evening when we concluded, Hon Aaron Stonehouse had just asked a question and we were waiting on a response from the minister.

Hon AARON STONEHOUSE: Last night I asked a question about the second reading speech, which refers to criminal property confiscation around crime-used property, crime-derived property and drug trafficker declarations remaining within the exclusive jurisdiction of the Director of Public Prosecutions. The minister clarified for me the incidence of crime-used and crime-derived property, and that it would technically be possible for the Corruption and Crime Commission to make applications to the court for a freezing order—thank you for that.

Last night before we rose, I was leading in to clarifying the amendments to section 43(5), which deals with drug trafficker freezing orders and will be amended to refer simply to the "applicant for the freezing order". If we look at section 41(1), this would seem to include the CCC and empower it to make freezing orders also. I understand that would be highly unusual, I imagine, as drug trafficker freezing orders are usually sought as part of criminal proceedings for some kind of drug-related charge. Is my understanding correct that the CCC would technically be empowered to apply for freezing orders in the instance of drug trafficker declarations?

Hon SUE ELLERY: We think that the member may have been looking at the earlier version of the blue, which is the marked-up copy of the bill. The marked-up copy has not been reproduced. However, the bill on the parliamentary website is the most up-to-date one. The reference to "and (5)(a)" was deleted from clause 37(2) of the bill by amendment in the other place on 7 September 2017. It was inadvertently placed in the bill by the drafters. It was never intended that the CCC would seek a freezing order on drug trafficker grounds or would have any role in drug trafficking matters.

Hon AARON STONEHOUSE: I thank the minister for clarifying that for me. I do not have a background in law so forgive me if this is a silly question. I am wondering whether evidence obtained by the CCC through an examination order, a production order, a moratorium order, a freezing order or what have you, can then be used in either a criminal or a civil case separate from the property confiscation proceedings; is that possible?

Hon SUE ELLERY: If I take the member to clause 15, he will see that it inserts some provisions into the Corruption, Crime and Misconduct Act 2003. Evidence of an examinee in an unexplained wealth investigation may be used for the following purposes: to assist in the investigation of serious misconduct, so that is a derivative use; to provide information to another body when a matter is referred for prosecution or disciplinary action, a derivative use; to prosecute contempt or other offences under the Corruption, Crime and Misconduct Act in limited circumstances in which a person is cross-examined on an inconsistent statement in criminal proceedings; and as evidenced in proceedings under the Criminal Property Confiscation Act and any civil proceeding. The effect of that is it applies the same admissibility rules for the use of a witness's evidence under compulsory examination as applied to serious misconduct functions and it extends to use in civil proceedings or under the Criminal Property Confiscation Act.

Hon AARON STONEHOUSE: I thank the minister for clarifying that for me. That is somewhat of concern to me given the CCC's power to compel people to give evidence. Maybe the minister can clarify this for me too. My understanding is that the CCC has the power to compel someone to give evidence and legal professional privilege cannot be used in those instances. The CCC's power overrides legal professional privilege; is that true?

Hon SUE ELLERY: I preface the technical answer by, if you like, a policy answer, which is that there is always a judgement to be made about getting the balance right between protecting the civil rights of individual citizens and acting in the greater good of the whole community. When we are dealing with matters that the community deems to be of such seriousness that we ought tip that balance in favour of one versus another, that is the kind of scenario we are talking about here.

To provide the member with the technical response, the purpose of the amendment is to achieve consistency between the provisions relating to legal professional privilege under both acts. Under section 139 of the Criminal Property Confiscation Act, legal professional privilege is, in essence, abrogated in relation to any order such as an examination order, information or property-tracking document. Section 139 of the Criminal Property Confiscation Act will apply to the Corruption and Crime Commission. Section 144 of the Corruption, Crime and Misconduct Act will apply in relation to unexplained wealth for actions taken by the commission under that act, which is limited to issuing notices under that act at sections 94 and 95. The only change is for non-public officers who are issued with a notice under sections 94 and 95 of the Corruption, Crime and Misconduct Act in an unexplained wealth investigation. They will not be able to claim legal professional privilege as a reason for noncompliance, whereas the previous position under the Corruption, Crime and Misconduct Act was that non-public officers could claim legal professional privilege, which they still will be able to in the case of a serious misconduct investigation. Public officers now cannot claim legal professional privilege in respect of any of its coercive powers.

Hon AARON STONEHOUSE: I thank the minister for clarifying that for me. One aspect of this bill is that it empowers the CCC to make examination orders, rather than the current process in which the DPP would apply to the court for an examination order and then the court may issue an examination order. My understanding is that the process is that the DPP will apply for an examination order or it may apply for a production order or something like that, but whether it has been approved yet or not, an examination order application is the basis on which the courts issue a freezing order. Can the minister clarify whether that is the case currently, because that leads to another question I have around examinations?

Hon SUE ELLERY: It is not the only grounds, but if a freezing application is underway —

Hon Aaron Stonehouse: If an examination order is underway.

Hon SUE ELLERY: If an examination order is underway, that can be one of the grounds for applying. It does not have to be and it will not necessarily be, but it can be.

Hon AARON STONEHOUSE: It was put to me that an examination order being underway was one of the major factors. The minister has now said that it is merely only one of the factors considered.

Hon Sue Ellery: That's correct.

Hon AARON STONEHOUSE: Given that it is one of the factors considered, I wonder how the courts will handle the process of approving a freezing order that has been sought by the Corruption and Crime Commission. The CCC will be empowered to make its own examination order, and when considering a freezing order, an examination order is one of the considerations. I raised this in my contribution to the second reading debate: with regard to an application for property confiscation, an examination order, a freezing order and subsequent proceedings, how do we ensure that the courts will not become merely institutions that rubberstamp these applications and that they still exercise their discretion throughout the process? I understand that the policy of the bill is to remove judicial discretion for the examination order, but my concern is that that in turn will remove judicial discretion for freezing orders as well, given that one of the considerations for a freezing order is the examination order. Can the minister tell me how the courts will handle this?

Hon SUE ELLERY: I will preface my remarks by saying that I am not in a position to tell the member how the courts are going to respond. However, when it comes to looking at policy intent, the second reading speech is always the first point of reference that the court will use if it is in any doubt, and then it will go to the debate. If I recall correctly, the government's policy position on this was made clear in the explanatory memorandum and the second reading speech. Those are the signals that the Parliament sends to the courts about our expectations for how the court will respond. Judicial discretion, as with other judicial powers, must always be exercised appropriately; otherwise it may be subject to challenge on administrative law grounds. That is why I made the point: if in doubt, the court will look to the policy intent that was set out when the matter was dealt with in Parliament.

Hon AARON STONEHOUSE: I thank the minister for that answer. I suppose time will tell, and once these powers are enacted we will see how the courts respond and what level of discretion they exercise when freezing orders are applied for. The CCC's ability to make examination orders on its own was of great concern to me, given

its power to compel people to give evidence and testimony. This may in some way enable the CCC to go fishing for evidence by applying its own examination orders at a whim and finding evidence that it could use in other cases, whether they are property confiscation cases or something else.

Hon Sue Ellery: I guess I'll just make this point, if you'll take an interjection: "whim" is not a word that I would necessarily associate with the CCC.

Hon AARON STONEHOUSE: Sure, perhaps.

I have just one last question. The Director of Public Prosecutions and the Western Australia Police Force currently have a target for criminal property confiscation, and I think it is in a dollar amount. The Auditor General recently conducted an audit of property confiscation within the state and referred to these targets. He specifically mentioned that if the DPP achieves its target, it is paid a bonus—through the Department of Justice, I suppose—as an incentive for it to pursue property confiscations. Is it the government's intention to implement a similar target for the CCC for property confiscation, and what might that target be?

Hon SUE ELLERY: First things first, I am not aware of the description the member says applies to the DPP. I am not suggesting that he is wrong or that the reference he made to the Auditor General is wrong, but I am not aware of it, I do not have any evidence of it, and I do not have any advice on it here. However, in response to the member's question about whether there is such a target for the CCC, I can tell him that the answer is no.

Hon MICHAEL MISCHIN: I will pursue the line I was taking before Hon Aaron Stonehouse made his contribution. I turn to the letter from the Director of Public Prosecutions to the Corruption and Crime Commissioner dated 14 March 2017, and the then director's preliminary comments on what was at that stage a draft cabinet submission. She raised a number of issues. She did not comment on an appropriate model by which unexplained wealth proceedings are to be investigated, commenced and litigated because she considered that a matter of policy. She had difficulty addressing some of the issues that were flagged by the commissioner and she questioned the role contemplated for the DPP in these matters. She expressed a preference for unexplained wealth functions not being conferred on another agency to the exclusion of her office because—if I understand this rightly—they may usefully be an adjunct to confiscation actions under other provisions of the act that her office handles.

Her correspondence also raised a number of questions about the interaction between the Director of Public Prosecutions, the Western Australia Police Force and the Corruption and Crime Commission, given that they will have parallel, if not overlapping, roles. Before we go into specifics—I know this matter was touched on during the course of the minister's reply to the second reading debate—I have concerns that there will be a need for careful delineation and cooperation between those agencies. At the moment, for example, WA police are meant to investigate unexplained wealth—whether they do so or not is another matter, but that is their function, along with other functions, under the Criminal Property Confiscation Act—and hand the legal work to the Director of Public Prosecutions, as one of the director's functions. We seem here to be looking at a model under which part of that is to be done by the Corruption and Crime Commission; but who acts for the Corruption and Crime Commission? Will it be doing all its legal work in-house, or will it rely on the Office of the Director of Public Prosecutions for any of that? In situations in which there are overlapping cases, who will take conduct of them and how will they be managed? The previous director ultimately advocated that being relieved of much of the confiscation action and it being devolved onto a standalone agency would be an ideal situation. As I understand it, the director was concerned about the potential problems of compromising investigations being conducted by one agency or another, and the need for early advice and cooperation between investigative and applying agencies, as it were, and the like. I am also concerned in that regard by the comments made by the Chief Judge of the District Court, who flagged the question of discovery. The Director of Public Prosecutions, as a prosecuting agency, experiences continuing problems with relying on police to provide disclosure in criminal matters.

I would like to have an idea of whether these issues have been considered, to what degree they have been considered, and how far they have been resolved so that we can make sure that what is being proposed by the government is practicable, workable and will be implemented. Given the high hopes that have been established by the Attorney General in his media releases about how important this legislation is, how quickly it needs to be enacted and got underway, and how targets are being scoped, I would hate to think that once we got to that stage, things fell apart because insufficient thought has been given to the mechanics of how this will work.

Hon SUE ELLERY: I will deal with a couple of things first. The honourable member began by making reference to the letter from the then acting Director of Public Prosecutions, Ms Forrester, about conferral of the unexplained wealth functions to another agency. Her view was that that should not be to the exclusion of her office, and, of course, in the bill that is before us, it is not.

The member also raised the matter of who will act, and whose in-house counsel will be utilised in unexplained wealth matters. I am advised it is anticipated that most of the legal work associated with that function will be conducted in-house. The Corruption and Crime Commission is well equipped with in-house lawyers experienced in criminal and civil litigation. External legal assistance will be sought if and as required. Thought has been given

to the relationships between the respective agencies. I did touch a bit on this in my second reading reply, but I am able to add to it. The commission has already established a strong working relationship with the WA Police Force proceeds of crime squad. The commission and the WA police proceeds of crime squad have already agreed in principle to hold fortnightly meetings for the purpose of discussing investigations and de-conflicting those investigations and targets to ensure there is no conflict between the commission and WA Police Force investigations. It is anticipated that the majority of referrals for unexplained wealth investigations will in fact come from the WA Police Force. The focus of WA police has been on crime-used and crime-derived and drug-trafficker matters. Its role in unexplained wealth has been limited. Therefore, it is not anticipated that there will be any difficulty in defining the roles between the police and the commission, and WA police has been highly supportive of the commission working in the unexplained wealth area. The commission has already established a quarterly meeting of interagency financial investigators. That meeting, of which there have been two to date, is attended by the WA Police Force proceeds of crime squad.

In respect to the member's further question about the workings of the relationship between WA police and the CCC in the exercise of unexplained wealth investigations, it is anticipated that the majority of referrals will come from the WA Police Force. If the WA Police Force refers a matter to the commission for investigation, it will do so having determined that a commission investigation will not compromise or overlap with a WA Police Force investigation. A memorandum of understanding exists between WA police and the commission that can be amended to include agreements in relation to unexplained wealth. Information will be exchanged under proposed section 21AD to the Corruption, Crime and Misconduct Act 2003, which provides the commission with a broad power to exchange information with appropriate authorities, including WA police.

Under the concurrent powers of the DPP, it is correct to say that the unexplained wealth provisions can be exercised concurrently. However, historically speaking, the DPP has not utilised its unexplained wealth powers, and, indeed, it called a moratorium on exercising those powers. There is no MOU between the DPP and the commission; nonetheless, they regularly meet and consult on serious misconduct. There is a strong working relationship between the two agencies, which will continue, in conducting unexplained wealth investigations and proceedings. Continuing consultation with both the DPP and WA Police Force will ensure that any potential for conflict over common functions is easily identified and resolved.

I think the final matter the member raised was discovery. I touched on this last night. The issue arose out of a letter from the Chief Judge of the District Court. His Honour was reluctant to make any submissions on the proposal, given the independent position of the courts. However, His Honour flagged, I guess, that one issue that might require consideration was a possible obligation to give discovery in civil proceedings and the extent to which that might create awkwardness in view of the commission's functions and powers. The commission has given considerable and careful consideration to the possible obligation to give discovery. Confiscation proceedings are civil proceedings, so the rules of discovery apply, and the commission will comply with those rules. Where appropriate, the commission will make applications for public interest immunity on discoverable material and suppression orders.

Hon MICHAEL MISCHIN: I thank the minister for that detailed and comprehensive response; I appreciate the minister's information. Just to touch on the correspondence that has been tabled from the various agencies, plainly there was consultation at least with the Supreme Court, the District Court, WA Police Force and the DPP at a relatively early stage. However, have they been provided with the final form of this legislation to comment on, and have they indicated any difficulties or cavilled at any of the matters that have been raised in the legislation? They seemed to be broadly supportive of the idea at a very early stage, but most of them made the point that they have not seen the final version; they have seen only the draft cabinet submission and have not been able to see the final detail. Also, has there has been any input from the Solicitor-General on the drafting of this legislation?

I also ask the minister to advise whether there has been any consultation with the Parliamentary Inspector of the Corruption and Crime Commission. I ask that particularly in light of his function of supervising the operations of the CCC. This will be an extra layer of responsibility for the inspector, particularly with regard to negotiating settlements. I understand the pragmatism of reaching a settlement on proceeds of crime matters. However, I am concerned that the power to target people for what is believed to be unexplained wealth, and then negotiating with someone whom the Attorney General has categorised as the "head of a snake" and "an evil drug dealer" in order to achieve some kind of commercial settlement may compromise the integrity of the CCC and its operations without adequate supervision to ensure that is done within very strict guidelines. I say that for two reasons. The first is the powers of the CCC and the risk that it is a government-supported and statutorily supported extortion if that power is misused. The second is that if the aim is to deter criminals who are behind the scenes of these massive drug and organised crime operations, but they are allowed to buy their way out of trouble by way of a commercial settlement for commercial reasons, that would not only detract from the deterrent element, but also put a stain on the reputation of the law enforcement agency in dealing with that level of criminal activity. I would like to get some assurances about whether the Inspector of the Corruption and Crime Commission has been consulted, and what resources will be provided to him, if necessary, so that he can do his job of ensuring the integrity of that agency.

I note that in the past there has been comment from the Joint Standing Committee on the Corruption and Crime Commission about the risks of the Corruption and Crime Commission working too closely in association with the Western Australia Police Force, which is one of the agencies for which the Corruption and Crime Commission has a function of ensuring integrity. I recall the minister mentioning in her second reading reply that there would be a sequestration—a Chinese Wall, as it were—or some separation of responsibilities within the CCC to ensure that there is no conflict. I ask the minister whether she could expand on that. It is very important that the Parliament, the joint standing committee, the Parliamentary Inspector of the Corruption and Crime Commission and the public know that this has been considered and that safeguards are being proposed to ensure that difficulties do not arise and that these agencies do not compromise or misuse their powers.

Hon SUE ELLERY: I did touch on most of those things in my second reading reply, but nevertheless. The first issue that Hon Michael Mischin raised was around any further consultation with the DPP. Yes, I am advised that there was further consultation with the DPP. In respect of the Solicitor-General, the Solicitor-General was involved and consulted before the bill was split.

Hon Michael Mischin: But that was one particular part of it, not this.

Hon SUE ELLERY: Correct. The Solicitor-General's involvement was around that other bit that went to parliamentary privilege, not the bit that went to the policy matters that we are dealing with today.

Hon Michael Mischin: Was that the scrutiny or investigation of members of Parliament?

Hon SUE ELLERY: That is correct. As I referred to in my second reading reply, informal consultation between the commission and the parliamentary inspector did occur. The primary functions of the parliamentary inspector under this act will not be affected by this bill, because the parliamentary inspector has primarily an audit function of the CCC. Nevertheless, I get the point the honourable member was making. The commission looks forward to reporting to the parliamentary inspector, as required by the Corruption, Crime and Misconduct Act, on all aspects of its function, and to continuing dialogue on the effectiveness of the commission's procedures and its compliance with these laws.

The member raised the issue around the parliamentary inspector, particularly in relation to settlements. The essence of the question, I guess, was about the extent to which the commission would be negotiating with criminals, and that there was a risk that there would be a compromise that is not in the public interest. Confiscation proceedings are civil proceedings. The Supreme Court Act provides a system for the mediation of civil proceedings. Supreme Court practice direction 4.2 states —

1. Mediation is an integral part of the case management process and, in general, no case will be listed for trial without the mediation process having first been exhausted.

As a result, there are both legal and ethical obligations upon the parties to civil proceedings, of which the commission will be one, to attempt to reach a negotiated settlement. Contested litigation is costly and obviously time intensive. In appropriate matters, settlement is the best way to maximise the overall return to the state and, commensurately, the best way to maximise the overall deterrent and disruptive effect of the regime. The exercise of any aspect of the commission's unexplained wealth function, including the conduct of any negotiated settlements, will be conducted under the oversight of both the parliamentary inspector and the joint standing committee. The parliamentary inspector will continue in that oversight role. In particular, under section 197 of the Corruption, Crime and Misconduct Act, the parliamentary inspector has the power to make or hold an inquiry for the purpose of his functions. The parliamentary inspector may utilise this power if he sees fit in relation to any aspect of the commission's unexplained wealth function, including any settlements. I note that in the chairman's foreword to the first report of 2013 of the Joint Standing Committee on the Corruption and Crime Commission, Hon Nick Goiran noted —

> It appeared to that Committee that the investigation of criminal wealth may be an avenue by which the CCC could aid WA Police in the fight against organised crime without compromising its ability to oversight the operations of WA Police.

Hon MICHAEL MISCHIN: Just in respect of the DPP's views, the minister mentioned that the Director of Public Prosecutions has since seen the final version of the legislation. Is that right?

Hon Sue Ellery: Yes.

Hon MICHAEL MISCHIN: Did the director make any comment regarding it?

Hon SUE ELLERY: I am advised that those consultations resulted in the form of the bill that was introduced into the Assembly. We are not aware of any other issues that were not taken into account.

Hon MICHAEL MISCHIN: Just so I understand it correctly, was the Director of Public Prosecutions, after seeing the final version of the bill that was introduced in the Assembly, content with that?

Hon Sue Ellery: Can I take you back? It was the final version before it went into the Assembly. What went into the Assembly reflected the views of the DPP.

Hon MICHAEL MISCHIN: Okay. Likewise, with the Western Australia Police Force?

Hon SUE ELLERY: I am not able to give an answer as to whether WA police saw the final version before it went into the Assembly; however, I can advise that no issues were raised by police in its preparation. I am not in a position to say which final version they saw, but I can say that no issues have been raised.

Hon MICHAEL MISCHIN: I presume that the Corruption and Crime Commissioner saw that version of the legislation and was happy that it met his expectations.

Hon SUE ELLERY: Indeed.

Hon MICHAEL MISCHIN: Was the parliamentary inspector consulted on the legislation in the course of its drafting, and did he get to see the final version?

Hon SUE ELLERY: The parliamentary inspector was certainly consulted informally, which is the answer I gave about five minutes ago. I am not in a position to provide an answer on whether the parliamentary inspector saw a final version of the bill, because the advisers are not aware of that. However, there was informal consultation with the parliamentary inspector. I have already set out to the chamber the issues that were canvassed.

Hon MICHAEL MISCHIN: I am not having a go at you, minister, because you are acting as the proxy for the Attorney General in this respect, so you are not aware of what he may or may not have done. Is the minister able to explain, firstly, what informal consultation is? Was it over a cup of coffee? Was there some passing of the legislation through or some liaison between the Attorney General's ministerial advisers and the inspector? Did it take the form of a written response? I am just not sure what it means. Please understand that I am not having a go at you, minister; I just do not understand what it means.

Hon SUE ELLERY: The informal consultation was not between the Attorney General and the parliamentary inspector; it was between the commissioner and the parliamentary inspector. I have already canvassed the issues that were ventilated in that consultation.

Hon MICHAEL MISCHIN: But the fruits of that consultation were communicated to the Attorney General, presumably, before he crafted the final version of this legislation. Is the minister able to say what comments the parliamentary inspector made to the commissioner? It seems odd to me that legislation of this character is being introduced into the Parliament when an integral part of the supervision of the activities of the CCC on a day-to-day basis is through the parliamentary inspector, and the Attorney General has not directly consulted with the parliamentary inspector but allowed it to be done through the commissioner, who—this is not a reflection on his integrity—has an interest and has sought to gain these powers. The commissioner has been "informally" consulting with the person who has oversight, and we do not know the outcome and nature of that consultation.

Hon SUE ELLERY: I can advise that the commissioner, in dealing with the advisers at the table who are the ones who put the bill together, did pass on the results of consultation, formal and informal, that he had regarding things that he asked the people who are providing me with advice to put into the bill. They cannot give me advice and I cannot give the member advice about whether a direct, personal conversation happened between the commissioner and the Attorney General.

Hon MICHAEL MISCHIN: To make that plain, was there no correspondence seeking the parliamentary inspector's input into this legislation between the Attorney General's office and the parliamentary inspector?

Hon SUE ELLERY: I am advised that, to the knowledge of the advisers who are with me today, there was not.

Hon MICHAEL MISCHIN: Are the advisers able to say, from the information that they have had access to, whether the parliamentary inspector made any comment about what was being proposed, about the resources the parliamentary inspector may require to discharge his function, and whether he made any criticisms of or suggestions about the form of the legislation?

Hon SUE ELLERY: No. No further information is available, other than what I have already responded with, about any issues that might have arisen in the course of that informal consultation. I have already indicated the outcome of the informal consultation with the parliamentary inspector in my second reading reply and in response to the member's question this morning.

Hon MICHAEL MISCHIN: Was there any consultation, formal or informal, with the Law Society of Western Australia?

Hon SUE ELLERY: Honourable member, no. I specifically listed the organisations that the member asked about in his contribution to the second reading debate when I replied and I indicated there was not.

Hon MICHAEL MISCHIN: The reason I ask is: why not?

Hon SUE ELLERY: I am not able to give the member an answer to that question.

Hon MICHAEL MISCHIN: I know that the minister ran through a list, so there is no need to remind me of that, but just to confirm: I take it that there was no consultation, formal or informal, between the Attorney General's office and the Criminal Lawyers' Association of Western Australia?

Hon SUE ELLERY: No.

Hon MICHAEL MISCHIN: Is there any reason why not?

Hon SUE ELLERY: No. What the honourable member asked me in the second reading debate was whether there had been consultation with a range of external organisations. I replied that there had not been. I have no further information about why not with each of those organisations. I am also not aware of any consultation with any other external organisations that may not have been referred to in the list that the member relied upon in his second reading contribution.

Hon MICHAEL MISCHIN: I asked this a little earlier, but I do not think it was addressed: has there been any indication, to the minister's knowledge or to her advisers' knowledge, whether the parliamentary inspector has flagged the need for additional resources in order to discharge his function?

Hon SUE ELLERY: Not that I am aware of.

Hon MICHAEL MISCHIN: I have mentioned my worries about the mediation process. These are civil proceedings; they are not common or garden civil proceedings. It is neither the state nor a private individual suing someone over a breach of right or a failure to comply with an obligation. This is an inquisitorial process, leading to orders to hand over property, or its value, in what may be a significant sum. We are hopefully looking at significant sums, given the talk about how this is to deal with organised crime and significant amounts of unexplained wealth. Has any thought been given to the propriety or appropriateness of the ordinary civil processes applying in the case of these quasi-criminal processes in which the whole point is to deter criminal activity? Are things like a mediation process through the courts and haggling over amounts with criminals considered an appropriate way to go? The idea that the courts have their rules in civil matters is all very well, but it strikes me as being odd. In a quasi-criminal process of trying to seize unexplained wealth—not because someone has happened to have a windfall, but because underlying criminal activity is suspected to have given rise to that benefit and, from what the Attorney General has been telling us publicly, it is cutting heads off snakes and trampling wildlife and the like; it is undermining society—are the usual civil processes appropriate? Ought the mediation process be changed in some way through this legislation?

Hon Sue Ellery: Sorry, I do not want to ask the member to repeat himself, but can he just repeat the last bit?

Hon MICHAEL MISCHIN: I think there is a weighty argument here about whether the usual civil processes of mediation should apply in those sorts of cases, given that they are quasi-criminal. They may strictly be civil cases, but they have a deterrent element—that is, the use of the state's power to compel people to reveal evidence that is not in their interests about their financial and private affairs with a view to seizing ill-gotten gains and deterring criminal activity. Has consideration been given by the Attorney General that it is all very well to have civil proceedings in the case of a party-to-party dispute over a breach of right, obligation or contract, but this is a very different sort of proceeding, so some things like mediation ought not to apply and a different process ought to be crafted?

Hon SUE ELLERY: I understand the point that the honourable member is making, which is essentially whether due weight has been given to the fact that we are relying on the civil proceedings rules for something that we might deem to be far more serious than a contractual dispute. I understand the question. As I understand it from the policy development, the starting point was to put into the statute as simply as possible the practice, if you like, around unexplained wealth. If there is a need to readdress that policy, it would affect the overall scheme of the Criminal Property Confiscation Act, and that is a much bigger issue than just the conferral of existing unexplained wealth powers under the CPC act onto the commission. It is a bigger policy issue. The member may have the view that it is a bigger policy issue and that government should do it, but the government's decision at this point is not to take that bigger step but, rather, to focus on just, if I can use the expression, conferring those existing unexplained wealth powers under the CPC act onto the commission.

Hon MICHAEL MISCHIN: I thank the minister. As I say, I understand that she is not the minister who is sponsoring the bill and she can work only with what she has. But the sense that I have received is that a great reform has been touted and the government is going to give the Corruption and Crime Commission the power to do this, that and the other and it will have wonderful effects on the deterrence of criminal activity and the like, but it has not entirely been thought through. Rather than the Attorney General rushing this bill into Parliament last year and saying that organised crime had better shiver in its boots, he might have profited from a little bit of thought about the implications of what is being sought and whether the mechanisms that will be used are really geared to what is proper, as well as what is achievable. I have a concern that a commission with the powers of this one is fitting into a civil process that is not suited to and not designed for this kind of activity on the part of the state. The courts are setting the rules for mediation and negotiation in order to save the courts the trouble of litigation and there is incentive for the authorities to cut costs, resources and time and to achieve a settlement, yet we are not simply dealing with an argument between private parties or between the state and some private citizen over what might be due as damages; we are saying that they have unexplained wealth that is presumed to come from unlawful purposes and we are going to haggle over how much they need to pay to buy their way out of us investigating them

further and seizing all that wealth from them. That strikes me as being a very different situation and one that needs some careful thought. Nevertheless, the government has chosen this approach and tried to fit itself into the general civil scheme that has been dictated by the courts through their rules of court. I would have hoped that there would have been a little more thought to it because it is one of the things that needs to be addressed in due course. I note that the Attorney General has announced a more general review of the proceeds of crime regime in Western Australia. Can the minister tell us whether this element will be looked at as part of that inquiry?

Hon SUE ELLERY: I cannot really add anything further to what I have already said. I note that the member has expressed a point of view and he is entitled to it. I understand his point of view. In respect to the last bit, it would be inappropriate in dealing with this bill, and I am not in a position in any event, to tell him about the government's future plans on other bills.

Hon MICHAEL MISCHIN: Turning to a couple of other things, and I mentioned this in the context of the national cooperative scheme over unexplained wealth, I understand from what the minister has told me that in about May last year, Western Australia disengaged from that process on the recommendation of the Western Australia Police Force, but that is all for another day. Part of the package that was being negotiated under two different federal governments, and certainly under the last one, as a quid pro quo for Western Australia's participation was to obtain greater access to information that is not ordinarily readily available yet is integral to determining whether someone has unexplained wealth—namely, information from the Australian Taxation Office, the Department of Social Services and various commonwealth agencies that compile data on citizens across borders. Have any arrangements been reached to gain access to that information so that the CCC can do its job, rather than simply relying on testimony and what it can squeeze out of someone in Western Australia who falls under its jurisdiction and whom it can grab as a witness, and counter the sorts of defences that might be put up and the explanations that might be canvassed by people of interest to the commission in exploring their wealth and how it was obtained?

Hon SUE ELLERY: The powers under the Corruption, Crime and Misconduct Act are fairly broad to enable the commission to seek support and assistance from, or consult or exchange information with, any relevant body, including commonwealth agencies. That empowers the commission to not only receive, but also transmit information. The commission is not restricted in whom it may ask for information. The commission may, and already does, obtain information from commonwealth agencies such as the Australian Taxation Office and the Australian Transaction Reports and Analysis Centre in accordance with their respective legislative information exchange requirements. The commission has established strong connections and a working relationship with the Australian Federal Police's Criminal Assets Confiscation Taskforce. I have already said that the commission has established quarterly meetings of the interagency financial investigators. That meeting is attended by commonwealth agencies, including the Australian Criminal Intelligence Commission, the AFP, AUSTRAC, the Australian Securities and Investments Commission, the Commonwealth Director of Public Prosecutions and the ATO. The purpose of those meetings is to foster and facilitate cross-border and interagency cooperation. Those powers already exist, the relationships already exist, and the arrangements are already in place. I do not have any information about whether the Attorney General has entered into any further agreements or understandings with his commonwealth counterpart. I just do not have access to that information.

Hon NICK GOIRAN: It is close to midday on the final sitting day before the winter recess—I assume it will be the final sitting day before the winter recess—and this is the first opportunity I have had to ask any questions on the Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017. We are dealing with clause 1 of a bill that was introduced by the government in this place on 14 September last year. The government has brought forward this substantial bill of some 77 clauses on the last day of the autumn sittings with, I understand, the expectation of it being passed today, and apparently the expectation of passing another two pieces of legislation today. I will quickly remind the chamber that when we get to the Tobacco Products Control Amendment Bill 2017, we will be going through that bill clause by clause. I find it amazing that we are in this situation. Had the government had the foresight to refer this bill to the Standing Committee on Legislation in September last year—nine months ago—we would not be in this situation now in which multiple members have to ask multiple questions on the clauses before us. I hasten to add, for the benefit of the Leader of the House, that I have a number of questions on clause 1, but can I also foreshadow that I will also have questions to ask on clauses 2, 4, 14, 15 and 65. I note that there is also a supplementary notice paper on which other members will contribute.

To get things started, yesterday the Leader of the House responded to the questions asked by the shadow Attorney General about the Chief Judge's letter dated 7 March 2017 and his reference to the discovery process in civil proceedings and the possibility of awkwardness in view of the Corruption and Crime Commission's functions and powers. The Leader of the House has responded to that by indicating that the commission will, as needed, seek suppression orders. Is that the only awkwardness that the Chief Judge is referring to? I know that the Leader of the House said earlier that she cannot go into the mind of the Chief Judge, but has somebody checked with the Chief Judge to ensure that the suppression orders are the awkwardness that he is referring to?

Hon SUE ELLERY: The honourable member's understanding is correct. I cannot go in the mind of the Chief Judge, quite frankly, and neither can anybody else. The letter states —

> … one issue that might require consideration is the possible obligation to give discovery in civil proceedings and the extent that this may create awkwardness in view of the Commission's functions and powers.

As I read the ordinary English in that letter, the Chief Judge referred to one issue.

Hon NICK GOIRAN: That one issue has been interpreted by the commission and the government in such a way that they will now apply for suppression orders as required. My question is: has that been checked with the Chief Judge?

Hon SUE ELLERY: No, it has not. If the member reads the first sentence of the letter from the Chief Judge, he will see that it states —

> Thank you for your letter dated 28 February 2017 providing me with the opportunity to give feedback on the proposal of assigning to the Corruption and Crime Commission …

He was asked for feedback on the proposal of assigning to the Corruption and Crime Commission the functions and powers currently held by the Director of Public Prosecutions and Western Australia police. His response to that in the letter states, firstly, "I am reluctant …", given the independent position of the courts. He then states, "However, one issue …", and he refers to the consideration of X and sets that out. He was given the opportunity to provide feedback and that is the feedback he provided. The feedback he provided was taken into account with the explanation that I have already provided to the chamber.

Hon NICK GOIRAN: These civil confiscation proceedings at the moment are capable of being conducted and have been conducted from time to time by the DPP and the WA Police Force. When the DPP and WA police conduct these civil confiscation proceedings, do they have an obligation to give discovery?

Hon SUE ELLERY: The answer is yes. The DPP and the commission, as set out in the bill, are obliged to comply with discovery provisions.

Hon NICK GOIRAN: When the DPP and WA police provide discovery in civil proceedings, do they have any awkwardness in doing so?

Hon SUE ELLERY: I am absolutely not in a position to provide an answer to that. I do not have police advisers sitting with me, so I am not in a position to provide an answer.

Hon NICK GOIRAN: If I got a letter like this from the Chief Judge, I would find out what the DPP and WA police do at the moment in their civil proceedings. If they do not have any awkwardness, then I would conclude: why would the CCC have any awkwardness unless there is a difference between the two? Has anyone considered that?

Hon SUE ELLERY: The difference is the secrecy provisions that apply in the act and that govern the commission, which is why the commission has the option—I think I said it in the second reading speech—of seeking a suppression order if it is appropriate in those particular circumstances.

Hon NICK GOIRAN: Is it the government's position that when the DPP and WA police make these civil confiscation proceedings, they have to disclose all their evidence under the discovery provisions, whereas the commission, because of the secrecy provisions, may not need to disclose all its evidence?

Hon SUE ELLERY: I am not in a position to provide advice about what the DPP or WA police do now or may do in the future. I do not have that advice. I can give the member advice about what the commission will do with the new powers that it is being granted in this legislation. I have already responded to that issue around discovery, but I am not in a position to provide the member with advice about what the DPP and the police do.

Hon NICK GOIRAN: We will move on and we will just hope that the government has it right and there will be no problems with the provision of discovery in these proceedings and these new powers that the government will give to the CCC, albeit after a nine-month delay to the passage of this bill.

We will move to the letter from WA police dated 7 April 2017, which states that the draft cabinet submission states —

> … the CCC has adequate staff to carry out these types of investigations and sufficient resources to carry out hearings as deemed necessary.

How many full-time equivalent staff have been earmarked to carry out these investigations?

Hon SUE ELLERY: There is a financial investigations team, and other investigators can be drawn in if and as required. The final number of full-time equivalents has not been set and will not be set until the commission can get a sense of the demand. There is a financial investigations team and other investigators can be called in. The advice I have been provided is that the commission's view is that it should wait to see what the demand is before it settles on the final allocation.

Hon NICK GOIRAN: I recall when we were last considering this matter, not yesterday but probably a couple of weeks ago, the minister indicated to the chamber that this would be operational on 1 July 2018.

Hon SUE ELLERY: Correct; I did. The financial investigations team is in place and it will exercise this function. In addition, other investigators can be called upon to exercise this function. It is not that there are no FTEs sitting there ready to commence this work. They are there. On the question of what the final allocation will be, the commission's view is that it wants to wait to see what the demand is. It is ready to go on 1 July with its financial investigations team and its capacity to draw in other investigators.

Hon NICK GOIRAN: How many FTEs are in this financial investigations team?

Hon SUE ELLERY: I am advised that it has three FTEs.

Hon NICK GOIRAN: On Sunday, when these laws take effect and we start tackling the Mr Bigs, we have three full-time equivalent staff in the financial investigation team who will be ready to go. That is terrific to know. I am sure that the Mr Bigs in Western Australia are shaking in their boots at the thought that three full-time equivalent staff will be targeting them after Sunday. Be that as it may, what is the role of these three full-time equivalent staff in the financial investigation team at the moment? What type of investigations do they do today when the laws are not yet in place?

Hon SUE ELLERY: They deal with serious misconduct matters that are financially linked. It is the financial investigations team, so it deals with the functions of the commission in respect of financial matters.

Hon NICK GOIRAN: Will those three full-time equivalent positions still do that from Sunday onwards?

Hon SUE ELLERY: Yes. As I explained and as I am advised, the commission has determined that the best way to use its resources is to allocate this work to the financial investigations team, knowing that if the need is there, it has the capacity to draw in other investigators. It wants—it sounds prudent to me—the ability to make a judgement on what the demand will be before settling on the final number.

Hon NICK GOIRAN: I understand that. But the three full-time equivalent people in the financial investigations team who are doing investigations into serious misconduct are not twiddling their thumbs. They have been very busy, no doubt, being conscientious workers of the state, undertaking financial investigations on serious misconduct. My concern is that as of Sunday we are now giving these three individuals the additional task of taking down the Mr Bigs of Western Australia. We are giving them no extra resources. We are just giving them extra work to do. Only a few things can happen in that situation. First, the people are completely overworked and overstressed and leave. Second, they do not do the job properly because they have too much to do with too little resources. Third, something has to go. Have these three full-time equivalent staff been advised whether to prioritise investigations under the confiscation provisions as of Sunday or have they been asked to continue to prioritise serious misconduct investigations?

Hon SUE ELLERY: I am advised that all the work that arises out of serious misconduct matters will continue to be assessed. The commission regularly assigns priorities and, if necessary, suspends or terminates an investigation if resources need to be committed to a more important investigation, whatever that investigation is, and that practice will continue. The proposed unexplained wealth power is deemed an important one and if the public interest is better served from time to time by particular serious misconduct investigations, resources will be reallocated accordingly. The commission is aware of that and the way that it organises its work now is a balancing exercise, with reallocating resources from time to time if necessary. The commission's advice to me is that it will continue to do the same practice it does now. It will judge the requirements that are coming through the door and reallocate resources accordingly.

Hon MICHAEL MISCHIN: There must be some idea, minister, of how much additional workload will be undertaken, because we heard on several occasions from the Attorney General—including when he was trying to hurry up Parliament in the other place and trying to use his comments to send a message up here not to stall this bill, even though it has been brought on only very, very recently—that people within the organised crime squad have been scoping targets for the CCC, that the CCC is ready to go and that it had a whole bunch of people from January this year whom it was ready to look into in order to give effect to this announcement he made last year about cutting the heads off snakes and dealing with organised crime. Can the minister tell us how many potential targets are ready to go and that the CCC will commence investigating next week?

Hon SUE ELLERY: No, I am unable to give the member a precise number.

Hon Michael Mischin: Even just a ballpark.

Hon SUE ELLERY: I am unable to give the member a number. The commission is going to allocate its resources according to need. The advice I have from the commission is that that is what it does now. That management practice will continue and it will adjust how it allocates people according to the need.

Hon MICHAEL MISCHIN: Is there more than one? Does it have a target that it is planning to give priority to?

Hon SUE ELLERY: As I said, I cannot actually provide the member with a number.

Hon NICK GOIRAN: In the same letter from the Office of the Commissioner of Police, the then commissioner states —

> The draft states the CCC has adequate staff to carry out these types of investigations —

We have dealt with that, and I thank the minister for her assistance, but the letter then goes on to state —

> and sufficient resources to carry out hearings as deemed necessary.

What are those other resources deemed necessary to carry out hearings?

Hon SUE ELLERY: I am advised that those other resources include the covert capability—surveillance teams and equipment—in-house legal teams, financial investigators and in-house hearing room capacity.

Hon NICK GOIRAN: The minister has also referred to a letter from the Director of Public Prosecutions dated 14 March 2017, which states —

> … the feedback I do have at this stage should be regarded as preliminary only.

Was any subsequent feedback obtained from the DPP after that time?

Hon SUE ELLERY: I am advised that no further issues have been raised. The DPP was provided with a copy of the draft bill and consultation on the amendments and the like followed. There is no further information on what other issues have been ventilated.

Hon NICK GOIRAN: Just to be clear, the DPP was provided with a draft of the bill, and presumably when the DPP was provided with a copy, the DPP was invited to comment. Did the DPP provide comment?

Hon SUE ELLERY: I canvassed the answer to this question earlier, honourable member, but I will say it again; perhaps the member was out of the chamber on urgent parliamentary business. There were discussions about the issues from the DPP's point of view. The things that were raised in those discussions were taken into account in the bill that was introduced into the Legislative Assembly. I am advised that no further issues have been raised by the DPP.

Hon NICK GOIRAN: At the risk of this having already been addressed earlier, has the chamber been provided with a list of the issues that the DPP raised and that were addressed in the consultation on the bill?

Hon SUE ELLERY: No, and there is no list.

Hon NICK GOIRAN: Right. On what basis can we be confident that issues were raised by the DPP?

Hon Sue Ellery: Because I told you.

Hon NICK GOIRAN: Okay; but the minister did not do the consultation with the DPP. Someone has obviously done some kind of consultation—bear with me—on the bill. Presumably, there must be a record of this consultation, which is why the minister is able to inform the chamber now that this consultation took place. It was not this minister, but there has to be a record of it somewhere. There is not a list, but what is the record upon which we can base confidence in this information?

Hon SUE ELLERY: As I said earlier, there were discussions. There is no document that I have or that I can gain access to. I am advised that there is no list. Discussions were held. The issues that were raised were taken into account, and they are reflected in the bill that was introduced into the Assembly.

Hon NICK GOIRAN: So discussions took place, but not discussions between the minister and the DPP and, I think I heard earlier, also not between the Attorney General and the DPP. There were discussions —

Hon Sue Ellery: Between the commission and the DPP.

Hon NICK GOIRAN: Maybe the commissioner, or the commission. In any event, whether it is the commissioner or the commission, someone had some discussions with the DPP, and we are being informed that that is the case. On what basis can we say that? Surely someone must have a memo. In order to be able to say to the chamber that discussions took place, someone must know this. Who is providing the information to the chamber that discussions took place? It has to be someone who was part of the discussions. Who is that person?

Hon SUE ELLERY: I am really not trying to be obtuse here, but the honourable member knows well how these matters run. The advisers sitting at the table provide me with advice, which I then relay to honourable members when they ask me questions. When the member asks me how do I know, it is in the same way that I know anything when I give answers in this place: I ask the advisers, and they provide me with the information. That is the information that I have been provided with.

Hon NICK GOIRAN: I am just testing the advice that has been given to the minister, which is my responsibility. There are two scenarios here. Either the advisers giving the minister this advice now were part of the consultation and so are delivering the minister this information from their own personal knowledge and experience, in which case it would put this thing to bed once and for all, or, alternatively, they know by some other form, and if it is another form, I would like to know what it is.

Hon SUE ELLERY: I am advised that both the advisers sitting at the table were at the meeting when the issues were raised.

Hon NICK GOIRAN: To close this off, who else was at that meeting?

Hon SUE ELLERY: I am advised, to the best of the recollection of the advisers sitting with me, who were at the meeting: the DPP, the two advisers sitting with me, the parliamentary drafter and Jim Thomson from the Attorney General's office.

Hon NICK GOIRAN: For the benefit of advisers, whether present or elsewhere in the public sector in Western Australia, my own advice is that if they are at a meeting, they should keep a record or memo of it. If it were me, that is what I would do. I find it odd that there is no document in the possession of the government of Western Australia about a meeting that took place between the Director of Public Prosecutions, two advisers and two other individuals about a consultation process on a draft bill to address issues that the DPP might have had. I find it odd that no document in the whole of Western Australia can be provided to us to confirm the date of the meeting and the issues that were raised—very odd. But if that is what we are being told, and no document is in existence, so be it. I hope a freedom of information process does not indicate that a document exists.

The minister dealt with the business of the informal consultation undertaken with the parliamentary inspector. My learned friend the shadow Attorney General raised this earlier, but he did not actually get a response: what is meant by the phrase "informal consultation"? I do not understand that phrase; either there has been consultation or there has not. Does the government have some form of definition that it is using for "formal consultation" and "informal consultation"?

Hon SUE ELLERY: We have not gone down the path of trying to define what we mean by "informal" and "formal" consultation. It is the ordinary English use of those words. I have already advised the chamber that the consultation took place person-to-person, in conversation.

Hon NICK GOIRAN: In line with the question I asked earlier about consultation with the DPP, at this consultation, which is characterised as "informal"—whatever that is intended to mean—and which was person-to-person, was it just between the commissioner and the parliamentary inspector, or did it involve other individuals as well?

Hon SUE ELLERY: I am advised it was just the commissioner and the parliamentary inspector. If there is something in particular that the member wants to ask, I will be happy to provide it, if I am able, but I did answer that question probably about half an hour ago.

Hon NICK GOIRAN: Okay. It is often the case that the minister does say these things, but it does not necessarily mean that it is correct. Yes, the minister had an exchange with my learned friend the shadow Attorney General, but she did not answer the question of what is the difference between "informal" and "formal" consultation.

Hon Sue Ellery: You are right, but I did say it was between the commissioner and the parliamentary inspector.

Hon NICK GOIRAN: Yes, and I was just checking whether anyone else was present. We are now told that nobody else was present, and that is fine—that closes off that matter and we can move along speedily and facilitate the passage of this bill.

Earlier in the debate on clause 1, Hon Aaron Stonehouse raised some important concerns. Minister, am I left to understand that what this bill does in part is give the Corruption and Crime Commission the power to apply for something that it does not have the power to investigate?

While the minister is considering that, I hasten to add that I did hear the minister indicate to Hon Aaron Stonehouse that some amendments are before the Legislative Assembly to deal with part of those concerns. I want to be clear about this. Has the point that was raised by Hon Aaron Stonehouse been addressed by those Legislative Assembly amendments so that it is now redundant? In other words, although the earlier version of the bill might have had the technical situation in which the CCC had the power to apply but not investigate, does the CCC now not have the ability to apply or investigate?

Hon SUE ELLERY: I will start with what I explained earlier to Hon Aaron Stonehouse. In September last year, an amendment was made in the other place to proposed section 43(5)(e). The reference was to the applicant for the order. That was deleted from the bill by that amendment. It had inadvertently been placed in the bill by the drafters. It was never intended that the CCC would seek a freezing order on drug trafficker grounds. In Committee of the Whole, I also addressed this issue when I referred back to section 41(1), which empowers the court to make a crime-used or crime-derived freezing order upon application by the Corruption and Crime Commission. What I said was —

> Although the member is right in having identified that it is technically possible for the commission to apply for an order, it does not have the power to do the investigation. That would need to be done in order for it to apply for the order.

I said also —

> … given that it does not have the power to do the work that would lead to having the material it needs to make the application for the order, in a practical sense it is not going to happen.

Hon NICK GOIRAN: I recall the minister saying that last night. However, this morning, the minister has referred to the amendments that were made in the Assembly. It is not clear to me whether the amendments made in the Assembly therefore make last night's comments redundant. It sounds to me as though they are both still relevant, and that although part of the issue has been addressed in the Assembly, it remains the case that what Aaron Stonehouse has identified is correct—namely, that we have the peculiar situation that this bill will give the CCC the power to make an application but not the power to investigate matters that would lead to an application. Why would we do that? Why would we not simply remove the ability for the CCC to make these applications if it cannot investigate anyway? The reason I labour this point somewhat, minister, is that the CCC has had quite a tortuous history. If ever someone wanted to find a loophole and make an application or appeal or say a body is acting outside of its statutory grounds, this is the body that would cop that type of scrutiny and attention. Therefore, I think it is preferable in this piece of legislation, and in any legislation dealing with the Corruption and Crime Commission, that the Parliament is crystal clear about what it expects and intends the commission to do, rather than have technical loopholes hanging in abeyance.

Hon SUE ELLERY: Part of the issue is a drafting one. I am advised that the drafters took the view that it is pretty difficult to disentangle the criteria by which each of the three different organisations might seek an order. Therefore, it was better to draft it in the terms that appear before us in the bill, knowing that the commission could never meet the first part, which is the investigative part, and that to try and disentangle, if you like, and have different sets of criteria, was from the drafting point of view fairly difficult to do without impinging on other elements of it. The estimation is as I gave, although I appreciate that perhaps I did not make it as clear as I am now, in the sense that the drafters took the view that, ultimately, no harm could be done, if I can use that expression, because the commission cannot do the first bit that it would need to do to establish or have the grounds to seek an order.

Clause put and passed.

Clause 2: Commencement —

Hon MICHAEL MISCHIN: My question regarding clause 2 is about the commencement of the rest of the act. I know that part 1 of the bill, which is the preliminary bit—the short title and commencement provisions—comes into effect on the day on which the act receives royal assent. Paragraph (b) tells us that the rest of the act will come into effect on a day fixed by proclamation, and that different parts can come into effect on different dates. I have two questions, really. Firstly, why is there a separate provision for the rest of the act? Are there any regulations that need to be proclaimed or any other work that needs to be done? I understand from Hon Nick Goiran, and I think it was confirmed to a large extent by the minister, that it is intended that the legislation come into effect this Sunday. How is that going to work? Is there going to be a special Executive Council meeting to give the royal assent between now and Sunday? There are amendments on the notice paper, so the bill will have to be referred to the Assembly if those are passed. What is the timetable for its enactment, given that the Attorney General has lectured the Assembly and us in the other place about how he hoped to have all this in operation by 1 January this year?

Hon SUE ELLERY: I am advised that there are no regulations. The commission has not commissioned or instructed the drafting of any regulations as there are no regulations under the Corruption, Crime and Misconduct Act 2003. Under the Criminal Property Confiscation Act 2000, regulations relate to enforcement and recognition of interstate orders and therefore require no amendment. The commencement clause is as advised by parliamentary counsel. I do not know, but there may well be a special meeting of Exco to give effect to the legislation.

Hon NICK GOIRAN: To borrow the minister's earlier phrase about no harm done, would there be any harm done if the entire act came into operation at the same time as identified in clause 2(a), that being on the day on which it receives the royal assent?

Hon Sue Ellery: No.

Hon NICK GOIRAN: There would be no harm done?

Hon Sue Ellery: No.

Hon NICK GOIRAN: It is a shame that we are not doing it, then. Does the minister not want to move an amendment?

Hon Sue Ellery: No; I have too many to move already.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Long title amended —

Hon NICK GOIRAN: Clause 4 seeks to amend the long title, which includes the words "organised crime". Did the government give any consideration to amending the definition of "organised crime", obviously not with respect to the long title, but in terms of the definition of "organised crime" in the act? The definition in section 3 of the Corruption, Crime and Misconduct Act 2003 reads —

> ***organised crime*** means activities of 2 or more persons associated together solely or partly for purposes in the pursuit of which 2 or more Schedule 1 offences are committed, the commission of each of which involves substantial planning and organisation;

If that is going to be the case, I do hope that the answer given is different from the one in the minister's second reading reply.

Hon SUE ELLERY: To the extent that I referred to a report from the committee, if that is what the honourable member is asking me not to refer to —

Hon Nick Goiran: No.

Hon SUE ELLERY: I am advised that the tenth report of 2014 of the Joint Standing Committee on the Corruption and Crime Commission found that an amended definition of "organised crime" within the Corruption, Crime and Misconduct Act would or could encourage WA police to make greater use of part 4 powers in the Corruption, Crime and Misconduct Act. Those powers, though, have nothing to do with investigating unexplained wealth. They can only be enlivened on application by the Commissioner of Police and they do not empower the commission to investigate organised crime. The commission's part 4 powers are limited to authorising WA police to use exceptional powers and obtain fortification warning notices. The narrow definition of "organised crime" in the Corruption, Crime and Misconduct Act at section 3 is directly referable to the power set out in part 4. It is not relevant to the investigation of unexplained wealth as proposed by the bill.

Hon NICK GOIRAN: Yes, but is not the purpose of this bill to send a message to those involved in organised crime? I quote specifically from the minister's second reading speech, in which the minister said —

> This bill sends a clear message to those involved in organised crime at the upper levels that they are not untouchable and that, in fact, the Corruption and Crime Commission stands ready to engage them.

If that is the government's intended purpose, why would it not take this opportunity to also amend the definition of "organised crime"? The minister is plainly aware of the tenth report, to which she has just referred.

Hon SUE ELLERY: I suppose the honourable member has an arguable point. The long title of the bill does indeed refer to organised crime. In any event, the purpose of the bill is to deal with unexplained wealth. The provisions of the bill are narrowly focused on unexplained wealth; the bill was not necessarily seen as an opportunity to address other matters.

Hon NICK GOIRAN: I will simply make this point: it is most unfortunate that the government has failed to properly take into account not only the tenth report from April 2014, to which the minister has referred, but also the other report to which the minister regularly referred during debate on clause 1. The minister referred to the first report from 2013. I do not have a copy of that report in front of me, but I understand it is the follow-up report to the originating report, which was the twenty-eighth report from June 2012. The minister has today enjoyed quoting from my chairman's foreword.

Hon Sue Ellery: I do not know about "enjoy".

Hon NICK GOIRAN: The portion that the minister enjoyed quoting is —

> The fact that the WA Police have preferred in the past to have the Office of the DPP conduct what are resource-intensive financial investigations—work for which the Office of the DPP is not properly or adequately resourced—indicates, in part, that investigations of this nature are a low priority for the WA Police.

Of course, what the minister does not then quote is the very next paragraph of the chairman's foreword, which states —

> The JSCCCC 38th believed that any problems were unlikely to be rectified solely by expanding the jurisdiction of the CCC. Noted deficiencies in the present *Corruption and Crime Commission Act 2003* would need to be addressed if the CCC is to prove more effective than the current model.

That is, the current WA police and office of the DPP model.

It is as black and white as that in the twenty-eighth report from June 2013, which the government selectively quotes from. It is one thing to give the CCC this expanded jurisdiction and there are arguments for and against that—the opposition has already indicated we will support it—but it is another thing to completely ignore or fail to read the warnings in the report about noted deficiencies in the present CCC act. If it is not working at the moment with the

DPP and the WA police, it is not going to be able to work with the CCC unless these deficiencies are addressed. Some of those deficiencies have been outlined repeatedly by the Joint Standing Committee on the Corruption and Crime Commission. I draw to members' attention the first six findings from the committee's tenth report. This shows how long this issue has remained a problem. I quote the findings —

> **Finding 1**
>
> The Joint Standing Committee in both the 37th and 38th Parliaments recommended that the definition of organised crime in the *Corruption and Crime Commission Act 2003* should be amended.
>
> **Finding 2**
>
> The statutory review of the *Corruption and Crime Commission Act 2003* (the CCC Act) by Ms Gail Archer SC in February 2008 recommended that the CCC Act's definition of organised crime be amended as proposed in the JSCCCC's Report 31 in the 37th Parliament.

The first two findings indicate that there was a statutory review by Gail Archer, SC. She recommended that the definition be amended. The committee in the thirty-seventh Parliament recommended it. The committee in the thirty-eighth Parliament recommended it. I will move to the next findings —

> **Finding 3**
>
> The previous State Government introduced a Bill to Parliament in 2012 to amend the *Corruption and Crime Commission Act 2003* (the CCC Act) which included an amendment to the definition of organised crime that had been developed with the assistance of the Commissioner of Police and the Commissioner of the Corruption and Crime Commission. This proposed amendment would have implemented the recommendations of this Joint Standing Committee in the previous two Parliaments, and the Archer statutory review of the CCC Act.
>
> **Finding 4**
>
> The Corruption and Crime Commission has received no applications from WA Police for the use of the exceptional powers provisions contained within the *Corruption and Crime Commission Act 2003* in this and the previous two financial years.

I hasten to add that that was in April 2014. I will not ask the minister how many applications have been made in the subsequent financial years but I suspect it will be either nil or a figure very close to that. The report continues, and I quote —

> **Finding 5**
>
> The Police Commissioner provided evidence to the Committee that the chief impediments to the regular, efficient and effective use by WA Police (WAPOL) of the Part 4 powers contained in the *Corruption and Crime Commission Act 2003* (the CCC Act) were:
>
> - the definition of organised crime in the CCC Act;
> - the application process required by the Corruption and Crime Commission for WAPOL to follow; and
> - the cost to WAPOL of using the current Commission process.

The final finding I will refer to, which is finding 6 of the 14 findings in this report, states —

> **Finding 6**
>
> An amended definition of organised crime within the *Corruption and Crime Commission Act 2003* … would encourage WA Police to make greater use of the Part 4 powers in the CCC Act.

That leads to recommendation 1 in the report, which states —

> The Attorney General should amend the definition of organised crime within the *Corruption and Crime Commission Act 2003*. A new definition should allow WA Police to apply for Part 4 powers to include suspected crime or a crime that is likely to occur.

This has been going on ever since I was involved in this committee, so more than eight years. The current government selectively quotes from my chairman's foreword when it suits it but then ignores, in the same chairman's foreword, where it states there are noted deficiencies in the present CCC act and that these would need to be addressed. I am disappointed that the government has done that. It makes me wonder what the point is of being on these joint standing committees, or any committee for that matter, when that number of hours are invested, including the hours put in by research officers and the like, to put these comprehensive reports together and the government has a bill before the house and seemingly intentionally has chosen not to address those particular parts. Instead, it has selected other parts that it will address. As I said, I am disappointed by that, but it is clearly not going to change today. It is clear to me that the government will not be amending the bill to amend the definition

of "organised crime", despite the fact that Gail Archer, Senior Counsel as she was then, recommended it during her statutory review and despite the fact that the joint standing committee in the thirty-seventh, thirty-eighth and thirty-ninth Parliaments has suggested the same thing.

The DEPUTY CHAIR (Hon Robin Chapple): Members, there is a little bit of audible conversation going on, which I think is affecting the ability of Hansard to record properly, so could we keep conversation down, please.

Hon NICK GOIRAN: I will conclude on this point about clause 4 since we are talking about organised crime. In that same report, mention is made in finding 11 of fortification notices. I quote —

> **Finding 11**
>
> Fortification warning notices in Part 4 Division 6 of the Corruption and *Crime Commission Act 2003* are a useful power for WA Police actions against organised crime groups.
>
> **Finding 12**
>
> It is a shortcoming of the *Corruption and Crime Commission Act 2003* that it fails to discourage organised crime groups from re-fortifiying premises previously dismantled by WA Police.
>
> **Recommendation 2**
>
> The Attorney General amend the *Corruption and Crime Commission Act 2003* to prevent the re-fortification of premises previously dismantled by WA Police.

Again, I simply make the point that I am disappointed that the government has chosen to ignore recommendations 1 and 2 in the sense of not addressing them in this bill. Of course, that does not prevent the government from bringing in a bill to do exactly those things on the first sitting day when we return in August. That would still be possible. It would be welcomed and encouraged by me. However, it is very disappointing that this has not happened given that this bill has been in the Legislative Council for nine months. Had the bill been referred to the Joint Standing Committee on the Corruption and Crime Commission nine months ago, this would be the type of thing that the committee could have identified and could have encouraged the government to amend it. The fight against organised crime would have been better for it.

The DEPUTY CHAIR: Minister?

Hon Sue Ellery: No.

The DEPUTY CHAIR: No commentary.

Clause put and passed.

Clauses 5 to 8 put and passed.

Clause 9: Section 91 amended —

Hon ALISON XAMON: I rise to explain the nature of the amendment proposed on the notice paper, which I will move in a moment. As I mentioned in my contribution to the second reading debate, this new power that is being proposed to be given to the Corruption and Crime Commission is significant and, as such, I think it is important that Parliament is kept apprised of the full impact of the way this provision is being employed. What is currently in the legislation before us is that "a description of the Commission's activities during that year in relation to its unexplained wealth functions" will be incorporated within an annual report. It does not spell out the level of detail that potentially should be reported to Parliament in that report. My proposed amendment attempts to prescribe the level of detail that would be given to Parliament so that Parliament can feel satisfied that it has more comprehensive information. Of course, the level of information being requested does not limit the capacity for additional information to also be provided. The intention is to ensure that we can be guaranteed that there will be a bare minimum of information to help satisfy Parliament that it is being given sufficient information about what is happening with this new regime. I move —

> Page 6, line 5 — To delete "functions." and insert —
>
> functions including but not limited to:
>
> (i) the number of cases in which the confiscable property was subject to a secured or unsecured debt;
>
> (ii) in relation to each such debt:
>
> (A) the particulars of the debt;
>
> (B) the nature of the creditor;
>
> (C) whether and if so how the debt was taken into account in the exercise of the Commission's functions; and
>
> (D) whether the creditor used the objection process under Part 6 of the *Criminal Property Confiscation Act 2000* and if so the outcome of that process;

(iii) excluding creditors referred to in (i) above, the number of cases in which a person apart from the person the subject of the confiscation proceedings had or claimed to have a legal or equitable interest in the confiscable property;

(iv) in relation to each such interest:

(A) the particulars of the interest;

(B) whether and if so how the interest was taken into account in the exercise of the Commission's functions; and

(C) whether the person used the objection process under Part 6 of the *Criminal Property Confiscation Act 2000* and if so the outcome of that process.

Hon SUE ELLERY: The government will not support this amendment. It proposes to insert in the commission's annual reporting to Parliament as part of the proposed unexplained wealth powers a requirement to include information pertaining to interests in confiscable property. The information required to be reported on includes whether the property was subject to any debt or mortgage, the particulars of the creditor, how this was taken into account in the commission's exercise of these functions and whether the objection process under section 6 of the Criminal Property Confiscation Act was utilised in the outcome of that process. This is an additional reporting requirement that is not placed upon either the Western Australia Police Force or the Director of Public Prosecutions and it is our view that this is unnecessary and onerous. In addition, there is oversight of the commission by the Joint Standing Committee on the Corruption and Crime Commission. As part of its oversight function, it is able to request information of this kind from the commission if it requires it and, accordingly, to report to Parliament. On that basis, the government will not support the amendment.

Hon MICHAEL MISCHIN: I understand the point that Hon Alison Xamon is making with the amendment. In drawing on my previous experience with these matters, I think it is drilling down to a level of information that is probably too onerous for an annual report. I note that although this may impose a particular obligation on the Corruption and Crime Commission, it does not do so for the Office of the Director of Public Prosecutions or the Western Australia Police Force, which will exercise very similar functions and, in the confiscation and forfeiture of property, are probably more likely to encounter these sorts of difficulties. In any event, the opposition does not support the proposed amendment for the reasons that have been outlined by the minister. The levels of oversight, including not only the annual report, but also the ability to seek answers in estimates hearings and oversight from the Joint Standing Committee on the Corruption and Crime Commission and the Parliamentary Inspector of the Corruption and Crime Commission, will provide sufficient avenues to obtain the sorts of information that might be relevant to that sort of inquiry.

Amendment put and negatived.

Clause put and passed.

Clauses 10 to 13 put and passed.

Clause 14: Section 144 amended —

Hon NICK GOIRAN: Clause 14 of the bill seeks to amend section 144 of the Corruption, Crime and Misconduct Act 2003. This section of the act deals with the important issue of legal professional privilege. I ask the minister whether the government gave any consideration to the twenty-first report of the Joint Standing Committee on the Corruption and Crime Commission of 2011 in the thirty-eighth Parliament.

Hon SUE ELLERY: Although the advisers are confident that the commission would have considered that report at the time it was released, it was not relied upon for the drafting of this bill.

Hon NICK GOIRAN: The twenty-first report of the Joint Standing Committee on the Corruption and Crime Commission is titled "Parliamentary Inspector's Report Concerning Telecommunication Interceptions and Legal Professional Privilege". It is a shame that this was not dealt with during the informal consultations that took place with the current parliamentary inspector. Perhaps, once again, it is a lesson on why there ought to be formal consultation, albeit I reiterate my earlier point that I cannot see the difference between the two, because either the government has consulted or it has not. I find the term "informal consultation" ambiguous to say the least. Nevertheless, this particular report highlighted some serious concerns by the then parliamentary inspector, Hon Chris Steytler, QC. It troubles me that the government has given no consideration to this report when looking at the issue of legal professional privilege and deciding to amend the provision under section 144 of the act.

Sitting suspended from 1.00 to 2.00 pm

Hon NICK GOIRAN: Prior to the interruption of proceedings, we were considering clause 14 of the bill, which seeks to amend section 144 of the Corruption, Crime and Misconduct Act 2003. That particular section deals with the important issue of legal professional privilege. The government has delayed the passage of this bill for nine months. It has been languishing on the table in the Council for nine months, for reasons known only to the

government, when it could have been referred to the Standing Committee on Legislation or some other committee that would have facilitated the passage of this legislation. Prior to the interruption in proceedings, we learnt that the government, in all the time it has had, including this delayed nine-month period, has not considered the "Parliamentary Inspector's Report Concerning Telecommunication Interceptions and Legal Professional Privilege". That is what we were told prior to the interruption. I would like to know from the minister whether the procedures outlined in that report have been reviewed. By way of explanation, I ask that because recommendation 4, by the then parliamentary inspector, was that those procedures should be reviewed after they have been in operation for 12 months. This report is, as I mentioned earlier, from 2011.

Hon SUE ELLERY: I need to do two things: I need to correct the record for something I said earlier. I will do that in a minute, but first I will answer the honourable member's question. The tenth report by the Joint Standing Committee on the Corruption and Crime Commission of 2011 recommended that the commission deal with intercepted telephone calls that may contain material that is subject to legal professional privilege. The commission adopted the recommended practice and went further. Now intercepted telephone calls are initially marked "possibly privileged" by monitors, and secondly, a dedicated senior lawyer assesses the legal professional status. If legal professional privilege is identified, the call is quarantined and never comes to the knowledge of the investigator. If not, it is released.

There was an earlier exchange about a meeting between the Director of Public Prosecutions, the commission, the parliamentary drafting office and Jim Thomson. There was an exchange about whether a list of issues had been identified and whether notes were kept of that meeting. I have now been advised that there is no list; however, file notes were kept of the meeting. I do not have access to those; however, notes were taken.

Hon NICK GOIRAN: I thank the minister for the correction. It is amazing what can be uncovered when we have short interruptions in proceedings.

The minister indicates that the commission not only accepted the recommendations outlined by the parliamentary inspector but went further, so I thank the minister for that advice. My question was: were these procedures reviewed after they had been in operation for 12 months, as per recommendation 4 by the parliamentary inspector?

Hon SUE ELLERY: I am not able to provide that information. None of the advisers here were employed at the commission before 2014; none of them are able to tell me what occurred between 2011 and 2014. From the point that they were employed, nobody is aware of a review. One may have happened earlier, but these officers would not know.

Hon NICK GOIRAN: It is an excellent thing that in the chamber this afternoon we have the Deputy Chair of the Joint Standing Committee on the Corruption and Crime Commission and also his colleague Hon Alison Xamon because this is precisely the type of issue that the Joint Standing Committee on the Corruption and Crime Commission might like to explore in due course, because we have a very serious matter to do with legal professional privilege. It is being tampered with by the government in the sense that section 144 of the act is being amended. We know two things: that the government has had informal consultation with the current parliamentary inspector—whatever that is supposed to mean, to the extent that we know anything about this so-called informal consultation—and that a conversation took place between the current commissioner and the current parliamentary inspector. We know nothing else about that particular process. We certainly do not know whether the issue of legal professional privilege was discussed between those two esteemed gentlemen. We do not know whether any file notes were kept of that particular informal consultation, but what we also know is that the government has given zero consideration to the twenty-first report during the thirty-eighth Parliament for this particular provision. We do not know whether there has been any review of the procedures, despite the fact that Hon Chris Steytler, QC, said that those procedures should be reviewed after they had been in operation for 12 months. I would encourage those members to take up this matter, because plainly that is not going to be taken up now.

The only reason it will not be taken up now, so that the record is clear, is that two things have happened. Firstly, the government has delayed the passage of this legislation for nine months. It has control of the agenda of the house and it has chosen not to bring on this matter. Secondly, the government insists that this bill pass today so that the Mr Bigs can be tackled from Sunday, 1 July this year. Remember, we already know that the government supposedly had these people lined up for hearings from 1 January, so of course it is very distressed that it is taking another six months. The government is certainly not interested in any further delay, or proper scrutiny of legislation, despite the fact it has not even considered some of the key reports. This is the kind of fiasco that we are in. It leaves members like us, who are trying to do the job of the Legislative Council properly, in the unenviable position of simply having to let this go through to the keeper. That is totally unacceptable. The blame for this rests solely at the feet of the government. I am very disappointed that the important work of Hon Chris Steytler, QC, has been ignored by this government. I urge the two honourable members of this place who represent this chamber on the Joint Standing Committee on the Corruption and Crime Commission to take a close look at this to ensure that it has no further problems. Having been a member of that committee at that time, I recall that Hon Chris Steytler was very concerned about how the Corruption and Crime Commission was dealing with legal professional privilege. He was so concerned that he decided to draft this report and bring it to the committee's

attention. The committee concurred with him and tabled it in this place. For this government to show no regard whatsoever to that report is poor and I am disturbed that we are unable to get any information about this issue.

Unfortunately, the government is ill-prepared for today's Committee of the Whole proceedings, telling us that the respective advisers were not the relevant advisers at the time. That is not the fault of those individuals, but it is the fault of the government for not being adequately prepared for today's proceedings. How are we supposed to make simple progress through this bill this afternoon if basic questions are unable to be answered, other than to simply say, "Sorry, none of us were there at that time"? That is not going to be helpful to the passage of the legislation or provide us with any answers to the questions that we have on the serious matter of legal professional privilege. I note that Hon Aaron Stonehouse raised concerns about this issue in his earlier contribution, and quite rightly so.

I had intended to also ask questions about similar aspects of clause 15, which is the next clause that will be before the house, but I can see that there will be absolutely no point in asking those questions because the government is ill-prepared today to deal with this legislation, despite the fact that it has had nine months to prepare for today. I do not know what has been happening in the last nine months. Maybe the government has been so busy campaigning in Darling Range that it has not had time to prepare for today's proceedings. What an absolute waste of time that was! Not only was the Darling Range campaign a complete failure, but, in addition, the government is not prepared for today's proceedings. The poor old Legislative Council gets the worst of both worlds because of the attitude of this government. I am very disappointed and I can see no point in continuing to ask questions to scrutinise this legislation because the government is not ready today and the responsibility will now shift from this chamber to the Joint Standing Committee on the Corruption and Crime Commission. Thank goodness there is a joint standing committee that will be able to provide rigour and oversight of all the activities of the Corruption and Crime Commission, including these new provisions, which will become law when the government hastily brings them into effect on Sunday and the committee starts tackling the Mr Bigs with its three full-time equivalent staff, who will have to shift their focus away from serious misconduct. Supposedly, the three of them will tackle the Mr Bigs. Of course, members should keep in mind that the individuals the government wants to tackle have been sufficiently competent to outwit the Western Australia Police Force and the Director of Public Prosecutions, which currently has the capacity to make these applications. The government thinks that three full-time equivalent staff from the CCC will be enough to tackle organised crime in Western Australia. I am very disappointed. This is a missed opportunity by this government. It could have built upon the work of the Joint Standing Committee on the Corruption and Crime Commission's eight years of work in this space. It could have brought in a new definition of "organised crime", which multiple reports and multiple individuals have said could be the best thing the government could do. It did not do that! It could have considered these other reports. It has not done that either! It could have been well prepared for today's debate. It did not do that either! Instead, its members are too busy doorknocking in Darling Range and reminding everybody about Barry Urban and other things. I cannot underscore enough my disappointment that a matter of this gravity and seriousness is being treated in this fashion by this government.

Be that as it may, I understand that the government has an agenda that it would like to achieve. Far be it for the opposition to be obstructive on such a thing. Far be it for us to take the approach that members opposite do when they so-called answer questions from members of the opposition. Far be it for us to take that type of obstructive and evasive approach. We will facilitate the passage of this legislation despite the fact that the government is ill-prepared after nine months of delay. We have never really been provided with an explanation about why it was delayed for nine months. Despite all that, I can see that there is no point in me asking any further questions about clause 14 or clause 15 and, most probably, any other clause. I had indicated to the Leader of the House that I might ask questions about clause 65. When I cool off in a moment, I will give some consideration to whether I will do that still.

Clause put and passed.

Hon SUE ELLERY: In respect of the supplementary notice paper, I would like to perhaps provide some assistance to the house by advising that there have been some discussions behind the Chair. On page 2 of the supplementary notice paper in my name is a new clause 24A. I seek the Deputy Chair's advice because I do not want to move that. I indicated to the house that agreement has been reached behind the Chair that the review clause that we will all agree to is that in the name of Hon Michael Mischin. The review clauses in my name and in the name of Hon Aaron Stonehouse will either fall away or not be moved, whatever the process we need to follow is.

The DEPUTY CHAIR (Hon Matthew Swinbourn): You just do not move that clause.

Clauses 15 to 24 put and passed.

New clause 24A —

Hon MICHAEL MISCHIN: I thank the Leader of the House for her indication of support for the proposed new clause 24A, which will insert after section 226A of the Corruption, Crime and Misconduct Act 2003 a section titled, "Review of 2018 amendments to Act". I will not read the proposed amendment out, but suffice it to say, it proposes that the minister carry out a review of the operation and effectiveness of the amendments proposed in the

bill as soon as practicable after every fifth anniversary of the date on which they come into effect, prepare a report based on the review and table a report in each house of Parliament not later than one year after that fifth anniversary. A similar review clause is proposed for later in the bill to deal with amendments to the Criminal Property Confiscation Act in similar terms. I think its purpose is self-evident. Apart from other things, the Corruption and Crime Commissioner has indicated that he has the resources to deal with what is proposed under the bill, but would suggest a review of those resources after three years. Five years seems to be a reasonable period of time for an assessment of whether what is being proposed by the government has been effective or needs to be addressed in some fashion, or has revealed problems that need to be solved. I am sure that, in any event, if any difficulties come to light before then that are of a sufficiently urgent nature, they will be dealt with as necessary. A proper, holistic review of the scheme of giving the Corruption and Crime Commission these specific powers under the Criminal Property Confiscation Act is a sensible course to take, quite independent of any other review or annual reporting done by the Corruption and Crime Commission or by the Director of Public Prosecutions in respect of their particular function under the Criminal Property Confiscation Act. I move —

Page 14, after line 21 — To insert —

24A. Section 226A inserted

After section 226 insert:

226A. Review of 2018 amendments to Act

(1) The Minister must carry out a review of the operation and effectiveness of the amendments made to this Act by the *Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Act 2017* as soon as is practicable after every 5th anniversary of the date on which the *Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Act 2017* section 8 comes into operation.

(2) The Minister must prepare a report based on each review and cause it to be laid before each House of Parliament —

(a) as soon as practicable after the review is completed; but

(b) not later than 1 year after each 5 year anniversary.

Hon SUE ELLERY: As I indicated earlier, the government will support the amendment moved by Hon Michael Mischin. It reflects agreements reached behind the Chair. We originally started with two points of difference between the three versions of review. One was about whether it would be a recurring review and the second was whether it would be after five years or after three years. The government has conceded on both of those issues, and we are happy to support the amendment moved by Hon Michael Mischin.

Hon AARON STONEHOUSE: I indicate that I will also be supporting this amendment, and as agreement has been reached behind the Chair, I will be withdrawing my amendment after this one is passed. There are some serious unanswered questions about this bill, such as the impact on legal professional privilege, as we have just heard, and also about the potential perverse incentives around targets for property confiscation. I also have many broad questions about criminal property confiscation in the act. Although this will not address my concerns with the act, it will at least ensure that the new provisions and the powers extended to the CCC are reviewed in a timely manner and on an ongoing basis, so I am happy to support this form of review clause in lieu of my own.

Hon NICK GOIRAN: I think I just heard the minister say that there were two points of difference. One was the recurring nature of the review, and the second was whether it would be three or five years, and that the government has conceded both points. I note that the amendment before the house mentions a five-year review clause, not a three-year clause.

Hon Sue Ellery: Yes.

Hon NICK GOIRAN: I just seek clarification; that does not make sense.

Hon SUE ELLERY: The member is right. Originally, we did not want a review at all. We have agreed to a review after five years and that it be recurring. I do not think anything turns on it, but there was discussion about whether there was a review at all, a recurring review, and whether a review at all and/or a recurring review would occur after three years or five years.

Hon NICK GOIRAN: I thank Hon Michael Mischin for moving this amendment and for fixing up the work of the government. I note that the government was choosing a far more shifty amendment that would have seen only one review taking place, rather than a regular ongoing review, but, more importantly, if members cared to cast their eyes over the amendment that was originally drafted by the government, they would have seen a review done, the report of which could be tabled at some indefinite period of time, including never, whereas Hon Michael Mischin has had the foresight to see that it would be much more appropriate to ensure that the report is tabled no later than one year after the conclusion of the review. I thank him for doing that, and it is quite right that this amendment be supported, particularly because of the comments I made earlier that we have now had to

rush this legislation through on the final sitting afternoon before the winter recess because of the government's insistence on leaving it languishing on the table for nine months. As I have indicated earlier, we are not able to get satisfactory answers to questions, so this review that gets done in five years' time will be very important. The other point I make is that I would ask the two honourable members who represent this chamber on the Joint Standing Committee on the Corruption and Crime Commission to ensure that there is keen scrutiny of these provisions within this five-year period, because five years is a very long time for a review of these provisions. It no doubt suits the government to wait five years, when many of the government members may no longer be here. However, for those of us who intend to still be here at that time, that is a long way away, and I would ask those two members to ensure that these provisions receive proper scrutiny and that there is formal consultation with the parliamentary inspector.

New clause put and passed.

Clause 25 put and passed.

New clause 25A —

Hon ALISON XAMON: I have already spoken on this matter in my second reading contribution, so I do not feel that I need to go over it at length. To refresh the memories of members, I reiterate that the Greens continue to be concerned about the scope of this new provision, particularly because the criminal property confiscation laws, as they currently exist in this state, run the risk of being inherently unjust. As such, this provision seeks to ensure that, should the Corruption and Crime Commission use its extraordinary powers in these matters, it should be satisfied that the matter it is investigating is substantially connected with organised crime, rather than being waylaid by fairly minor matters in which the greatest injustices of the criminal property confiscation laws have been highlighted. People who grow marijuana in their own homes, for example, for their own purposes run the risk of potentially losing their homes. This motion attempts to limit the scope, so that the extraordinary powers of the CCC are focused on the crime that we would anticipate it should be used for—that is, to deal with substantive matters limited to organised crime, and not those matters that would otherwise be more appropriately dealt with by the police. I move —

Page 15, after line 4 — To insert —

25A. Section 5A inserted

After section 5 insert:

5A. Application of Act to CCC

Where this Act confers functions on the CCC, the exercise of those functions is subject to the CCC being satisfied that there are reasonable grounds for suspecting that the matter is substantially connected to organised crime as defined in the *Corruption, Crime and Misconduct Act 2003* section 3.

Hon AARON STONEHOUSE: I wholeheartedly support this amendment. It seems the intent of the bill we are dealing with is to tackle organised crime. The Attorney General has spoken in vivid detail about cutting the heads off snakes, the gates of hell and all other kinds of strange biblical references. If this bill is indeed intended to cut the head off the snake, further clarifying that these powers should be exercised only when there is a substantial connection to organised crime makes sense and will help avoid some of the situations I mentioned in my contribution to the second reading debate in which people who are using drugs for own personal consumption, but are not necessarily traffickers and not involved in organised crime, are losing their property. I wholeheartedly support this amendment. I do not see how it interferes with the policy intent of the bill and I believe that the powers extended to the CCC should still be able to be exercised effectively in targeting organised crime with this amendment included.

Hon SUE ELLERY: As Hon Alison Xamon indicated, we canvassed this debate a little earlier. The proposed amendment would insert a requirement for the commission to satisfy a test of reasonable grounds in its exercise of unexplained wealth powers under the Criminal Property Confiscation Act 2000. This test would be in addition to the existing civil standard on the balance of probabilities that the court must be satisfied of within all confiscations proceedings. The amendment proposes to define the circumstances in which the commission can undertake unexplained wealth investigations and link them to the commission's functions under its act. The government does not support the amendment. The commission does not support the amendment, as the exercise of unexplained wealth powers is not intended to be derived from the commission's functions and definitions regarding organised crime. As I indicated in our earlier debate, the powers under part 4 of the Corruption, Crime and Misconduct Act relating to organised crime have nothing to do with investigating unexplained wealth. They can only be enlivened on an application by the Commissioner of Police and do not empower the commission to investigate organised crime. The commission's powers under part 4 are limited to authorising the WA police to use exceptional powers and obtain fortification warning notices. The narrow definition of organised crime in section 3 of the Corruption, Crime and Misconduct Act is directly referable to the powers set out in part 4. It is in no way relevant to the investigation of unexplained wealth proposed by the bill before us.

Hon MICHAEL MISCHIN: I indicate that the opposition will not support the amendment, partly for the reasons that have been explained by the minister, but it also seems to me that in practical terms it is not workable. If one is talking about the functions in a very broad sense—that is, the powers that can be exercised by the CCC—it may or may not be possible at a very early stage of identifying a potential target that we are able to be satisfied one way or another whether there are reasonable grounds for suspecting that there is organised crime involved. As Hon Aaron Stonehouse has reminded us, there has been a lot of large talk about this power to investigate and seize unexplained wealth being devoted to destroying organised crime and cutting heads off snakes, but it may very well be that there is only the head and not much of a snake, and there is someone who has managed through a variety of innocent agents to accumulate unlawfully obtained wealth that is not within the very narrow and precise definition contained in the relevant legislation of what organised crime might be. Some further refinement of this in order to limit the CCC's powers may be warranted, but I do not think one can accept the amendment as it currently stands, and it would need some specific inquiry by the government about whether as a matter of policy it is practicable to limit the CCC's powers in this fashion. I also think that given that there is a significant overlap in the relationship between the CCC and its functions, the Western Australia Police Force and the Office of the Director of Public Prosecutions, to start putting in artificial distinctions and refinements will create more problems than it solves and will allow those who are able to do so to try to slip out of the oversight and investigation that is hoped for in this bill. The opposition cannot support the proposed amendment.

New clause put and negatived.

Clauses 26 to 76 put and passed.

Hon AARON STONEHOUSE: Bearing in mind that Hon Michael Mischin's amendment earlier in Committee of the Whole was successful, I will not move my new clause 76A and will instead be supporting Hon Michael Mischin's new clause 76A.

New clause 76A —

Hon MICHAEL MISCHIN: I move —

Page 36, after line 23 — To insert —

76A. Section 140A inserted

After section 140 insert:

140A. Review of 2018 amendments to Act

(1) The Minister must carry out a review of the operation and effectiveness of the amendments made to this Act by the *Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Act 2017* as soon as is practicable after every 5th anniversary of the date on which the *Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Act 2017* section 27 comes into operation.

(2) The Minister must prepare a report based on each review and cause it to be laid before each House of Parliament —

(a) as soon as practicable after the review is completed; but

(b) not later than 1 year after each 5 year anniversary.

I thank Hon Aaron Stonehouse and the Leader of the House. For the reasons explained earlier about the proposed insertion of a new clause 24A, I have moved to insert the amendment standing in my name, which inserts a new clause 76A, which in turn inserts a new section 140A into the principal act, which in this case is the Criminal Property Confiscation Act 2000. It is effectively a review clause requiring a review by the minister of the operation of the amendments effected by this bill on every fifth anniversary of the date on which these amendments come into effect and that a report based on the review be tabled as soon as practicable in each house of Parliament after that review is completed and not more than one year after that fifth anniversary.

Hon SUE ELLERY: For the same reasons that we outlined when the chamber dealt with the earlier review provisions, I indicate that the government will support this amendment.

New clause put and passed.

The DEPUTY CHAIR (Hon Matthew Swinbourn): Hon Aaron Stonehouse has indicated that he does not wish to pursue his amendment on the supplementary notice paper.

Clause 77 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and, by leave, the report adopted.

As to Third Reading — Standing Orders Suspension — Motion

On motion without notice by **Hon Sue Ellery (Leader of the House)**, resolved with an absolute majority —

That so much of standing orders be suspended so as to enable the bill to be read a third time forthwith.

Third Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [2.44 pm]: I move —

That the bill be now read a third time.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [2.45 pm]: I do not propose to take up very much time other than to observe that it remains to be seen whether the Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017 and the changes it effects will be effective. It has been revealed in the course of the debate—this is not a criticism of the minister but is based on the information she has been provided by her instructing minister, the Attorney General—that a lot of the questions we have sought to have answered have not been answered or could not be answered. It is apparent that the government cannot even say, despite the rhetoric in the other place and in the Attorney General's media releases from time to time, whether the Corruption and Crime Commission has even one target in its sights, let alone how many it might have. It is apparent that no extra resources or expansion of the financial investigations team are contemplated. It is apparent that although investigations will have to be prioritised in the usual way, they will involve sacrificing some of the other core business of the Corruption and Crime Commission to look into serious misconduct in favour of looking at unexplained wealth. It is apparent that rather than deterring organised crime, there are serious risks that the Corruption and Crime Commission might be compromised by being limited by the current civil proceedings regime, to which it will be subject in the courts where criminals might potentially buy their way out of losing their wealth by negotiations with the CCC simply to save court time and to avoid expensive and lengthy litigation.

Once again, it seems to be a case of an Attorney General who wants to be seen as a man of action—get out there and puff himself up like a blowfish—and claim that he has introduced 15 bills in the last year, as if that is a sign of success, but he would rather do things quickly than do things properly. Some of the questioning that has been conducted over the two occasions that this bill has been before the chamber have indicated that some of the implications of what is proposed have not been fully explored and that this is a cheap and quick way of trying to achieve something that may be a worthy end, but without proper consideration of whether there are better ways of doing it. It is an idea that appears to have arisen from the Corruption and Crime Commissioner proposing it to the Attorney General and him leaping onto it, having all the consultation, formal or informal—whatever that might mean—being done by the Corruption and Crime Commissioner without the Attorney General having any control over the process and being able to assist through his representative in this place about what is being done, what he has considered and how he has considered it. This is an example of something that seems to have been driven by the agency with an interest in obtaining the powers to achieve an end, rather than the Attorney General taking control of the process, using his judgement and trying to take credit for having done something rather than doing something properly. I hope it does succeed and there are no unforeseen or undesirable consequences from what is proposed. We will see how quickly it gets up and running.

I wish the government luck with this but I have a feeling that within the next couple of years, we may have to come back to try to fix some of the problems that could have been anticipated with proper consultation with, say, the Law Society of Western Australia, the Criminal Lawyers' Association and others to see the implications of the extension of these powers to this very powerful commission. Good luck to the government. I look forward to seeing a bag of heads of organised crime snakes being delivered to Parliament and brandished by the Attorney General in the other place so that we can gauge the success of this measure!

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.

TERRORISM (EXTRAORDINARY POWERS) AMENDMENT BILL 2018

Second Reading

Resumed from 15 May.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [2.50 pm]: I will keep my remarks brief because I understand the importance of passing this legislation before the winter recess. The Terrorism (Extraordinary Powers) Amendment Bill 2018 was introduced into the other place on 15 March this year, at which time the responsible minister, Hon Michelle Roberts, MLA, the Minister for Police, gave a second reading speech explaining the policy of the bill. It was debated on 10 May, so it took almost two months before this legislation was brought on for debate in the other place. That debate concluded fairly quickly—I think, within a day—but it was read a third time on 15 May. On that occasion, it was introduced into this place. Once again, the bill required significant amendments from the government in the Legislative Assembly, moved by the minister responsible for the bill. This is another disturbing trend whereby important legislation—legislation said

to be urgent—has then, after being introduced with a flourish very, very quickly and without even much debate on the subject, required fixing by the government. I find it surprising that that ought to be the case after something like a year in office.

Nevertheless, the purpose of the legislation is to expand police powers in order to deal with extraordinary situations. It is said that it has arisen out of the coroner's findings of the Lindt Cafe siege in Sydney, where people were held hostage and which ended in tragic circumstances. It is said that because of the confusion that police had at the time as to how they could exercise their powers to use lethal force, some amendments were needed in order to clarify legislation, both in that jurisdiction and more generally in Western Australia, in order to give clarity and confidence to our law enforcement officers as to when they could use force and under what circumstances and to protect them against action in the event that they misjudge a situation in the heat of the moment.

With the amendments that were moved in the other place, the opposition is satisfied that the legislation will achieve its end. Having said that, we would like to know a little more about the consultation that has been conducted because it is apparent from the amendments that were moved in the other place that the Western Australian Police Union of Workers, for example, was not satisfied with the end product and that seems to have prompted some of the amendments that evolved. Perhaps we could have an explanation of how the legislation changed from what was proffered in the other place so that we can understand what was done to improve it. Otherwise, perhaps we could be given some brief information about the regime in other jurisdictions so we know whether our legislation differs markedly from that.

I know that the Greens, for example, have a problem with this bill. They seem to think that the current law provides the necessary protections for police officers and those assisting them in the sorts of circumstances that are covered by the bill. I am sure that we will hear more about that from Hon Alison Xamon, who is the lead speaker. I will listen to her speech with considerable interest and will be interested in the government's response to the position that she sets out.

I think it is important that this legislation passes, although it has been treated as a fairly low priority so far. We would not want a situation to occur, heaven forbid, sometime tomorrow in which the police find themselves at a disadvantage in being able to deal with that situation because it has not been dealt with properly by this Parliament. I am gratified that the Leader of the House has brought on this bill ahead of the Tobacco Products Control Amendment Bill 2017, which is yet to be dealt with, in order that there is confidence that it can be passed, and if any amendments need to be addressed, they can be dealt with properly before this Parliament rises for the winter recess and hopefully give the police the comfort they feel they need to address these situations.

HON RICK MAZZA (Agricultural) [2.56 pm]: I rise to make a few comments on the Terrorism (Extraordinary Powers) Amendment Bill 2018, which was introduced into this house on 15 May this year. The purpose of the bill is to provide certainty for police officers should there be a terrorism event and allow the Commissioner of Police or a deputy commissioner to make a declaration that a terrorist incident has taken place. I understand that this legislation came about through a review of the siege on the Lindt Cafe, when there was a degree of uncertainty about the legal position. In Western Australia, the use of force is determined by section 16 of the Criminal Investigation Act 2006 and chapter XXIV of the Criminal Code. People currently have a defence in an imminent situation of someone either killing or hurting someone else, and police officers are able to use lethal force in such circumstances. It has not been clear what powers the police have if a hostage situation occurs in which there may not be a direct or imminent threat but the situation needs to be dealt with. Therefore, this bill will address that.

Our national threat level remains probable. We must ensure that we are adequately resourced should a terrorist threat arise and that officers are able to use lethal force in those circumstances and have a defence. It is also my understanding that amendments proposed by the Western Australian Police Union of Workers relate to when an order had been given and then withdrawn. In that case, the police would have to be notified before they would cease to have that defence.

I will not speak for long on this legislation. I support the bill. Hopefully, we can get through it fairly quickly.

HON ALISON XAMON (North Metropolitan) [2.58 pm]: I rise as the lead speaker on behalf of the Greens to speak on the Terrorism (Extraordinary Powers) Amendment Bill 2018, which amends the Terrorism (Extraordinary Powers) Act 2005. I state from the outset that the Greens have considerable concerns about the nature of this bill. I have a number of questions that I certainly hope will be answered during the minister's reply, in which case I do not envisage that we will need to go into Committee of the Whole. However, I want to make a number of comments. Proposed part 2A states —

> The Commissioner may declare that this Part applies to an incident to which police officers are responding if the Commissioner is satisfied there are reasonable grounds to suspect —
>
> (a) that the incident is or is likely to be a terrorist act;

I note that "terrorist act" is defined in section 5 of the act and means an act that causes any person to die or suffer serious physical harm or endangers the life of another person or seriously risks public health or safety or seriously damages property or seriously interferes with, disrupts or destroys an electronic system, including but not limited to these systems—information, telecommunications, finances, essential government services, essential public utilities and transport—and, importantly, that the act is done with the twin intentions of both advancing a political, religious or ideological cause, and coercing or intimidating a government or intimidating the public. I will have a bit more to say about this in a moment. Importantly, the definition excludes advocacy, protest, dissent and industrial action that is not intended to cause death or serious physical harm to any person, endanger the life of another person or create a serious risk to the health or safety of the public. Planned and coordinated police action is required to defend a person threatened by an incident, prevent a person being detained or end their detention. When we talk about "detained" in this instance, we are talking about the deprivation of liberty as per section 332 of the Criminal Code, which is effectively kidnapping. The declaration will apply to all locations where police are responding to the incident, so it is mobile if needed. I note that during debate in the other place, the Minister for Police indicated that, in contrast, the New South Wales version is not mobile. The declaration can also apply to coordinated multiple attacks at multiple locations. I note that the declaration must be in writing but if that is not practical due to the urgency of the situation, it can be made orally with details recorded contemporaneously and put in writing as soon as practicable or, in any event, within six hours. Once the declaration is made, the commissioner must notify the minister and the police officer in charge of the police who respond to the incident. The declaration will authorise responding police officers—in addition to the powers that they already have under the current laws—to authorise, direct or use force, including lethal force, that a police officer believes on reasonable grounds is necessary to defend a person threatened by an incident, prevent a person from being detained or end their detention. A police officer acting in accordance with the declaration is not criminally responsible for their act and the usual Criminal Code justifications, excuses and defences also apply.

The extra powers granted do not apply to special constables, Aboriginal police liaison officers or police auxiliary officers—which is important, and I am glad they do not—nor do they apply to officers authorised under the Corruption, Crime and Misconduct Act unless it happens that that officer is also a police officer. The commissioner can in writing appoint a member of the federal police, interstate police or a New Zealand policeperson as a special officer with these extra powers for up to 14 days at a time. I note that consecutive appointments can also be made. I understand that it is expected that specialist police officers, most notably the tactical response group officers, who are most likely to use this provision. The commissioner's power to make a declaration can be exercised by a deputy commissioner if the commissioner is absent or unavailable and it can go further down the chain of command if the deputy commissioner is also not available.

I note that declarations are intended to last until they are specifically revoked and they do not have inherent time limits. They can be revoked at any time and, in fact, must be revoked if the need for police response ends, although I am of the understanding that there is no recourse if, for some reason, it is not revoked. It would be good to know whether that is actually the case. When it is revoked, again, it must be in writing; however, in urgent situations it can be done orally with details recorded contemporaneously and put in writing as soon as practicable or in any event within six hours. The commissioner must notify the officer in charge of the police who are responding to an incident, who must in turn notify other police officers of the revocation of the order. If, for any reason, the commissioner fails to revoke the declaration, it would in any case become effectively inoperative upon proposed section 21F conditions ceasing to apply. If the declaration is revoked or found by a court to be invalid, the protections the bill gives to police officers, who acted in good faith acting under the declaration's authority, continue until the police officer becomes aware of the revocation or court finding.

I understand that the legislation was developed following the New South Wales coroner's investigation into the horrendous Lindt Cafe siege. The Greens absolutely recognise the importance of making sure that we appropriately and swiftly respond to coronial findings because we have an ongoing concern that too many recommendations are never acted upon as it is. However, we also have concerns about the way that the Lindt Cafe siege findings have been interpreted. In particular, I note that in Western Australia's response to those coronial recommendations, there are significant differences between Western Australian and New South Wales law that need to be considered.

For starters, I turn to section 248 of the Criminal Code, which deals with issues of self-defence. The wording states clearly that harm does not need to be imminent. This provision was a deliberate change made by the Parliament in 2008 to make the law more clear, particularly in cases in which the threat is not imminent. The New South Wales law that was applicable to the Lindt Cafe siege—section 418 of the Crimes Act—did not have the clear wording that WA has had in place since 2008. Although the provision is entitled "Self-defence against unprovoked assault", section 248 clearly states that it is intended to apply to the defence of one's self or another person. Section 248 applies to defence from a harmful act as defined, and that definition covers killing, grievous bodily harm, wounding, assault, sexual offences, kidnapping or the deprivation of liberty, threats, stalking and child stealing. It therefore already covers the behaviours to which the bill applies. Deprivation of liberty alone is already sufficient to trigger that section. The wording of section 248 clearly already includes "lethal force". The one significant difference between section 248 of the Criminal Code and the bill that we are now considering is the

removal of the requirement that the police response be a reasonable response on reasonable grounds in the circumstances as the officer believes them to be. This is an important inclusion in section 248 because it is the safeguard against the use of unreasonable force. However, I stress that it refers to the circumstances that "a police officer believes" them to be on reasonable grounds. We are not talking about hindsight. That is what the officer believes on reasonable grounds at the time. It is what we refer to as the agony of the moment, and in a crisis situation, people almost certainly operate with incomplete information. Under section 248, if a police officer kills a person and it is not a reasonable response in the circumstances as the officer believes it to be on reasonable grounds, the officer can be charged with manslaughter. I asked at the briefing whether this has ever happened in Western Australia and the information I got at the time was that no-one could recall this having happened. In doing away with this safeguard, the bill will authorise police to respond in a way that is unreasonably violent and that would otherwise be a criminal offence had a declaration not been made.

I also refer to section 25 of the Criminal Code, "Emergency". This section does not apply if section 248 applies. Like section 248, this section contains a proportionality provision requiring the response to be reasonable "in the circumstances as the person believes them to be". Like section 248, this section was updated in 2008 to make it more clear and certain.

There are issues in this bill about blurring the line between defending victims and effectively assassinating perpetrators. This bill removes a safeguard against officers responding with unreasonable violence to the circumstances that they believe on reasonable grounds to exist. It is a really big policy step to remove that requirement. Importantly, it is not one that the Lindt cafe siege coroner recommended and as such it is not one that the Greens will support. Removing that requirement blurs the line between what constitutes self-defence and assassination. It brings to mind the infamous George W. Bush pre-emptive strike notion, but that related to armed forces, not police. Do we as members of Parliament really want this? Do we really think we have social licence from the community to do this? Remember that a declaration can be made when there are reasonable grounds to suspect certain things. That is not a very high degree of certainty to attract force, and we are talking possibly lethal consequences.

The definition of "terrorist act" in section 5 of the Terrorism (Extraordinary Powers) Act 2005 includes acts solely against property, not against people. Causing serious damage to property or seriously interfering with an electronic system is a terrorist act under WA law if it is done with the requisite intentions. Similarly, detention can occur without threatening a person—for example, physically or electronically locking a place down to prevent egress. I understand from the briefing that, rightly, police training emphasises alternatives to force in armed siege situations, such as cordon and contain, followed by negotiation, and that usually this works. It gives police time to gather information to identify the best time and way to enter. There is strong reluctance to enter or apply force too early in case it aggravates the situation. There is also strong reluctance to use lethal force until police are satisfied that enough information is available to satisfy section 25 or section 248 so that they can avoid being charged. In an armed siege involving a terrorist, however, the concern is that the hostage-taker's intention is different and, therefore, negotiation is not really a viable option. Police may need to act far earlier on far less information because, although it is extremely dangerous, it is considered less dangerous than waiting. The desire is to overcome police reluctance to act in this situation, to allow them to choose their time to act on the information they have at that time, and to protect them from criminal responsibility in so doing. That is on the basis that sections 25 or 248 would not. I understand that, but I am not persuaded that it means our existing law is inadequate nor that the important safeguards that it contains should be abandoned.

The Lindt cafe siege coronial report confirmed that lethal force was a legally available option soon after the siege commenced, although had the police known this, they had no opportunity to use it before the tragic death of the first hostage. The bill applies to situations in which there is sufficient information for the Commissioner of Police to have made the declaration; for planned and coordinated police action; for the relevant officer to have formed the necessary belief on reasonable grounds that force was necessary to defend a person or prevent or end their detention; and for a choice to have been made as to which force option should be used. I am not persuaded that that level of information is inconsistent with complying with our existing emergency and defence laws.

Instead, I am concerned that this bill will create uncertainty and false distinctions. The Lindt cafe siege coronial report teaches us that the New South Wales Police Force erred in its understanding of the law. Even the snipers did not understand when lethal force was legally permitted. It is imperative that police understand the existing laws extremely well, because the bill before us applies to a particular circumstance, and I am really hopeful that it will continue to be a rare circumstance. The usual law will continue to apply in other contexts, of which, sadly, there are several. I am talking about family and domestic violence sieges; mass killings and other attacks unrelated to any political, religious or ideological cause; abduction or deprivation of liberty unrelated to any political, religious or ideological cause; dangerous armed criminals who are unrelated to any political, religious or ideological cause, such as bank hold-ups by escapees; and terrorist acts when no declaration has been made, such as the ones that happen too fast. I am thinking of people who drive vehicles towards people in order to kill them and for which there is no time for police to plan a coordinated response. I am also talking about situations in which a declaration has been made and then for some reason it has been revoked or declared by a court to be invalid and,

sadly, physical threats posed by people with impaired mental capacity who may not have formed the necessary intention. The bill requires responding police to code-switch between different legal regimes, even though they all involve a victim or a potential victim under threat of being detained and are the most high pressured of response situations. This fundamental similarity is why there have already been suggestions that this law could be expanded to other situations. That was a suggestion made in the other place during the course of the debate on this bill.

I want to make some general comments about the definition of "terrorism" because that is often contested. I am concerned that the way we now talk about terrorism within Australia is almost exclusively within the framework of Islamic terrorism. I am concerned because I think we need to be thinking a little more broadly than that. I want to make some comments particularly about how disturbed I am about the rise of the Incel movement. Incel is a recent example of a phenomenon that, in my opinion, has many hallmarks of terrorism. For those people who are fortunate enough not to have been exposed to the sheer horror of what is Incel, the name is the conflation of two words—involuntary celibate. It is already being used as a catchcry by people, including the Californian man who, in 2014, killed six students from the University of California, Santa Barbara, and injured 14 others before killing himself, and, more recently, in April this year, the Toronto man who ran down pedestrians in a van, killing 10 people; eight of whom were women. Incels appear to hate women and they advocate rape. Even the website Reddit, which is not renowned for its high standards, has banned this particular community. I am wondering whether that would be terrorism as defined in this bill. Incel has been characterised as mass murder that is attributable to poor or inadequate male role modelling. They are basically a bunch of non-achievers with a feeling of being entitled and overprotected and considered wonderful without ever having been taught by their fathers that they have to earn it to achieve anything. I think that it starts to really raise the question of what is terrorism.

I would also like to draw attention to my deep concerns about the rise of the Nazi movement within Perth. More and more, we are seeing that people who overtly call themselves Nazis feel quite comfortable in being able to come out and publicly protest on our streets. I would like to remind people that at the heart of being a Nazi is that they condone genocide. I wonder whether we will be talking about these people who are predominantly white, or whether we will really continue to talk about terrorism as it pertains to Muslim people.

I also want to talk a little about my concerns for people with a serious mental illness and the concerns I have regarding the potential risk for people with mental illness being inadvertently caught by these provisions. The Australian Institute of Criminology published figures in May 2013 indicating that since 1989–90, 105 persons had been fatally shot by police. Available information indicates that 42 per cent of those people who died had been identified as having some form of serious mental illness, with psychotic disorders such as schizophrenia being the most common. It was noted that it is harder to assess the proportionality of police response when an offender's mental capacity is seriously impaired. In 32 per cent of the police shootings, the deceased was in possession of a firearm, 39 per cent of the incidents involved an alleged offender armed with a knife and 13 per cent involved other weapons such as an axe or a crossbow. For the remaining 15 per cent of police shootings, the alleged offender was not in possession of a weapon at all. Overall, for the last 22 years for which data has been collected, 85 per cent of police shooting incidents involved an alleged offender armed with a deadly weapon. I made a point of considering how this bill is likely to apply to a person who has a severe mental illness. Making a declaration involves a two-part test. The commissioner must be satisfied that there are reasonable grounds to suspect the incident is or is likely to be a terrorist act and that there are reasonable grounds to suspect planned and coordinated police action is needed to defend a person to prevent and/or end a person's detention. The second part of the test may apply to a mentally ill person in the same way as it would to any other person, but for the first part of the test, to be a terrorist act, as defined, the person has to have specific intentions. Frankly, a person with a mental health issue may not be capable of forming such an intention, but, as the bill stands before us, the commissioner needs only reasonable grounds to suspect the incident is likely to be a terrorist incident if, as well as being threatening, there is something about the person who is associated with terrorism, such as their appearance. I suppose this is where I have been expressing my particular concerns about whether it will be people who may come from a particular ethnic background for whom suspicions may arise, or use of particular words or slogans, then the test may well be satisfied for the commissioner, the declaration made and the authorisation to use lethal force triggered against a person who in actual fact just has impaired mental capacity and is not indeed a terrorist.

Another scenario we need to consider is that of domestic and family violence. Figures from the Australian Institute of Criminology indicate that homicide rates are declining, but in the 10 years to 2012, two in five homicides were of family members, most commonly partners, children and parents. Figures from the Australian Bureau of Statistics in 2016 were similar, nationally, at 42 per cent. Possibly this will be the most likely situation in which responding police would need to consider whether to use lethal force in order to defend a person, but this would not be terrorism as defined, unless, I point out, it turns out that the person who is making the threat is intending, for example, to try to make a point of achieving a change in family law legislation. I do not say that lightly, because there has been a disturbing increase in some of the rhetoric that comes from the more fringe end of the men's rights activist movement, the MRA, in which certain extreme measures are sometimes proposed to try to achieve changes to laws that they deem to be unjust. Very often it is their own families who may be particularly at risk of their quite unhinged rage. I am curious to know whether those sorts of situations may even be considered to be terrorism, for the purposes of this act, if indeed, the purpose of it is to try to incite terror to force changes of the law.

I will make a comment about the procedural and recording decisions. As is clear from the Lindt Cafe siege coronial report, good communications are absolutely critical for clear communication during a terrorist incident and for also understanding what went down at the time after the event. In this bill, recording systems are needed for communication, recording of the declaration and any revocation of it, recording the reasons for making a declaration or revoking it and ensuring that responding police are fully informed including following any handover, as well as recording the reasons for taking whatever police action ended up being taken. The bill, as amended in the other place, makes it clear that even if a declaration is made and later revoked or found by a court to be invalid, any action taken by a police officer is still going to be protected if it was done before the officer knew of the revocation or the court finding.

I would like to have the following confirmed for the record. It was a question I asked in the briefing, and it would be good to get on the record, if I can. From the briefing I understand that although an incident could involve a lot of people, communication lines for command are intended to be very clear and it is anticipated that it is unlikely to go wrong as a result, hence communicating the making of a declaration, any revocation of it or court finding of invalidity in relation to it is not likely to be a problem. The commissioner's reasons for making a declaration and the reasons for any revocation of it would be recorded in notes made by the commissioner. The commissioner is not likely to be time-pressured because the sort of incident to which the bill applies is one in which planned and coordinated police action is intended, such as a siege. I hope I have that right from my understanding from the briefing and if that is the case, I would appreciate it if the minister is able to confirm that for the record. As a result, hopefully, any communication breakdown at an incident is most likely to occur in negotiations and not because there has been a breakdown in the line of communication. Training and exercises are used to reduce the chances of this happening to ensure that when officers are making decisions, hopefully they are making very fully informed decisions. This is extremely important in any incident, not only those to which the bill applies.

At the briefing I asked about the meaning of the word "direction" in proposed section 21F, because an individual police officer cannot be mandated to use force, which is good. We want our police officers to continue to use their discretion and I am hoping the minister can confirm my understanding of the response I received for this as well. My understanding of the answer is that individual police officers will continue to retain their autonomy. An officer who uses force, lethal or otherwise, while a declaration is in place must themselves still believe on reasonable grounds that it is necessary, to defend a person threatened by the incident or to prevent or end a person being detained. That planned coordinated action in an incident might include directing an officer to use force. For example, they might be told to engage if such and such happens, but the officer, importantly, is still not compelled to follow that direction; they must still personally believe on reasonable grounds that using force is necessary to defend a person threatened by the incident or to prevent or end a person being detained. Nor is an officer prevented from using force until such a direction is given. If they understand there is a declaration in place and they believe on reasonable grounds that using force is necessary to defend a person threatened by the incident or to prevent or end a person being detained, that is sufficient. I am hoping that my interpretation of that can be confirmed and I hope that it is correct because it leaves some measure of safeguard. I also ask for available force options to be confirmed for the record. From the briefing, I understand that the bill will not remove other options from being available to police who are responding to an incident and that lethal force will be merely one option. Other options include tasers, bean-bag rounds, charging with shields et cetera. They are other responses that might be considered appropriate.

In conclusion, I recognise that the bill before us aims to provide Western Australian police officers with clarified authority, greater certainty and protection from criminal liability if they are required to use force, including lethal force, when responding to a terrorist or suspected terrorist act. I understand that the intent of this legislation arose from the New South Wales coroner's investigation into the Lindt Café siege. The coroner recommended that special powers available to police responding to terrorist incidents should include a more clearly defined right to use force, including lethal force. Of course, like every single person in this place, I acknowledge that peace and security are under threat around the world. We have all borne witness to horrendous violent and criminal acts and ongoing threat. The Greens appreciate the incredibly important work that is done by our police to keep our community safe. We acknowledge that situations such as those envisaged in this legislation are emotionally charged and often require decisions to be made very quickly—often in a split second—and with less information than we would like. However, we need to remember that these situations typically involve civilians—people who are Australian citizens. It is crucial that we make sure that our legislation strikes the right balance in permitting appropriate force to be used to defend people from harm. I note that the key lesson from the Lindt Café siege was not that police needed more powers, but, rather, there was an overwhelming need within the police for more certainty, good processes, timely information and quality training. I am not convinced that the bill before us will improve on WA's existing laws for a terrorist incident. As I have already noted, the bill does not provide certainty about pre-emptive defence because Western Australia already has this. The bill removes a safeguard against responding unreasonably violently to the circumstances the officer believes on reasonable grounds to exist. It is a big policy step to remove the requirement and effectively invokes a power to kill even when hostages are not directly threatened. It is not one that the Lindt Café siege coroner recommended. As such, it is not one that the Greens support.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [3.33 pm] — in reply: I thank those members who made a contribution to the debate on the Terrorism (Extraordinary Powers) Amendment Bill 2018 this afternoon—Hon Michael Mischin, Hon Rick Mazza and Hon Alison Xamon. I am grateful for their contributions and I am grateful for the support that has been offered to this bill by Hon Michael Mischin on behalf of the opposition and Hon Rick Mazza. It is my intention to answer all questions asked during my second reading reply speech so, hopefully, I will be able to do that.

Hon Michael Mischin said that he thought this legislation, with amendments, would achieve its end. He asked about the consultation that occurred, how the legislation changed to improve the legislation and what the regimes in other jurisdictions are. I will start off on those things first. Our bill is based upon similar provisions in New South Wales. South Australia is proposing to enact similar provisions. I am advised that Victoria is taking a different approach and instead amending its Crimes Act to deal with the use of lethal force generally. Consultation took place with the State Solicitor's Office, the Department of the Premier and Cabinet, the Western Australia Police Force, the office of the Attorney General and the Western Australia Police Union. Amendments were made in the Assembly. Proposed new section 21EA was inserted to provide that revocation of a declaration is generally to be made in writing, but can be made orally. As Hon Alison Xamon said, if it is made orally, it needs to be declared or revoked within a six-hour time frame. Amendments were made to proposed section 21F(4) and (5) were added to promote greater clarity of protection for police officers. Amendments were made to proposed section 31C to provide greater clarity in the event that a special officer's appointment is found to be invalid.

On other issues that were raised, section 248 of the Criminal Code provides a defence to the use of force, including lethal force, when acting in self-defence or defence of others. That provides a broad protection for Western Australian police officers. In analysing the recommendations of the coroner in the Lindt Café siege coronial inquest, it was clear that there was a need to also make provision for the very specific type of circumstances that arose there. The amendment provides clarity in the event of a siege situation in which citizens are deprived of their liberty. It does not derogate from the ordinary offences available to an ordinary officer. The provisions reflect the very specific operational requirements of a terrorist siege and ensure clarity of authority and protection for officers dealing with a siege situation. It is correct to say that the New South Wales and Western Australian circumstances are not identical, but there was enough risk and gap for all officers involved in a siege so as to warrant a clear authorisation and protection.

Although the Western Australian coroner said that New South Wales police had an overly restrictive view of their powers to use force, he recommended similar legislation. This surrounds the issue of imminence of a threat. It is not appropriate in terrorism to wait for objective evidence of the threat's imminence. Yet without objective evidence police believe they will be exposed to the possibility of homicide charges. Hence, the protection from criminal prosecution in the New South Wales legislation and ours. The scheme in this bill will provide clarity for police officers in responding to terrorist acts. It will remove any uncertainty that may be in the minds of officers. However, officers will still be accountable as they will still have to have a reasonable belief that lethal force is necessary. There is no compulsion, as Hon Alison Xamon raised. Directions can be given generally to the team. However, for each officer to take that action they have to have a reasonable belief that force is necessary. The bill still requires a reasonable belief about their actions. The command structure is well-established and rehearsed. Command lines from the commissioner to the commanders are direct and decision logs are maintained.

Hon Alison Xamon was correct in her comments about the declaration and revocation. She is also correct in saying that this legislation was developed following the Lindt Café siege and the coroner's report. I recognise that she has concerns with this legislation. It is not an easy piece of legislation. In an ideal world we would not have to have legislation such as this. The powers will be used only in extraordinary circumstances, but as we have seen across the world and particularly in Australia and its near neighbours to the north over the past few years, these are certainly extraordinary times. Legislation like this is not made lightly. However, it is necessitated because of those things that are happening around the world at the moment.

In the exercise of their duties, Western Australian police officers can currently use lethal force, but not pre-emptively. It has to be a case of imminent danger. In a hostage or siege situation, which is the purpose of this bill, there may be uncertainty about the imminence of the threat or danger to life. This bill will provide Western Australian police officers with authority and certainty under a declaration to pre-emptively act and prevent a person being threatened or being detained, such as in a hostage situation like Lindt Café siege. Hon Alison Xamon also touched on the issue of mental illness. The process for making the declaration relates, in part, to the actions the person is engaged in, and whether they meet the required threshold. The person in question may have underlying mental health problems. A contained, planned action by police may not always result in or require the use of lethal force to resolve the situation. This is a last-grasp issue. It would not be acted on straightaway. It is a tool in the kit that we hope never to have to use, but it has been necessitated as a result of actions that have happened interstate and overseas. The provisions in the bill actually provide greater protection for people who may have mental health problems, as a threshold has to be met for the declaration. The other point

I want to make is that the act is subject to review every three years. Does this bill remove other options available to the police? Absolutely not. The member mentioned the word "tasers", and those options are still available. These are extra powers that would be used only in extraordinary situations. Hopefully, that has answered the questions of honourable members.

Hon Michael Mischin: I may have missed what you said, but did you mention the changes that were made in the Assembly?

Hon STEPHEN DAWSON: I did, honourable member. I touched on the changes that were made to improve the legislation, the regime in other jurisdictions and the consultation that was conducted.

Hon Michael Mischin: I missed that bit. I will look in *Hansard*.

Hon STEPHEN DAWSON: They are on the record now. With that, I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Stephen Dawson (Minister for Environment)**, and passed.

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

Extension of Reporting Time — Motion

Resumed from an earlier stage of the sitting.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [3.43 pm]: On the last occasion on which this was raised, earlier this morning, I sought leave to continue my remarks on the motion at a later stage of today's sitting. There is not really much more that I need to add, except perhaps in response to any comments from other members of this place, should they raise issues with the motion. As I have indicated, in anticipation of the referral of bills to the Standing Committee on Uniform Legislation and Statutes Review, and also as a preliminary meeting on the Education and Care Services National Law (WA) Amendment Bill 2018 that was referred to us the other day, we had a meeting yesterday at about midday and planned out the work that needed to be done to address the education bill, and also the practicalities of dealing with the Fair Trading Amendment Bill that was expected to be referred. In the circumstances, because of certain issues that seemed apparent from that bill and the complexities of it, as well as the time limit and the fact that the first reporting date would be 14 August—the day that we return—as a matter of prudence it was decided that we would seek an extension of time to 18 September to ensure that there is ample opportunity to properly consider both of those bills. I seek the support of members for that rather modest extension. Of course, if it turns out that our work on the fair trading bill is completed earlier, we will table the report, as we have done with the Financial Transaction Reports Amendment Bill 2018, but this will give us an opportunity to plan our consideration of the matter with a bit more precision.

HON SUE ELLERY (South Metropolitan — Leader of the House) [3.46 pm]: I indicate the government's support for the resolution.

Question put and passed.

TOBACCO PRODUCTS CONTROL AMENDMENT BILL 2017

Committee

Resumed from 11 April. The Deputy Chair of Committees (Hon Adele Farina) in the chair; Hon Alanna Clohesy (Parliamentary Secretary) in charge of the bill.

Clause 2: Commencement —

Progress was reported after the clause had been partly considered.

Hon NICK GOIRAN: I refer the parliamentary secretary to the explanatory memorandum on clause 2. She will see there that it provides a reference to an explanation of why clause 4 has a delayed commencement. The second dot point reads —

> section 4 commences on the day after the period of 24 months beginning on assent day; and

Further on, the memorandum states —

> The reason for delaying the commencement of clause 4 of the Bill is explained below.

It does not say exactly where to go, but at the end of the notes for clause 4, the memorandum states —

> It is noted that clause 2 of the Bill delays the commencement of this clause until the day after the period of 24 months beginning on assent day. This will provide industry with the time required to transition to the new arrangements.

Whoever drafted that explanatory memorandum has helpfully explained to us why a 24-month period was chosen for clause 4. Can the parliamentary secretary explain the six-month delay for the rest of the bill?

Hon ALANNA CLOHESY: I am advised that it is a fairly standard period in order to allow for the preparation of regulations et cetera.

Hon NICK GOIRAN: This is new and novel. I have not heard before that six months is the standard period. I have heard from time to time the government asking that the commencement be on a date to be proclaimed, but I am not aware that six months is a standard period at all. In any event, why does clause 3 need a six-month period?

Hon ALANNA CLOHESY: I am advised that the lead-in time will allow for education, training and the development of any materials that might be required before its commencement. As I said before, it will also allow for regulations to be drafted and approved et cetera.

Hon NICK GOIRAN: Clause 3 reads —

> This Act amends the *Tobacco Products Control Act 2006*.

I do not think that the government needs six months to prepare regulations for that clause to come into effect or to provide training materials and the like, so what is the explanation for the six months for clause 3?

Hon ALANNA CLOHESY: I am advised that it is a drafting mechanism used to capture all the other clauses whether action is required or not. It is an all-encompassing drafting tool. I am advised that it has been applied in the act as well.

Hon RICK MAZZA: I move —

> Page 2, line 7 — To delete "24 months" and substitute —
>
> 5 years

I will give an explanation of why I would like to extend that time to five years. I would in fact like to see the whole clause deleted from the bill, but I do not think I will get support for that. As I understand it, we are the only jurisdiction that will have this restriction on retailers selling tobacco products. I am very concerned about the impact on small family businesses, which might have family members working in the store, or IGA stores and others, particularly in the country where younger people work in those stores. I think the idea behind the clause was that there was some concern that younger people might be more inclined to sell tobacco products to younger people. The department's own survey in 2015 stated, in part, that in 2013 younger retailers estimated to be younger than 20 years of age were significantly more likely to be noncompliant; however, in 2015 there were no significant differences between retailer age groups, but noncompliance had reduced significantly across all retailer age groups. That suggests to me that younger people are not more inclined to sell to younger people and it may have been more of an educational or compliance issue that changed the results of that survey in 2015. I feel that giving smaller businesses, particularly country businesses, more time to adapt would be a good thing. I have not seen any research about where the time frame of 24 months has come from. It seems to be an arbitrary time, and I believe that five years might be a more reasonable time frame in which those businesses can restructure.

Hon AARON STONEHOUSE: I wholeheartedly support this amendment. To restrict people under 18 years of age from being able to work behind the counter of the store that sells tobacco will result in higher youth unemployment. The degree by which youth unemployment increases may be hard to measure—it may be a few hundred jobs, maybe fewer, maybe more. Who knows? We do not know what the number will be. The Department of Health has not conducted any survey to determine how many jobs will be lost by such a measure, but it will result in youth unemployment. Youth unemployment is a serious concern because so many young people find their first entrance into the job market through retail in the kinds of places that sell tobacco—supermarkets, convenience stores or petrol stations.

Again, I think this will adversely affect smaller businesses, as has been mentioned. Large supermarket chains normally do not have young people working on the kiosks where their tobacco products are sold—Coles and Woolworths, for example—whereas small independent grocers, convenience stores and suchlike are often family-run businesses. I am thinking of businesses such as the ones I frequent. There was a deli down the street from my last place of employment that was run by a Vietnamese family where mum, dad and the kids all worked behind the counter covering various shifts. If we pass this bill and we restrict the age of people who are able to sell tobacco products, we are telling those families that they cannot employ their own children to work behind the counter to cover those shifts. They will not be able to employ their children to work, at least unsupervised by an adult, to cover those shifts. That is going to put tremendous strain on those small businesses.

The counter to this argument is that young people would be less compliant in checking the identification of other young people who are buying tobacco. As Hon Rick Mazza has pointed out, the department's own survey in 2015 found the opposite; there was no link. In fact, looking at some data on successful tobacco purchases by minors in Western Australia between 2002 and 2016, the number has drastically decreased, and that is based on data from our own health department. The percentage of Australians between 12 and 17 years old who said they had smoked in the last week has also drastically declined, from about 15 per cent in 2002 to a little over

five per cent in 2014. Our efforts to curb youth smoking rates have been quite successful. Unamended, this Tobacco Products Control Amendment Bill will impose restrictions that no other jurisdiction has adopted. We will be the only jurisdiction in this country that imposes a restriction on the age of those who can sell tobacco products. It does not make any sense; it will result in youth unemployment, and there is no data to back up this measure.

Hon ALANNA CLOHESY: I thank Hon Rick Mazza for the amendment and I understand where he is coming from on this. I indicate that the government will not support the amendment for a couple of reasons. I want to try to address a number of the points that both members raised in their contributions. Firstly, the point of this bill is to restrict young people's access to using tobacco in particular. The members cited a piece of research from the Department of Health about the impact of young people selling cigarettes. I would like to point to some research from the Department of Health—old research, including from 2011, 2013 and, more recently, from 2017—that clearly demonstrates that young sales staff are more likely to sell tobacco products to people under 18 years of age, in particular because of the peer pressure they experience. The most recent compliance survey conducted by the Department of Health found that young sellers are twice as likely to sell cigarettes to minors.

Originally, there was to be a six-month lead-in period. The members asked why the lead-in period was changed from six months to 24 months. That was done, in part, due to the consultation undertaken with the Minister for Small Business and the office of the Small Business Development Corporation. It was deemed that 24 months was a reasonable period. Rather than the original six months, the period was extended to two years to take into account the need for the transition.

Another point members raised was that it will restrict young people from working behind the counter. It will not restrict young people from working behind the counter. It may restrict young people from selling a particular product. That is not unusual across the board in a number of areas. They were the main issues that members raised.

Hon NICK GOIRAN: Is the parliamentary secretary in a position, given her advisers are here, to indicate to the chamber whether a person who has not reached the age of 18 years can sell an alcohol product?

Hon ALANNA CLOHESY: I am advised that although the advisers indicate they are not experts in that area, it is unlikely that a person under the age of 18 is able to sell alcohol because they would need to be on a licensed premises to sell alcohol.

Hon NICK GOIRAN: The opposition will not on this occasion support the amendment moved by the very hardworking Hon Rick Mazza, because there does not seem to be any evidence to explain why the time frame of five years has been selected by the honourable member. I understand and acknowledge his original remark that his preference would be to delete this altogether. That being said, that is not the opposition's position. We support the government on clause 4 and the extension of the transition period from six to 24 months. In the absence of any evidence indicating why five years is preferable to two years, we are unable to support the amendment. Finally, the opposition has not received any information from affected retailers indicating that they have a concern about this provision.

Hon AARON STONEHOUSE: To address some of the comments made so far, I suspect the reason members of the opposition have not received representations from industry groups is that many do not realise these changes are coming. If he were to ask convenience store owners or independent grocers, he would find that they have no idea these changes are on board. I reiterate two points. We will be the only jurisdiction to impose this restriction. Maybe other jurisdictions will follow, but so far it has not been done anywhere else. I understand there is inconsistency between how we treat the sale of alcohol and how we treat the sale of tobacco. This will be the only jurisdiction to implement this change. There will be a cost to youth employment, but we do not know what that cost will be. I urge members that it is irresponsible to pursue changes to legislation without fully understanding the costs. There may well be a health benefit or a connection between people under 18 years selling tobacco and noncompliance with identification checks. We can see there may be a benefit there but we do not fully understand the costs associated with it. I urge members to contemplate that when considering whether they support the amendment.

I agree that five years is an arbitrary time frame, but so is two years. If we allow a longer time, it will provide employers more time to adjust to these changes. It will result in less immediate unemployment of young people currently employed in positions selling tobacco, because employers will have to fire staff who they were previously counting on to cover shifts when they work alone and sell tobacco products without having another 18-year-old staff member rostered on. I think the longer the time frame, the better in this instance.

Hon RICK MAZZA: It is obvious that this amendment will not succeed. This bill really goes against job creation and may mean that many young people may not have jobs because they will be unable to sell tobacco products. I take on board what Hon Aaron Stonehouse said about many tobacco retailers having no idea these changes are coming. What information programs will there be for tobacco licensees to advise them of these changes?

Hon ALANNA CLOHESY: I am advised that there will be information programs for licensees, including writing to licensees and sending fact sheets to licensees.

Amendment put and negatived.

Clause put and passed.

Clause 3: Act amended —

Hon NICK GOIRAN: Madam Deputy Chair, to facilitate your chairmanship of the Committee of the Whole, I indicate that we will be going through this bill clause by clause. No clause will be overlooked. Members may recall that that is because of the tabling of a false document on a previous occasion, which we cannot rely on in terms of its accuracy, so we will need to find out the situation with respect to each of these clauses.

With respect to clause 3, could the parliamentary secretary please indicate to the house whether there are any differences between the 2016 draft and the bill that is before us.

Hon ALANNA CLOHESY: There was no false document. The document was my notes comparing the 2016 and 2017 bills. Those notes were not intended for tabling; they were my notes to jog my memory.

Hon Nick Goiran: You tabled them.

Hon ALANNA CLOHESY: The member asked me to table them, so I provided them in order to be helpful. I would like it on the record that there were no false documents.

There is no difference between clause 3 in the 2016 bill and the 2017 bill. There were no changes.

Clause put and passed.

Clause 4: Section 18A inserted —

Hon NICK GOIRAN: Despite what the parliamentary secretary has just told us during consideration of clause 3, a document was tabled, which I described as false. Obviously, the characterisation by me of it being a false document was not appreciated by the parliamentary secretary. It might assist if I could clarify that the document has false information in it. If the parliamentary secretary wants to dispute that, I am quite happy to spend as much time as is necessary to debate that. However, I foreshadow that I will need the clerks to provide me with a copy of that tabled document with that false information because members may recall that I disposed of mine on the last occasion by throwing it into the wastepaper basket because I said I never wanted to see the thing ever again because it had false information. If we want to revisit that episode, I am happy to do so.

We are now on clause 4. I ask the parliamentary secretary to indicate to the chamber the differences between clause 4 of the 2016 bill and clause 4 of the bill before us.

Hon ALANNA CLOHESY: The word "retail" is added to the heading of proposed section 18A in the bill before the chamber.

The DEPUTY CHAIR: Members, I know how detailed your questions can be, so noting the time, I will leave the chair until the ringing of the bells.

Committee interrupted, pursuant to standing orders.

[Continued on page 4122.]

Sitting suspended from 4.14 to 4.30 pm

QUESTIONS WITHOUT NOTICE

QUADRIPLEGIC ACCOMMODATION — SHENTON PARK

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

I refer to the $43 million allocated in the 2016–17 midyear review for additional funding to provide purpose-built community housing accommodation including for residents of the state Quadriplegic Centre.

(1) Will the minister confirm that the new $30 million 28-bed facility at the existing Shenton Park site will be built; and, if not, why not?

(2) If yes to (1), when will it be completed?

(3) If no to (1), will the state Quadriplegic Centre remain operational; and, if not, what will happen to the permanent residents?

(4) Is the additional $13 million of purpose-built community housing being built; and, if not, why not?

(5) If yes to (4), when will it be completed and how many patients will it provide for?

Hon ALANNA CLOHESY replied:

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

(1) A decision on what to build has yet to be made. An independent organisation, WA's Individualised Services, has been appointed to undertake in-depth consultation with each long-term resident to develop a personal plan for their future support and accommodation needs. Each individual will be given the opportunity to exercise informed choice and control over their future living arrangements.

(2) Not applicable.

(3) The state Quadriplegic Centre will remain in operation until such time that all current patients are transitioned to new accommodation. It is anticipated that this will be by the end of 2020.

(4) Yes.

(5) A construction program has not yet been finalised.

LANDGATE — COMMERCIALISATION

533. Hon PETER COLLIER to the minister representing the Minister for Lands:

I refer to the announcement yesterday of the commercialisation of Landgate operations.

(1) Can the minister confirm that the McGowan government is selling access to land title information held by Landgate?

(2) Will the government retain ownership of the data?

(3) Given Landgate only delivered a profit of $26 million last financial year, how did the government come to a value of $650 million for its commercialisation?

(4) Is the $650 million valuation based on access to the private and confidential data of Western Australian households?

(5) Will the minister table the business case for the commercialisation of Landgate; and, if not, why not?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for some notice of the question.

(1) As announced yesterday, the government has rejected the full sale of Landgate, opting instead to commercialise a restricted part of Landgate's automated functions.

(2) Yes.

(3)–(4) The government has not valued the commercialisation at $650 million.

(5) As announced yesterday, the cabinet decision was made following the completion of a detailed scoping study.

GENE GIBSON — EX GRATIA AWARD

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

I refer to the Attorney General's answer to my question without notice 422 of 12 June regarding the ex gratia payment of $1.5 million to Gene Gibson for what he has described as a serious miscarriage of justice for which Mr Gibson was blameless but for which the state was not to blame.

(1) Did the advice the Attorney General receive from the State Solicitor's Office support or not support the making of a payment?

(2) Did the advice he receive identify failings for which the state was responsible, with reference to the Court of Appeal judgement in Gibson v State of Western Australia [2017] WASCA 141; and, if so, precisely what were those failings?

(3) To the extent that the miscarriage of justice resulted from Mr Gibson's blameless plea of guilty on the basis of legal advice, is the state proposing to recover any of the $1.5 million from his legal representatives; and, if not, why not?

(4) Why will the government not pay compensation to other accused who are acquitted on appeal, having been convicted after pleas of not guilty, and so suffered a miscarriage of justice for which they are blameless?

Hon SUE ELLERY replied:

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

(1)–(3) Answering this question would require the disclosure of matter that is subject to legal professional privilege and, accordingly, I am unable to provide the requested information. I am cognisant of my obligations under section 82 of the Financial Management Act and will provide any notice required by that section to Parliament and to the Auditor General in accordance with the legislative requirements.

(4) Ex gratia payments are discretionary payments made in exceptional circumstances on the prerogative of the executive following the receipt of advice from the State Solicitor's Office and need to be determined on the particular circumstances of the matter at hand.

SCHOOLS — ENROLMENT PROJECTIONS

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

I refer to the Department of Education's enrolment projections for public schools.

(1) What are the most recent enrolment projections for the primary years K–6 in the following years —

(a) 2019;

(b) 2020;

(c) 2021; and

(d) 2022?

(2) What are the most recent enrolment projections for the secondary years 7–12 in the following years —

(e) 2019;

(f) 2020;

(g) 2021; and

(h) 2022?

Hon SUE ELLERY replied:

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

(1)–(2) These student enrolment projections were produced after the semester 1 2018 student census and were used for the 2018–19 budget. Enrolment projections are revised after each biannual student census. Actual enrolments will differ from the projections. The projections are based on historical enrolment trends and the Department of Treasury's Western Australian population projections. The projections are used for broad planning purposes and have been rounded to the nearest 10 students. The figures comprise students in kindergarten and full-time students in preprimary to year 12, including ungraded secondary students. As the information is provided in tabular form, I seek leave to have it incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

(1)–(2)

Phase	Projected student enrolments in public schools			
	2019	2020	2021	2022
Primary	201 840	204 580	208 840	213 480
Secondary	109 970	113 440	116 940	120 800

NATIONAL REDRESS SCHEME

536. Hon NICK GOIRAN to the Leader of the House representing the Premier:

I refer to the Premier's media release on 27 June 2018 announcing that survivors of child abuse will be able to apply for redress from this Sunday, 1 July 2018.

(1) Has the Premier discussed the application process with either the Attorney General or the Minister for Child Protection?

(2) Is the Premier aware that no applications relating to the state government or WA non-government institutions can be assessed until legislation has been introduced and passed through both houses of Parliament?

(3) If yes to (2), will the Premier commit to introducing such legislation on the first sitting day of the spring sittings?

(4) Has the Premier seen the online application?

(5) Has the Premier seen the paper form application?

(6) If yes to (5), will the Leader of the House table the paper form application; and, if so, when?

Hon SUE ELLERY replied:

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

(1) The Premier has had numerous conversations with his colleagues, including relevant ministers, around all aspects of the National Redress Scheme.

(2) Yes. However, as is outlined in the media statement referred to, applications can be received.

(3) This is a priority for the government and, as such, legislation will be introduced as soon as is practicable.

(4)–(5) No.

(6) Not applicable.

WATERING WA INITIATIVE — FARM WATER REBATE SCHEME GRANTS

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

I refer to the minister's decision to scrap the farm water rebate scheme and the pastoral water grants scheme at the end of 2018–19.

(1) Did the Minister for Water consult with the minister for primary industries and regional development prior to this decision being made?

(2) Please table any correspondence between ministers in relation to this issue before a decision was made.

(3) How has notification of the cessation of the schemes been communicated to relevant stakeholders and agriculturalists?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1) All cabinet members participated in the budgetary process.

(2) Not applicable.

(3) The department has written to farm water auditors; the Department of Primary Industries and Regional Development; the Department of Planning, Lands and Heritage; the Rural Water Council; and the Wheatbelt Development Commission, and it has updated its website. The department will be notifying three tank supply companies that refer to the scheme in their advertisements and will write to applicants with approved audits on 30 June 2018.

E-CONVEYANCING TRANSACTIONS

538. Hon RICK MAZZA to the minister representing the Minister for Lands:

I refer to the recent hacking of an e-conveyancing transaction conducted in New South Wales using the Property Exchange Australia online platform, which is currently the only online provider of e-conveyancing. Recent regulation will force mandatory e-conveyancing in Western Australia and conveyancing businesses will be forced to sign up to PEXA unless another online provider is registered prior to 1 December 2018.

(1) Considering the state government is pushing ahead with only one e-conveyancing provider currently available, what is the state government doing to ensure that users of the system do not suffer the same fate as Dani Venn, who was scammed out of $250 000?

(2) How many similar incidents of fraud have occurred with PEXA in the past three years?

(3) Was the method used by the hackers—adding themselves as another user, changing bank details and transferring the funds to their account—considered as a possible risk by the state government before regulating mandatory e-conveyancing?

(4) Following the recent hacking, is the government satisfied that PEXA is a safe and transparent system for the public of Western Australia and is the state government satisfied that having only one e-conveyancing provider is in the best interest of the industry and community?

(5) Would the state government reconsider its position and make e-conveyancing voluntary rather than mandatory?

Hon STEPHEN DAWSON replied:

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

(1) Landgate is working with PEXA to ensure that vulnerabilities and potential risks resulting from conveyancer systems and processes are appropriately managed within the platform; reminding conveyancers of their obligation to check and verify the settlement details prior to digitally signing documents; and reminding conveyancers of their obligations with regard to their internal IT system security and integrity.

(2) Two incidents have occurred nationally and zero in Western Australia.

(3) Yes. Vulnerabilities within conveyancer systems were considered; however, a conveyancer digitally signing the settlement payment schedule without verifying the payment details was not.

(4) Yes. Further, Landgate has approved two new entities to become electronic conveyancing platform providers—electronic lodgement network operators—in Western Australia.

(5) No.

LIVE EXPORT — GOVERNMENT ASSISTANCE

539. Hon COLIN TINCKNELL to the Minister for Regional Development:

The suspension of Emanuel Exports' licence by the federal government and the temporary withdrawal of exports by Livestock Shipping Services will have a profound effect on Western Australian producers and farmers' livelihoods. Regardless of political agendas and fault apportioning, there is also a genuine crisis looming with many sheep stuck in limbo. With very few options presenting themselves for affected farmers who now need to provide for unplanned feeding in a period of increased prices and trading uncertainty, the reality is that a large number of WA producers will be suffering financially in the coming months of uncertainty. It is a well-known fact that financial stress and business uncertainty is a major cause of numerous issues ranging from bankruptcy, family breakdowns and mental health problems, to the ultimate threat to lives.

(1) What is the state government doing in the immediate future to help WA farmers affected by this chain of events?

(2) What plans are being developed to ensure that in the future similar situations cannot cause such chaos and can be mitigated immediately to ensure the welfare of not only the livestock, but also the farming communities who have in this instance had to pick up the pieces?

The PRESIDENT: Before that question is answered by the minister, that was a very long preamble. I understand it is an important issue to you, but I refer you to standing order 105 and the need for questions to be concise, just as answers should be concise.

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1)–(2) As I have said many times, we were seeking very much to avoid this sudden death to live export over the high summer months, but regardless of what we try to do, that is in fact what has happened. I am not seeking to underestimate that there will be some adjustment, but I honestly do not think the situation is as dire as the member is making out. We know there are somewhere around 60 000 sheep in a feedlot. At least two processors have come forward and said that they would be prepared to purchase those sheep should the owner, Emanuel Exports, be prepared to sell them. We understand that is not what Emanuel wants to do, but certainly that is a very real option. We understand that mutton and lamb prices in the markets have stayed at a reasonably high level at this stage. We are not suggesting that that might not change over the next couple of months, but there have been very good prices for sheepmeat and for wool. We are, as I said, working with the processors to make sure that there is an alternative. I will also be going to Qatar next week to talk to the importers of frozen and chilled meat to see how we can maximise those exports. We are meeting with farmers tomorrow to put in place a series of adjustments of ways in which we can help build some resilience in light of what has happened with live export.

POLICE — FIREARMS TRANSPORT — APPROVED COMMERCIAL CARRIERS POLICY

540. Hon AARON STONEHOUSE to the minister representing the Minister for Police:

I refer the minister to the WA Police Force's approved commercial carriers policy, an updated copy of which the minister has yet to table in response to my request of 26 June, and specifically to a line in that policy that I am assured reads, "When firearms are transported they must be 'rendered safe' and be concealed or covered. Rendered safe includes (a) a locked container, or (b) an approved box or container where the firearms are secured with a trigger locking device or has the bolt removed and the bolt is posted separately from the firearm." I have been advised by stakeholders within the transportation industry that this is causing a degree of confusion.

(1) Where, if anywhere, within the policy is "locked container" defined?

(2) Is a tautliner or curtain-sided vehicle considered to be a locked container?

(3) Is the boot of a vehicle considered to be a locked container?

(4) Is a gun in its own locked case considered to be in a locked container?

(5) If, as I have been advised, there is no formal definition of a "locked container" within the policy, to what other document, regulation or piece of legislation can transporters refer for clarification?

Hon STEPHEN DAWSON replied:

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

(1)–(2) The Western Australia Police Force advises that the term "locked container" is not defined to allow for interpretation of individual circumstances—that is, providing flexibility—which is in line with what industry representatives have requested.

(3) Yes, if the boot can be locked and cannot be opened without a key or other release device from inside the vehicle. Individual circumstances will be discussed on a case-by-case basis to enable flexibility and encourage more participants.

(4) Yes. However, the container must not be marked in a way that it contains a firearm. Individual circumstances will be discussed on a case-by-case basis to enable flexibility and encourage more participants.

(5) Transporters can contact firearm licensing, which will assess whatever container they wish to use. This allows flexibility and does not limit the transport company to a specific type of container that may not be suitable for their vehicles or work practices.

SAWMILLS — INVESTMENT SECURITY GUARANTEES

541. Hon DIANE EVERS to the minister representing the Minister for Forestry:

(1) Which sawmills have investment security guarantees?

(2) If the Forest Products Commission reduces the log timber intake specified in its contracts with sawmills and the exceptions to payment of compensation do not apply, what amount of compensation will be payable to each sawmill, and in total?

(3) What are the exceptions to the payment of compensation?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1) Auswest Timbers Pty Ltd has investment security guarantees.

(2) Compensation is applicable only if the recipient is not offered a new contract with similar terms and conditions in 2024. If it is offered a new contract with a reduced volume or lower quality products, the compensation amount may be reduced. The maximum compensation payable is a one-off payment and is based on a full log timber intake, approximately 45 000 tonnes per annum, multiplied by the compensation rate of $261.96 per tonne, which is a total of $11.8 million.

(3) The Western Australian government is not liable to pay compensation if a change in state government policy that causes a refusal to offer a rollover contract was influenced by climate change or by an increase in the spread of dieback and either or both have caused a reduction in the sustainable yield of log timber.

AGRICULTURAL EMPLOYMENT — KIMBERLEY

542. Hon ROBIN CHAPPLE to the Minister for Agriculture and Food:

Proponents of new irrigation projects, such as the proposed dam and irrigated agriculture project on Gogo station, are claiming that their projects will result in an increase in Indigenous employment. I refer to the current status of employment in agriculture.

(1) How many people are employed in agriculture in —

  (a) the Kimberley region;

  (b) the Wyndham–East Kimberley local government district region; and

  (c) the Derby–West Kimberley local government district?

(2) For each of the Kimberley region, the Wyndham–East Kimberley local government district region, and the Derby–West Kimberley local government district, will the minister provide a breakdown of how many Aboriginals are employed in agriculture and, of those employed, how many are casual, part-time or seasonal?

(3) If no to (2), why not?

Hon ALANNAH MacTIERNAN replied:

(1) Based on the 2016 census of population and housing undertaken by the Australian Bureau of Statistics, the number of people who identified agriculture as their occupation was —

  (a) 511 in the Kimberley Region;

  (b) 207 in the Wyndham–East Kimberley local government district region; and

  (c) 134 in the Derby–West Kimberley local government district.

(2) Also based on the 2016 census, the number of people who identified as Aboriginal and had agriculture as their primary occupation was 95 in the Kimberley region, including 10 part-time; 43 in the Wyndham–East Kimberley local government district region, including four part-time; and 15 in the Derby–West Kimberley local government district.

(3) Not applicable.

TOURISM — MARKETING CAMPAIGNS AND SUBSIDIES

543. Hon JIM CHOWN to the minister representing the Minister for Tourism:

(1) Can the minister provide a breakdown of visitor numbers and state government costs, including, but not limited to, marketing and actual subsidies provided per traveller with respect to each of the listed tourism campaigns from their respective start dates to today —

(a) the Rottnest Island admission fee exemption for children travelling between 3 April and up to today's date, 28 June;

(b) the Rottnest Island "Rotto from Day to Dusk" campaign, which offered discounted afternoon island admission during summer;

(c) the subsidised Rex airline flights to Monkey Mia and Carnarvon announced this week;

(d) the subsidised Qantas airline flights to Broome announced last month; and

(e) the subsidised Aviair airline flights to Kununurra, Halls Creek and Balgo announced last week?

(2) If the campaign is yet to formally begin, can the minister please provide the expected forecast cost of the actual subsidy per traveller and associated marketing costs?

(3) Which organisation are each of the respective subsidies being paid to?

(4) Which budget line item is used to fund the subsidies?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided to me by the Minister for Tourism.

(1) (a) Kids free island admission is running from 3 April to 20 September 2018, excluding school holidays. From 3 April to 26 June 2018 inclusive, 2 269 children have travelled by ferry to Rottnest Island with no admission fee charged. The normal admission fee for a child visiting for the day is $6.50. No subsidy was provided to any organisation and no marketing costs were incurred.

(b) Rottnest Island "Rotto from Day to Dusk" admission discounts are half-price island admissions when arriving on the island after midday during January and February 2018. From 1 January to 28 February 2018, 7 414 people travelled with a discount admission fee of $9 for adults and free for children under "Rotto from Day to Dusk". The normal admission fee for a day visitor to the island is $18 for an adult and $6.50 for a child. No subsidy was provided to any organisation. Marketing costs incurred were $380.

(c) The member is asked to refer this part of the question to the Minister for Transport.

(d) A breakdown of visitor numbers is not available until completion of the campaign, which runs a full year for travel from 17 August 2018 to 16 August 2019.

The Perth–Broome initiative is a trial and for commercial reasons, including not compromising future initiatives that may be explored on other routes with other airlines, the details are confidential. Its disclosure could cause commercial harm to the state and, more specifically, adversely impact on future negotiations with other airlines to reduce airfares within regional Western Australia. Accordingly, I will notify the Auditor General's office and both houses of Parliament that part of this question will not be answered as per section 82 of the Financial Management Act.

(e) The member is asked to refer this part of the question to the Minister for Transport.

(2)–(3) It is difficult to provide a complete answer given that it requires advice from a range of agencies and departments within portfolios held by a number of ministers. If the member would like to be more specific, I will endeavour to answer the question.

INDEPENDENT SCIENTIFIC PANEL INQUIRY INTO
HYDRAULIC FRACTURE STIMULATION IN WESTERN AUSTRALIA — SUBMISSIONS

544. Hon KEN BASTON to the Minister for Environment:

I refer to information contained in the WAtoday article titled, "Radioactive water reignites concerns over fracking" published online on Sunday, 24 June.

(1) What date were submissions to the Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia 2017 made publicly available on the fracking inquiry WA website?

(2) Is the minister confident that no unauthorised persons were able to access the submissions prior to the public release?

(3) If no to (2), how many unauthorised persons accessed the submissions before they were made public and who are they?

(4) How does the minister respond to the article's assertion that the Lock the Gate Alliance was able to access the Buru Energy submission before it became publicly available?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. It is a good question.

(1) I am advised by the independent scientific panel that all submissions were made available on the inquiry's website on 25 June 2018.

(2)–(4) I am advised by the independent scientific panel that during the process of uploading the submissions to the website for future public release, the Lock the Gate Alliance accessed the submissions through an internet search. Only information that was intended for public distribution was available on the inquiry website. I understand that the independent scientific panel will consider all matters raised in the public submissions, including Buru Energy's submission.

REGIONAL AIRFARES — MONKEY MIA AND CARNARVON

545. Hon COLIN HOLT to the minister representing the Minister for Tourism:

I refer to question without notice 527 asked yesterday about airfares to Monkey Mia and Carnarvon.

(1) How much has the state government committed to marketing or advertising the reduced fares?

(2) Through which fund will this money be allocated?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The answer has been provided by the Minister for Tourism.

(1) Tourism WA is not undertaking any specific marketing of these airfares. Both destinations are highlighted through its social media channels. Tourism WA provides funding to Australia's Coral Coast regional tourism organisation to promote the region of which Carnarvon and Monkey Mia form. ACC will promote the routes through its usual campaign activity.

FIRE AND EMERGENCY SERVICES COMMISSIONER

546. Hon MARTIN ALDRIDGE to the minister representing the Minister for Emergency Services:

I refer to the Fire and Emergency Services Commissioner Darren Klemm, AFSM.

(1) When does the commissioner's term expire?

(2) Now that the government has finalised and announced its position on structural reforms within the Department of Fire and Emergency Services, will the government provide greater certainty on the leadership of the organisation by extending the commissioner's tenure?

(3) Will the position of commissioner be advertised and open to application following Commissioner Klemm's initial 18-month term?

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 commissioner's term expires 18 months from 19 September 2017.

(2)–(3) The Public Sector Commission is responsible for the employment of public sector chief executive officers in the senior executive service. Proposed arrangements regarding the expiry of the commissioner's current term have not yet been communicated to the minister.

HAWTHORN RESOURCES — PINJIN PASTORAL STATION

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

(1) Can the minister explain why the Hawthorn Resources Ltd mining proposal dated 26 November 2015 was given approval, notwithstanding the close proximity of the proposed mine within 100 to 200 metres of Pinjin station homestead and associated infrastructure?

(2) In approving that mining proposal, why did the department not adopt a proactive regulation approach insisting that the mining proposal be amended or written consent be obtained under section 20(5) of the Mining Act?

(3) Can the minister explain the reasons why the Department of Mines, Industry Regulation and Safety did not support and approve the incorporation of common reserve 10041 into the Pinjin pastoral lease?

(4) Can the minister explain what specific actions DMIRS has taken to minimise damage to livestock by Hawthorn Resources' heavy earthmoving equipment on miscellaneous licence 31/65, mining lease 31/78 and mining lease 31/79?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for Mines and Petroleum has provided the following answer.

(1) The Hawthorn Resources Ltd mining proposal was approved as it was assessed as being compliant with the published guidelines and the requirements under the Mining Act 1978.

(2) The former Department of Mines and Petroleum was proactive in notifying Hawthorn Resources Ltd of its requirements under section 20(5) of the Mining Act 1978.

(3) The former Department of Mines and Petroleum did not support this because of its potential impact upon the existing and future mining operations on the land.

(4) DMIRS has undertaken numerous site inspections to monitor Hawthorn Resources Ltd's compliance with the requirements of the Mining Act 1978.

INNER CITY COLLEGE — MEMORANDUM OF UNDERSTANDING

548. Hon ALISON XAMON to the minister representing the Minister for Planning:

I refer to the memorandum of understanding between the City of Subiaco and the Western Australian government regarding the revocation of the management order over Subiaco Oval and Kitchener Park to allow the site works for the Inner City College.

(1) Will the minister please table this document?

(2) If not, why not?

Hon STEPHEN DAWSON replied:

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

(1)–(2) The minister will consult with the City of Subiaco regarding the release of the document.

THE RAFT PERTH — LIQUOR LICENCE APPLICATION

549. Hon Dr STEVE THOMAS to the Minister for Environment:

I refer to the application for a liquor licence to cater for up to 300 patrons, received by the Liquor Commission on 8 May 2018, from Old Salt Perth Pty Ltd for the barge, known as *The Raft Perth*, to be permanently moored in the Swan River and for which the minister gave part V approval in January 2018 for up to 250 patrons.

(1) Has the minister and/or the Department of Biodiversity, Conservation and Attractions re-evaluated the proposal after the location of the mooring changed and a 20 per cent increase to the maximum capacity occurred?

(2) Were the stakeholders and nearby residents who were invited to evaluate the proposal the minister approved in January re-consulted after the proposed location and maximum capacity of the vessel were changed?

(3) If no to (2), under what authority has the DBCA accepted these changes?

Hon STEPHEN DAWSON replied:

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

(1) No. I conditionally approved the application on 3 January 2018 for 250 patrons. No amendments to the application have been proposed to me or the Department of Biodiversity, Conservation and Attractions.

(2)–(3) Not applicable.

METROPOLITAN REDEVELOPMENT AUTHORITY — 3 OCEANS TWIN TOWERS DEVELOPMENT — SCARBOROUGH

550. Hon TJORN SIBMA to the minister representing the Minister for Planning:

I refer to reports that the Metropolitan Redevelopment Authority has approved the proposed twin high-rise towers 3 Oceans development in Scarborough.

(1) Was Mr George McCullagh the chair of the MRA last year when it previously considered the 3 Oceans development and rejected it?

(2) What changes to the design of the proposed development were made in order for the MRA to now approve the development?

(3) Did Mr McCullagh have any meetings with the Minister for Planning, the Premier or their offices regarding the 3 Oceans development?

(4) Was Mr McCullagh previously employed by a Labor government in a minister's office?

(5) If yes to (4) above, which minister or ministers?

Hon STEPHEN DAWSON replied:

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

(1) No.

(2) The approved proposal, which is subject to conditions, has made significant revisions, including a 43 and 33-storey twin tower development with a smaller podium, which has achieved design excellence, and will deliver improved local amenity at street level, greater view corridors and public benefits above and beyond the criteria for bonus height. The approved plans made improvements to the proposal from the previous development application, which was refused. In particular, the approved plans have now achieved design excellence, as advised by the design mediation panel; reduced in intensity with respect to gross floor area; reduced the quantum of car parking while still maintaining the provision of public car parking; complied with the Scarborough development policies; and provided multiple community benefits that are nominated within the Scarborough design guidelines.

(3) The chairman regularly meets with the minister to discuss agency business.

(4) No.

(5) Not applicable.

FAMILY AND DOMESTIC VIOLENCE — REFUGES

Question without Notice 514 — Supplementary Information

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.05 pm]: In relation to part (5) of question without notice 514, asked by Hon Nick Goiran on 27 June, I hereby table the information requested. The Minister for Prevention of Family and Domestic Violence and I apologise for not tabling the information yesterday.

[See paper 1525.]

OFFICE OF NATIVE TITLE — STAFF

Question without Notice 489 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.06 pm]: I have an answer for Hon Michael Mischin's question without notice 489, asked on 26 June 2018, which I seek leave to have incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

(1) Land, Approvals and Native Title Unit, as at 23 March 2017

Position / Duties	**Level**
Executive Director	NCEO4
Director	CL 1
Manager Native Title Negotiation	8
Business Support Manager	7
Senior Policy Officer	6
Policy Officer	5
Executive Assistant	3
Manager Claims	8
Senior Policy Officer	6
Senior Policy Officer	6
Manager Projects	8
Principal Policy Officer	7
Principal Policy Officer.	7
Senior Policy Officer	6
Manager Policy and Strategy	8
Principal Policy Officer	7
Policy Officer	4
Manager Research	8

Principal Policy Officer	7
Advisor, Legal and Policy	7
Senior Research Officer.	6
Research Officer	5
Research Officer	4
Manager South West Settlement	8
Principal Policy Officer	7
Principal Policy Officer	7
Senior Research and Project Officer	6
Policy Officer	4

(2) Land, Approvals and Native Title Unit, as at 14 June 2018

Position / Duties	**Level**
Manager Native Title Negotiation	8
Senior Policy Officer	6
Policy Officer	5
Executive Assistant	3
Senior Policy Officer	6
Senior Policy Officer	6
Principal Policy Officer	7
Principal Policy Officer	7
Senior Policy Officer	6
Manager Policy and Strategy	8
Principal Policy Officer	7
Principal Policy Officer	7
Advisor, Legal and Policy	7
Senior Research Officer	6
Research Officer	5
Manager South West Settlement	8
Principal Policy Officer	7
Principal Policy Officer	7
Senior Research and Project Officer	6
Policy Officer	4

(3) As of 1 July 2018, the Aboriginal Policy Unit (APU) and Land Approvals & Native Title Unit (LANTU) will merge to form the new Aboriginal Policy and Coordination Unit, under the Policy and Reform Division.

Whilst the new structure has been finalised, a period of transition is expected over the coming months.

There are two new leadership positions that are due to be advertised:

1. Director, Aboriginal Policy and Coordination Unit (Class 2); and

2. Director, State Agreements, Aboriginal Policy and Coordination Unit (Level 9, Non SES).

The recruitment process for these positions is expected to be finalised over the coming months with interim acting appointments to those positions until the recruitment process is finalised.

The following table lists the departures:

Position	**Reason for Departure**	**Replacement**
Executive Director	Voluntary Redundancy	To be replaced by Director, Aboriginal Policy and Coordination Unit
Director	Voluntary Redundancy	To be replaced by Director, State Agreements, Aboriginal Policy and Coordination Unit
Principal Policy Officer	Voluntary Targeted Separation Scheme	Duties covered by merger of Aboriginal Policy Unit and Land, Approvals and Native Title Unit

Manager Projects	Voluntary Targeted Separation Scheme	Duties covered by merger of Aboriginal Policy Unit and Land, Approvals and Native Title Unit
Business Support Manager	Position Transferred to Finance	Budget and financial portion of work transferred with position. Level 5 Policy Officer assumed the balance of duties
Manager Research	Officer transferred to Social Policy Unit	Duties covered internally
Research Officer	Acting in higher position within LANTU	Vacant
Policy Officer	Acting in higher position within LANTU	Vacant

QUESTIONS ON NOTICE 1217, 1268, 1271, 1278, 1295 AND 1304

Papers Tabled

Papers relating to answers to questions on notice were tabled by **Hon Sue Ellery (Leader of the House)**, **Hon Stephen Dawson (Minister for Environment)** and **Hon Alannah MacTiernan (Minister for Regional Development)**.

BIRTHDAY WISHES — HON AARON STONEHOUSE AND HON SAMANTHA ROWE

Statement by President

THE PRESIDENT (Hon Kate Doust): Before we return to orders of the day, because I may not have the opportunity later on, and given that we will not be sitting for a few weeks, I want to acknowledge a couple of people in the chamber. One of them, sadly, has left on urgent parliamentary business. I just wanted to say that tomorrow is a very important birthday for Hon Aaron Stonehouse, so I want to wish him a very happy birthday in advance, and to our other colleague in this place, Hon Samantha Rowe. It is her birthday on Saturday. I want to wish her a very happy birthday as well.

TOBACCO PRODUCTS CONTROL AMENDMENT BILL 2017

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Martin Aldridge) in the chair; Hon Alanna Clohesy (Parliamentary Secretary) in charge of the bill.

Clause 4: Section 18A inserted —

Committee was interrupted after the clause had been partly considered.

Hon NICK GOIRAN: We are on clause 4, and, interestingly, during the interruption of the Committee of the Whole, I was provided with a document I thought I would never see again, which is this false document that I have referred to a few times. I have managed to get my hands on tabled paper 1247 and, interestingly, just prior to the interruption, I asked the parliamentary secretary what were the changes between the 2016 bill and the 2017 bill, and the parliamentary secretary informed us that there has been a change. Yet, when I look at this false document, which I had hoped I would never see again, I note that it falsely states that there have been no changes to clauses 3, 4, 5 and 6—I remind members we are on clause 4—between the 2016 bill and 2017 bill. I could make further points about this false document, but it will now return to the place I last saw it, which is this wastepaper basket here. We will not take that any further. If the parliamentary secretary wants to see the speedy passage of this bill this afternoon between now and the dinner adjournment, we will not refer to that document any further; otherwise, I am quite happy to debate each and every false statement in that document.

I return to clause 4 and note that the parliamentary secretary has indicated that there has been a change to clause 4—that is, the addition of the word "retail". I ask her to explain why the government saw fit to add that word to clause 4.

Hon ALANNA CLOHESY: I am advised that parliamentary counsel added it to the heading of the proposed section. It does not change the intent of the clause, which is why previous documents stated there was no change. I am advised that the heading provides greater clarity.

Hon NICK GOIRAN: Just to conclude on clause 4, I want to be crystal clear here. So, there has been a change to clause 4.

Hon ALANNA CLOHESY: There has not been a change to clause 4; there has been a change to the clause 4 heading.

Hon NICK GOIRAN: Is the heading part of clause 4?

Hon ALANNA CLOHESY: The intent of clause 4.

Hon NICK GOIRAN: Sorry, I could not understand the response from the parliamentary secretary. Is the heading part of clause 4?

Hon ALANNA CLOHESY: I was referring to the intent. It did not change the intent of the clause. The heading may be considered part of the clause or it may be considered a heading.

Hon NICK GOIRAN: I am happy to spend time debating this, because it strikes me that if members want to look at the bill, and I encourage the parliamentary secretary to do so, clause 4 starts on line 13 of page 2. From line 13 of the bill through to line 21 is where we find clause 4. On line 16 there is a heading that is a change to section 18 of the act. I can only reasonably conclude that all of the words found from line 13 onwards through to line 20 are part of clause 4 and therefore any change in those lines is a change to the clause. Once again, I ask the parliamentary secretary whether there has been a change to clause 4.

Hon ALANNA CLOHESY: Yes, to the heading.

Clause put and passed.

Clause 5: Sections 21A and 21B inserted —

Hon NICK GOIRAN: Have there been any changes to clause 5 between the 2016 draft bill and the bill before the house?

Hon ALANNA CLOHESY: The word "certain" has been added to the heading of proposed section 21A, and the words "that can be split into portions of fewer than 20 cigarettes" were deleted.

Hon NICK GOIRAN: Why did the government choose to make those deletions and additions?

Hon ALANNA CLOHESY: I am advised that parliamentary counsel added the word "certain" for clarity and that the words "that can be split into portions of fewer than 20 cigarettes" were deleted to make it certain that cigarettes in packages are being sold.

Clause put and passed.

Clause 6: Section 23 amended —

Hon NICK GOIRAN: The parliamentary secretary indicated that she was going to ask the minister for some information about clause 6. This was on 10 April this year during Committee of the Whole. My notes indicate that the parliamentary secretary was going to ask the minister who the interested stakeholders that he consulted with were that caused the government to seek to amend clause 6 to partially implement option 9 of the 2011 review. Has the parliamentary secretary had an opportunity to ask the minister that question; and, if so, what is the response?

Hon ALANNA CLOHESY: After the Tobacco Products Control Amendment Bill 2017 had been introduced, there were seven pieces of correspondence dated from September 2017 to March 2018. The first of course, which I have already talked about, was from the one by the Standing Committee on Uniform Legislation and Statutes Review, which was not part of the consultation. The minister also spoke to representatives of a retailer. Three letters were received from peak health bodies seeking support to remove the exemption that permits the display of tobacco products.

Hon NICK GOIRAN: We already knew that; it was on the record when we were last in Committee of the Whole. After that, the parliamentary secretary indicated the government was intending to move an amendment—on the supplementary notice paper—to clause 6. I imagine that will be moved by the government shortly. As part of that, the explanation provided was that the minister decided to amend as a result of consultation with interested stakeholders. I asked: who were the interested stakeholders he consulted who caused the minister to make that decision? That was not known when we met on 10 April. The parliamentary secretary was going to find out who they were. Clearly, it is not the answer that has just been provided because, as she rightly pointed out, the very first piece of correspondence is from the Standing Committee on Uniform Legislation and Statutes Review and it is not one of the interested stakeholders that the minister would have consulted. Has there been discussion with the minister since 10 April to ascertain this information?

Hon ALANNA CLOHESY: As I said, the minister's office spoke with a retail provider, Devlin's Tobacconist, and the retailer's representative. The minister's office met with the retailer and his representative on several occasions. Meetings included site visits to both the retailer's premises.

Hon NICK GOIRAN: To be clear, the consultation was with one—singular—interested stakeholder, not to be confused with, plural—multiple—interested stakeholders?

Hon ALANNA CLOHESY: As far as I am aware. I move —

Page 3, line 21 to page 5, line 17 — To delete the lines and insert —

6. Section 23 amended

(1) After section 23(1) insert:

(2) If a person is charged with an offence under section 22(1) it is a defence to prove that at the time the offence is alleged to have been committed —

(a) the person was a specialist retailer; and

(b) the display was of a cigar or an implement designed to cut a cigar; and

(c) the display could not be seen from a public place outside the premises specified in the licence; and

(d) a health warning sign in accordance with the regulations was displayed immediately adjacent to the display.

(2) Delete section 23(4).

Hon AARON STONEHOUSE: I am glad that the government has introduced this amendment. It is as a result of a combination of many weeks of lobbying government ministers, and getting the issue playtime on national and state media. In fact, when this Tobacco Products Control Amendment Bill was introduced to the house, it was referred to the Standing Committee on Uniform Legislation and Statutes Review and brought back to the Legislative Council sometime around October. It was not until earlier this year that anyone, I think, fully understood the impact clause 6 would have on local businesses. It just so happens that on a second reading of the bill, I realised clause 6 would, essentially, prohibit local tobacco specialists from being able to display their products, in this case, cigar stores, of which Devlin's in Subiaco and London Court is one. At that time, it seemed that no other member in this chamber was aware that would be the impact of this bill. Luckily, customers of Devlin's are very politically active and began their own campaign alongside mine to lobby the government. The government was gracious enough to agree to introduce this amendment, which will, effectively, protect the defence within the act and tighten it or narrow the scope of it somewhat to apply only to tobacco specialists selling cigars. That seems fine. It is clear to me that the only business in the state currently using this defence that I am aware of at this stage is Devlin's. Possibly some Smokemart stores may be eligible to use the defence but they have not found a need to yet. Smokemart has not made representations to any member of Parliament that they need the defence to remain for them to sell cigars. In fact, it is not a cigar specialist, so I doubt it is using it at all.

The preservation of this defence, even narrowing it to cigars only, will ensure an iconic business in Subiaco will continue to operate. Devlin's has been in Subiaco for about 20 years now. It is a well-known, well-liked business in the community with many customers. I am glad I was able to take part in the effort to save that business and ensure it continues for many years to come.

I support the amendment and I encourage other members to do so. It will achieve the end I sought when we began this debate months ago. I have consulted with the owner of Devlin's, Simon Devlin himself, and he is happy with this amendment and the wording of it and he believes it will ensure he can continue to operate his business.

Hon ALANNA CLOHESY: The amendments were drafted following consultation with the cigar retailer and the cigar retailer representative engaged by the cigar retailer. Amended section 23 will provide that any cigars or implements designed to cut cigars are not to be displayed in a way that can be seen from an outside public place. In accordance with the regulations, a health warning will need to be displayed adjacent to the display, and the defence contained in the section will apply only to displays of cigars and an implement designed to cut cigars. I commend the amendment.

Hon NICK GOIRAN: I indicate that the opposition will support the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

The DEPUTY CHAIR (Hon Martin Aldridge): Could I get an indication from members of any clauses that they wish to speak to.

Hon Nick Goiran: Clause 7.

Clause 7: Section 25 amended —

Hon NICK GOIRAN: Mr Deputy Chair, for the ease of your governance of this process, I indicated to the previous occupant of the chair that we will be going through this bill clause by clause due to the previous tabling of that false document. We are now on clause 7. I ask the parliamentary secretary what changes, if any, have been made —

Hon Alannah MacTiernan interjected.

Hon NICK GOIRAN: Sorry; was there a question?

The DEPUTY CHAIR: Order, members! I am focusing on listening to the contribution of Hon Nick Goiran.

Hon NICK GOIRAN: Sorry, Mr Deputy Chair. There seemed to be a noise in the chamber all of a sudden. I lost my train of thought. I am asking the parliamentary secretary to indicate what changes have been made to the 2016 bill that is before the house with respect to clause 7.

Hon ALANNA CLOHESY: The penalties in section 25 are being reduced to $1 000. The offences in section 25 were considered to be of a lower order than some of the more serious offences provided for in the act for which a stronger deterrent was required. As such, it was considered appropriate to reduce the applicable penalties.

Hon NICK GOIRAN: Parliamentary secretary, what were the penalties previously?

Hon ALANNA CLOHESY: The amendment bill will see the penalty reduced from $10 000 to $1 000 for a first offence.

Clause put and passed.

Clause 8: Section 33A inserted —

Hon NICK GOIRAN: Parliamentary secretary, are there any changes to the bill before the house compared with the 2016 draft regarding clause 8?

Hon ALANNA CLOHESY: Some typographical errors have been fixed. In proposed section 33A(1)(a), the word "the" has been inserted before the word "product". Under proposed section 33A(1)(b), the word "a" has been inserted before the words "tobacco product". Those words now state —

> a programme or arrangement under which a purchaser of goods or services may be entitled to a gift of a tobacco product or any other benefit in relation to a tobacco product,

In addition, at the end of proposed section 33A(2), the words "to purchase a tobacco product" have been inserted. I am advised that the purpose of that last sentence is for clarity. The other three are typographical errors.

Hon NICK GOIRAN: Parliamentary secretary, I understand the typographical errors. Let us just leave that and move on.

I think the last change the parliamentary secretary mentioned related to an amendment to proposed section 33A(2). She mentioned that some words were different. Could she explain that again?

Hon ALANNA CLOHESY: The words inserted at the end of proposed section 33A(2) are "to purchase a tobacco product". The purpose of inserting those words is to make it clear that the exchange is in buying tobacco. They were added for clarity.

Clause put and passed.

Clause 9: Section 38 amended —

Hon NICK GOIRAN: Parliamentary secretary, are there any differences in clause 9 of the 2016 draft compared with the bill before the house? If so, what are the changes and why were they made?

Hon ALANNA CLOHESY: This clause seeks to delete the words "allows having regard to section 40(2)". I am advised that this is a technical amendment to section 38(3). The section contains a cross-reference to section 40(2) of the act, which is proposed to be amended by clause 11 of the bill. As a consequence, the cross-reference to section 40(2) is no longer appropriate. Both the 2016 and 2017 bills proposed to amend section 38(3) and remove the reference to section 40(2). The 2017 bill now removes the reference to section 40 because of the amendment proposed by clause 11.

Clause put and passed.

Clause 10: Section 39 amended —

Hon NICK GOIRAN: Parliamentary secretary, are there any differences between clause 10 of the 2016 draft bill and the bill that is before the house? If so, what are they and why have they been made?

Hon ALANNA CLOHESY: The definition of "working day" has been moved to the glossary in the 2017 bill. The definition of "working day" has been removed from the 2017 bill. The end of the sentence with the words "supply of tobacco products" now includes "sporting, cultural or other event". These words have been added to provide context as to the type of event that is contemplated.

Hon NICK GOIRAN: The parliamentary secretary indicated that one of the definitions had been deleted. What is the reason for the deletion?

Hon ALANNA CLOHESY: It has been moved to the glossary.

Clause put and passed.

Clause 11: Section 40 amended —

Hon NICK GOIRAN: Clause 11 before us seeks to amend section 40 of the primary act. The draft bill also had a clause 11 that sought to amend section 40 of the primary act. Are there any differences between the two bills; and, if so, what are they and why have they been made?

Hon ALANNA CLOHESY: Proposed section 40(2A) has been included, which states —

> If a decision to refuse to renew a licence is made later than 14 days before the due day, the licence continues in force under this subsection, without affecting any period of suspension, until the end of the period of 14 days beginning on the day immediately following the day on which notice of the decision is given under subsection (2).

The reason this proposed subsection (2A) has been included is to simplify and refine it. The same outcome was sought from both bills—the 2016 and the 2017 bills—and the same outcome has been achieved, although in a simpler form. That was included to ensure that the applicant has time to apply to the State Administrative Tribunal for a review of the decision prior to the expiry of the licence.

Clause put and passed.

Clause 12: Section 77 replaced —

Hon NICK GOIRAN: Mr Deputy Chair, we are on clause 12 of 21. I would like to ask the parliamentary secretary whether there are any changes between the 2016 draft bill and the clause that is before the house; and, if so, what are those changes and why have they been made?

Hon ALANNA CLOHESY: Proposed section 77(1) and (4) are the same in both bills. Proposed subsection (2) clarifies the 2017 bill; that is, the appointment must be in writing. For proposed subsection (3), parliamentary counsel updated the wording in the 2017 bill to make sure the intent was expressed clearly. Proposed subsection (5) is similar to subsection (4) of the 2016 bill except for the words "if the CEO revokes the person's appointment". Proposed subsection (6) is similar to subsection (5) in the 2016 bill, with the addition of subsection (6)(b). Subsection (6) of the 2016 bill has been moved to clause 20 of the 2017 bill. The wording has not changed.

Clause put and passed.

Clauses 13 to 15 —

Hon NICK GOIRAN: It might please the parliamentary secretary to know that I think we can deal with clauses 13, 14 and 15 together because none of those clauses are found in the draft bill. These are all, as best as I can see, new clauses inserted by the government. I would simply ask why that was done.

Hon ALANNA CLOHESY: I will just check: does the member want to do clauses 13 to 15 in one go?

Hon Nick Goiran: The parliamentary secretary can respond to all three.

Hon ALANNA CLOHESY: These clauses are about the restricted investigators. As the member pointed out, they are new provisions in this bill. They came about because in discussing the role of restricted investigators, the department and the restricted investigators thought that some changes were required to not only make it clearer, but also they were prompted by the context of the other provisions in the act that require investigators to be issued with an identity card. In the course of the discussion about restricted investigators, they arrived at a decision to include that investigators need to be issued with an identity card. Clauses 14 and 15 are included because of that.

Hon NICK GOIRAN: What is the difference between an investigator and a restricted investigator?

Hon ALANNA CLOHESY: I am informed that a restricted investigator can operate only under certain parts of the act, such as those related to smoking, and they are appointed by local government authorities or other authorities such as the Department of Transport. The Department of Transport may appoint restricted investigators. Investigators may investigate all parts of the act.

Hon NICK GOIRAN: Why are they called investigators and not simply authorised officers as in the Food Act 2008, or indeed as described in similar legislation in other states? I note that Victoria and New South Wales use the word "inspector" whereas Queensland uses "authorised person" and South Australia, Tasmania, the ACT, the Northern Territory and the commonwealth use the term "authorised officer".

Hon ALANNA CLOHESY: I do not have the history of the development of the original 2006 act, which this bill amends. I do not know why they are not called an authorised officer as distinct from an investigator. As I said, it is historical. I thank the member for pointing it out. It may be something that is considered in the next review.

Clauses put and passed.

Clause 16: Section 92 amended —

Hon NICK GOIRAN: We will find out in a moment whether clause 16 is a mirror or close cousin of clause 13 in the previous draft bill. Are they the same? If not, what are the differences and why were the changes made?

Hon ALANNA CLOHESY: They are very close. It is a typographical change—two words are inserted. After "subsection (2)(a)(i)" the word "or" is inserted, and after "(ii) to the offence is taken to be", "a" is inserted. The number also changes to 16.

Clause put and passed.

Clause 17: Section 115 amended —

Hon NICK GOIRAN: Clause 17 of the Tobacco Products Control Amendment Bill 2017 appears substantially similar to clause 14 of the draft 2016 bill. What are the differences and why were they made?

Hon ALANNA CLOHESY: In comparison with the 2016 version, proposed sections 25(1), 25(2) and 25(4) were not included in the 2017 version because they are set out under clause 7 of the 2017 bill. In addition, the numbering was changed to 17.

Clause put and passed.

Clause 18: Section 119 amended —

Hon NICK GOIRAN: Clause 18 of the 2017 bill is similar to clause 15 of the 2016 bill. To what extent are they different, and if they are different, why have changes been made?

Hon ALANNA CLOHESY: Proposed section 119(2) has been moved to clause 20 of the 2017 bill, but the wording has not changed. In addition, the numbering has changed; this is now clause 18.

Clause put and passed.

Clause 19: Section 124 amended —

Hon NICK GOIRAN: Are there any changes in clause 19 in comparison with clause 16 of the draft bill from 2016?

Hon ALANNA CLOHESY: There is no change to the content. The numbering has changed from 16 to 19.

Clause put and passed.

Clause 20: Part 9 inserted —

Hon NICK GOIRAN: I cannot seem to find a clause 20 in the 2016 bill, nor a significant equivalent, although this may have been one that the parliamentary secretary indicated was moved from one section to another. Perhaps the parliamentary secretary could indicate precisely what that is and why that was done.

Hon ALANNA CLOHESY: Proposed section 128 was originally proposed section 77(6) of the 2016 bill and proposed section 129 was originally proposed section 119(4) the 2016 bill. There has been no change to the wording; they have just been reordered for clarity by Parliamentary Counsel. That clause also inserts a new part into the act to provide transitional provisions.

Clause put and passed.

Clause 21: Glossary amended —

Hon NICK GOIRAN: We are on clause 21 of the Tobacco Products Control Amendment Bill 2017. The parliamentary secretary indicated earlier that there was an amendment to the glossary. I note that clause 21 of this bill seeks to amend the glossary. I take it that was the one that she was referring to. Are there any other changes or movements between the draft bill and the bill before us that affect the glossary? Why was it deemed appropriate to move these items and definitions to the glossary?

Hon ALANNA CLOHESY: The member is quite correct. We have already talked about "identity card" being inserted after "investigator" and why that had moved. Also, a definition of the phrase "due day" has been included, which, as the member will tell from the 2017 bill, reads —

> ***due day***, in relation to a licence, means the day on which the licence is due to expire, before the application of section 39(7) or 40(2A);

The definition of "due day" is included in the glossary, but it was included in clause 10 of the 2016 bill. As we discussed, the words "or restricted investigator" have been added to the definition of "identity card" to reflect the amendments to section 81 in clause 14.

Clause put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and, by leave, the report adopted.

As to Third Reading — Standing Orders Suspension — Motion

HON ALANNA CLOHESY (East Metropolitan — Parliamentary Secretary) [5.59 pm] — without notice: I move —

> That so much of standing orders be suspended so as to enable the bill to be read a third time forthwith.

HON NICK GOIRAN (South Metropolitan) [5.59 pm]: The only reason that we need to suspend standing orders now—which I indicate, before the Leader of the House has a heart attack, I will be supporting—is because the government controls the agenda and it chooses when matters will be brought into this place. The government has known all along that the parliamentary secretary was going to move an amendment to this bill because of the lobbying of the likes of Hon Aaron Stonehouse. That has been known for months, yet the government brought it on on the final afternoon before the winter recess and, lo and behold, it suddenly realised that our standing orders do not allow for the third reading to be made forthwith. Suspensions of standing orders need to be done in urgent emergency-type scenarios. I put it to members that this is no emergency scenario. We are only in this situation because of the incompetence of the management of the house. I will be supporting it because I am such a generous, nice guy on the last day of the sitting period before the winter recess, but it is unsatisfactory that this government continues to rely on the suspension of standing orders and just throws the book out when it suits it because it does not manage the house well.

The PRESIDENT: An absolute majority is required to pass this suspension motion. Having counted the house and an absolute majority of members being present and there being no dissentient voice, I declare the motion is passed.

Question put and passed with an absolute majority.

Third Reading

Bill read a third time, on motion by **Hon Alanna Clohesy (Parliamentary Secretary)**, and returned to the Assembly with an amendment.

WASTE MANAGEMENT — CONTAINER DEPOSIT SCHEMES — EUROPEAN STUDY TRIP

Statement

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [6.02 pm]: I would like to report on my recent travel to Europe to study the implementation and operation of best-in-class container deposit schemes and waste management facilities in three countries. Learnings from this trip have already contributed to the design of Western Australia's container deposit scheme, which is one of the McGowan government's election commitments.

I visited state-of-the-art waste processing facilities and gained valuable information that will help us rise to the challenge of improving waste management here in Western Australia. The program included a visit to Lithuania, where Europe's most recent container deposit scheme is returning 92 per cent of eligible containers after just two years of operation. The Lithuanian scheme is based on a retail obligation model under which businesses that sell eligible drink containers are obliged, with few exemptions, to take back those containers and pay the consumer the deposit for those containers.

We also visited Norway, where a container deposit scheme is well established, and is backed by an award-winning marketing and education program. We saw firsthand how a container deposit scheme can work closely with industry and other recycling systems, such as the kerbside recycling we have here in Western Australia, to deliver a highly successful scheme with great longevity.

The visit ended in Germany, where sorting facilities combined with reprocessing operations demonstrated the commercial value of high-quality, source-separated re-useable mixed plastics in a circular economy. It was a valuable tour, on which the delegation got to interact with and ask detailed questions of international leaders in the fields of container deposit schemes and waste management. The world is moving very quickly in both of these areas and it was a great privilege to hear directly from the people who are helping to shape the future.

I hereby table a travel report from the trip, and look forward to using the information gained on this tour to deliver great outcomes for the container deposit scheme and waste management in Western Australia.

[See papers 1532 and 1533.]

PARLIAMENTARY QUESTIONS

Statement

HON MARTIN ALDRIDGE (Agricultural) [6.04 pm]: I rise tonight to raise a couple of issues before the house. I did not get a chance to comment on the seventy-third report of the Standing Committee on Estimates and Financial Operations, but a matter came to my attention during the estimates process this year that I want to raise. In the 2016–17 budget estimates hearings of the Standing Committee on Estimates and Financial Operations, I asked a question prior to the hearing of the Minister for Regional Development about the Surf Life Saving Association of Western Australia and a one-off grant of $3.3 million. Question 11 was, in part —

> *(d)* *Will you provide the business case for the expenditure of funds?*
>
> Answer: No.
>
> *(e)* *If no to (d), why not?*
>
> Answer: The considerations with respect to the provision of the grant were subject to Cabinet deliberations. In any event the funding is continuing a suite of services many of which have been operating for a number of years and were supported by the previous Government.

It was made public by the committee on 16 October 2017. I am not sure when the committee received that information, but that was the date on which it was released by the committee. I will return to the seventy-third report of the committee, which was tabled in May this year. Section 3 of the report is about the provision of information to the committee. Members who were members of this place in the thirty-ninth Parliament would be aware that the Standing Committee on Estimates and Financial Operations did a very good report titled "Provision of Information to the Parliament". I think it was the sixty-second report. The committee has since made a practice of reporting in its post-budget inquiry hearings which ministers refused to provide information to Parliament, which I think is very valuable. Three ministers were identified in the May report. They were the Minister for Regional Development, the Minister for Emergency Services and the Minister for Tourism. The report

indicates that the Minister for Emergency Services and the Minister for Tourism met their obligations under section 82 of the Financial Management Act. Paragraph 3.5 states —

> As at 22 March 2018, the Minister for Emergency Services and the Minister for Tourism had notified the Parliament and the Auditor General of their decision not to provide information to the Committee. The Committee will contact the Minister for Regional Development on that matter.

I made inquiries with the committee staff this week. I am not sure whether that correspondence with the Minister for Regional Development occurred but a report was tabled and debated in this house that identified the Minister for Regional Development's failure to meet her obligations under section 82 of the Financial Management Act 2006. We are now 256 days past the date on which the standing committee released that information, so I think that has well and truly exceeded the 14 days required. I would like the Minister for Regional Development and her staff to consider this matter. I looked at tabled papers this week to see whether the minister had given notice to both houses of Parliament under section 82. I discovered that she had not. I not only discovered that, but I also noticed that she has never tabled a section 82 notice in this place for an answer that she has refused to provide to the Council. I think that is a very serious matter that the minister and her office should be taking on notice and considering, particularly in light of the interest of the Standing Committee on Estimates and Financial Operations in this issue.

Another matter has caused me some concern and frustration over the last fortnight. It refers to a question on notice that I asked the Minister for Education and Training. It was question on notice 1120. It stated —

> I refer to question on notice No. 635, answered on 11 April 2018, and I ask again:
>
> (a) will the Minister please provide a detailed breakdown of the $64 million in savings per education service cut proposed in your media statement of 13 December 2017; and
>
> (b) if no to (a), will the Minister please advise when the Minister's obligations in respect to section 82 of the Financial Management Act 2006 will be completed?

The minister answered on 8 May 2018 —

> (a) There is no longer $64 million in savings. On 11 January 2018, I announced a revised estimate of $41 million of savings measures. Further details were provided in my response to Legislative Council Question on Notice 198.
>
> (b) Not applicable.

I trundled off to question on notice 198 and realised it was a question asked by Hon Alison Xamon. It was asked of the parliamentary secretary representing the Minister for Health, and was about psychiatric services at Joondalup Health Campus. That was odd, and then I thought that the minister might have meant question without notice 198, rather than question on notice 198. In an effort to correct the record, without wasting my one question a day in question time, I submitted question on notice 1416 on 14 June, which was two weeks ago, in which I refer to question on notice 1120 and the minister's reference to question on notice 198, and asked whether that question was correct. To this date, I have not had an answer. That answer is not due until 23 August. It is important to note that the minister would have received this question two weeks ago, when I lodged it. I then looked at question without notice 198, which was from Hon Donna Faragher to the Minister for Education and Training. It read —

> Will the minister provide a table of all savings measures that were identified by the Department of Education and approved by the minister on or before 13 December 2017 and which formed part of the minister's announcement on that same day; and, if not, why not?

I think I am on the right track. It is the same subject matter that I was inquiring about, so I think my earlier question contained the wrong reference. Hon Sue Ellery replied —

> I thank the honourable member for some notice of the question. I am unable to provide an answer today. However, I undertake to provide an answer to this question in the next sitting week.

That takes us to 12 April, which was, I think, the next sitting week, and I believe the Leader of the House; Minister for Education and Training was away on urgent parliamentary business—no, I have jumped ahead. On Tuesday, 10 April 2018, Hon Sue Ellery provided an answer to question without notice 143. She said —

> I have information for Hon Donna Faragher on question without notice 143, asked on 22 March 2018, which I undertook to provide. Part of the answer is in tabular form so I seek leave to have it incorporated into *Hansard*.

Leave was granted. It took me some time to establish the link between question without notice 143 and question without notice 198. The reason is that a correction was made by Hon Samantha Rowe on Thursday 12 April. She said —

> I refer to advice that was provided to Hon Donna Faragher on Tuesday, 10 April 2018 after question time. The Minister for Education and Training advised that the information she was providing was in response to question without notice 143, which was asked on 22 March 2018. The incorrect question number was used. The information she provided was in response to question without notice 198, which was asked on 29 March 2018.

It took me the best part of a week, with the enormous assistance of our wonderful clerks and Hansard, to get to the bottom of this. It concerns me that two weeks ago I lodged question on notice 1416 which, I would have thought, would trigger within the office of the Minister for Education and Training the need to correct her answer to question on notice 1120, if I am not mistaken. That has not occurred. The other issue that it raises is that, when a member makes a correction to the record, there is no link between that correction and the original statement. Whether that is a minister answering a question, or simply a member correcting something said in error, when people examine the record it is very difficult to establish the links. In this case, I have pointed out that there were many links, and we have not actually resolved all those links yet, because I have not had a correct answer, if indeed the answer I was given was incorrect. It has not been provided yet, so somebody looking at this record in a month, a year or 100 years' time would find it very hard to establish the correct answer is to my question, for the reasons that I have set out tonight. That is something we are going to need to consider as a house. We will need some sort of technical solution to overcome this.

Statement

HON SUE ELLERY (South Metropolitan — Leader of the House) [6.14 pm]: I will just give a quick response to Hon Martin Aldridge. There are two issues, really. One is the technical point that the member raised. I am not able to assist him with that.

In the matter of trying to track down the answer and needing to seek assistance, the member should be able to seek the information through the Parliament, and I do not discourage him from doing that, but equally I invite him, if he finds himself in an incredibly frustrating position, which clearly he did, to give my office a call, and we will try to resolve the problem. If it was about tracking down the numbers, we would be happy to assist the member.

WAVE PARK — ALFRED COVE

Statement

HON ALISON XAMON (North Metropolitan) [6.15 pm]: I want to make a member's statement before we go into the winter recess, to draw the attention of members to, and also to place on the parliamentary record, a matter that my office is currently working on, and it is time-sensitive. I refer to the site of the proposed wave park at Alfred Cove. I recognise that the community in Melville has some major concerns about the way that this project has developed over time, and I acknowledge that both Standing Committee on Environment and Public Affairs and the Corruption and Crime Commission have already looked into those issues. I particularly want to talk tonight about the specific environmental value of the site and how, yet again, that appears to be having no effect on how this proposal is currently being assessed by the government.

The site is almost entirely within the Swan–Canning development control area, and is part of the Swan Canning Riverpark. It is part of Bush Forever site 331, and it is in reserve 35486, which has been recommended to become an A-class reserve. It is zoned in the metropolitan region scheme as parks and recreation and, importantly, it abuts a wildlife habitat protection zone on the Swan River. It is also built on old landfill, which means that, if there is going to be any digging on the site, that has the potential to create a risk of disturbing a range of things that we are really best to just let lie. All of this should be flying red flags for local and state governments, but tonight I will talk only about the elements directly related to the Swan River Trust.

The proposed site is located almost entirely on the Swan–Canning development control area. The purpose of the development control area, or the DCA, is twofold. It is there to ensure consistency in process and decision-making in areas that directly affect the Swan River, and it is also to ensure that the protection of the Swan River will always be at the forefront of any planning decisions. Originally, it was thought that the entire site was within the DCA, in which case part 5 of the Swan and Canning Rivers Management Act 2006 would have applied, which means that the development application would be made to the Department of Biodiversity, Conservation and Attractions, and ultimately would be determined by the Minister for Environment. However, as it turns out, part of the site falls within a road reserve. It is not entirely clear why a road reserve would not fall under the DCA, as a range of public and private land is still subject to DCA oversight. However, it seems that, due to the presence of that road reserve, it will now be going through the Western Australian Planning Commission process, as outlined in clause 30A of the metropolitan region scheme. This will not necessarily speed up any decisions on this proposal.

The Swan River Trust will now be invited to provide advice to the WAPC or the joint development assessment panel, which will be the determining bodies. Should those bodies wish to make a determination that is not consistent with that advice, the application will be determined jointly by the Minister for Environment and the Minister for Planning. Although I am not entirely sure about the road reserve, the entire site falls within the Swan Canning Riverpark, and the Swan and Canning Rivers protection strategy recognises ecosystem health as the basis of all the things that we value within that river park. This strategy explicitly supports the development of appropriate commercial opportunities in the river park. There is no guidance on what constitutes "appropriate", but the strategy regularly refers to activities such as walking, cycling, kayaking or canoeing, which are understood to be pretty low-impact activities. The relevant policy on commercial operations within the DCA and the river

park requires an application to demonstrate that it is pertinent to the river and that it will maintain or improve public access, community use and enjoyment of the river system and the amenity and landscape character of the river. It goes on to state that the long-term health and natural ecosystem of the river is to be maintained and enhanced whenever possible. It is going to be interesting to see how this proposal will be able to demonstrate any of those things.

The Swan River Trust Technical Advisory Panel has also considered the potential impacts of climate change on the river and foreshore and recommends that the state government avoids allowing development on low-lying areas so there can be an extended buffer for the anticipated sea level rises and also to assist with landward migration of the intertidal zone. I remain astonished that a road reserve can reduce the role of the Swan River Trust so dramatically in determining a development proposal of this magnitude in the development control area. We have already repeatedly identified the area as environmentally significant, both now and in the future, as the Swan and Canning River system deals with climate change. It is astonishing that the proposal has got so far with so little notice from the government agencies that are supposed to be protecting the Swan River. This site is simply not suitable for this type of development—not now and certainly not in the future.

MARIJA KAROVSKA — FATALITY
FREMANTLE WAR MEMORIAL — DESECRATION

Statement

HON CHARLES SMITH (East Metropolitan) [6.21 pm]: I would like to raise two issues briefly this evening, as I am aware that many frontbench members want to get back to their country estates! I will just be brief. I would like to take this opportunity —

Several members interjected.

Hon CHARLES SMITH: Listen, this is important.

I would like to take this opportunity to express my condolences in this house to the family of a Mrs Marija Karovska, who was killed during an alleged carjacking in Mirrabooka in February this year. The 51-year-old mother was allegedly run down in her own driveway during an attempted car theft at the family home. The tragic and callous loss of the life of Mrs Karovska has left the local Macedonian–Australian and north eastern suburbs communities reeling. I was deeply shocked and angered by the incident and I truly hope that justice will be done in the court system. The penalty for murdering an innocent person should be harsh and resolute, with no soft-touch approaches involving bail or cutting deals for short sentences. I believe the overwhelming majority of Western Australians would agree with me when I say there should be no more excessive leniency in sentencing for such serious crimes.

The reality is that many people in the community are alarmed about these instances and about the seeming prevalence of crime and violence in Perth. The latest statistics show that there is indeed a serious crime issue in our city. My electorate contains a number of crime hotspots. When I talk to constituents throughout the East Metropolitan Region, law and order and antisocial behaviour are often among their main concerns. Enough is enough. We want our safe Perth back.

The second issue I will raise is that recently in the news there was footage of a man throwing a bucket of his own faeces over a war memorial in Fremantle. What is the penalty for a premediated defacement of something as sacred to the Australian people as a war memorial? There is nothing in the Criminal Code. We have only the Graffiti Vandalism Act. The act imposes a maximum penalty of $24 000 and two years' imprisonment, but imposes a minimum penalty of a community-based order. For those who do not know, this involves counselling, rehabilitation and community service, which in my experience is hardly ever done. The taxpayer will also bear the cost of the trial and the cost of cleaning the memorial. It is no secret that I believe we should be tougher on crime and cease in our framing of perpetrators as victims themselves. In this case, who is the victim? The Australian public. It is the public and the memory of our heroes that have been gravely insulted and it is the public, through the taxes it pays, that will bear the cost of cleaning the monument, the trial—if one even occurs—and the inevitable community order should the man be found guilty.

Unfortunately, this is not the first time Australia has seen this sort of desecration of a monument. Take for example the Nambour War Memorial protest where insulting placards were placed over the memorial or when left-wing vandals defaced the war memorial at Warrandyte in Victoria last year, spray-painting "war is murder" on the monument. This sort of disrespect of national heroes is not limited to Australia. If one is to look at recent vandalism on war memorials in other English-speaking nations, there is a consistent theme of left-wing activism at its base. This sort of political activism makes Fremantle the perfect storm for such an insult. Fremantle is no stranger to this sort of political activism. One may recall the Fremantle local council attempting to "change the date" and push for a so-called cultural inclusivity on Australia Day.

It is therefore rather strange that there is no special protection for these sacred places in Western Australia, despite the fact that this sort of desecration is ongoing and increasing. Perhaps it is because in the past it went without

saying that a person must not deface a memorial. However, it would seem that modern political activists choose to ignore the memo and act with no decorum whatsoever. Therefore, I think it is about time that we say something in law about the importance of memorials. We should move to define the places as protected and prosecute harshly those who seek to deface our history and disrespect our nation's heroes. Whether or not we agree with the wars Australia has fought, we must pay respect to those who paid the ultimate price. If someone has a disagreement, they should disagree though discourse, not through defacement.

NATIONAL VOLUNTEERS WEEK

Statement

HON TJORN SIBMA (North Metropolitan) [6.26 pm]: About four weeks ago, from 21 to 27 May, we recognised National Volunteers Week and during that time I had the opportunity to reflect on the enormous contributions that volunteers make to the lives of so many people throughout Western Australia. Information from the Department of Local Government and Communities confirms that up to 80 per cent of Western Australians aged over 15 donate approximately 16 hours per month of their time to volunteering. A little bit of arithmetic converts this to over 38 million days or 105 000 years of support to the community by Western Australians to Western Australians each year. This is a truly remarkable number and one that underlines the immense impact of volunteering on the lives of people in our community. Many volunteer their time and services through some interest in an issue, sometimes because of a family involvement, while for others it is because they have made a conscious decision to make a positive difference to the community in which they live. Whatever the reason or motivation for their volunteering, the people who cook and deliver meals, fight fires, make our beaches safer, clean the club rooms, cook the sausages at the local footy club or read to the elderly are all volunteers giving up that precious commodity of time to enrich the lives of those around them and very definitely their own lives.

I especially want to acknowledge the winners of the WA Volunteer of the Year Awards held on 24 May this year at which the following people and organisations were recognised for their outstanding contributions to volunteering, which I should add I attended with the Leader of the Opposition, the member for Riverton, Hon Mike Nahan and my friend Hon Albert Jacob, Mayor of the City of Joondalup. The award winners were Mr Ken Blackie, from Whitfords Volunteer Sea Rescue Group, who won Western Australian volunteer of the year; Mr Paul Garlett, Australian Red Cross, who was the WA youth volunteer of the year; Ms Beth Smith, acknowledged for volunteering work in the town of Roebourne and for her lifetime contribution to volunteering; Mr Mario Matassa, from the group Chorus, who was the WA volunteer of the year for multicultural communities; Ms Nicole Woods, from Gingin Fire and Rescue Service, who was presented with the WA Volunteer Excellence in Volunteer Management Award; Chevron was recognised as the WA corporate volunteer of the year; EdConnect Australia was recognised as the WA community volunteer organisation of the year; and Ms Ruby Eagle, a volunteer at the Aquarium of Western Australia for 24 years, won the WA People's Choice "Spirit of Volunteering" Award. I wish to congratulate again all these people and organisations for their commitment to the community.

As a side note, during this week, I also had the privilege of visiting Lifeline to recognise the work of people who, on a daily basis, make a very real and positive difference to the lives of people undergoing significant emotional turmoil. I was impressed by their big-heartedness and their commitment to that cause. I was also impressed very much by the considerable training and accreditation all these people go through before they can volunteer for the 131 114 crisis line. I think it is a remarkable organisation composed of remarkable people. I close this member's statement by once again conveying my thanks and, no doubt, the thanks of all the people in this house, to those volunteers in our community who make this community a better place in which we live.

Several members: Hear, hear!

ROD CLARK

Statement by President

THE PRESIDENT (Hon Kate Doust): Before we go on to read in a few messages, it is very important that, from time to time, we acknowledge the work that people do in this place. Tomorrow we will be saying farewell to Rod Clark, whom many of you know. Rod Clark has worked for the Leader of the House while in government. He worked for Hon Sue Ellery when she was the Leader of the Opposition for a number of years and has obviously dealt with a significant number of people in the chamber and certainly other staff in the building. Rod has decided to take on some new challenges and a new chapter in his life. I wanted to acknowledge the service he has given to people in this building, to the Labor Party, and certainly the work he has done with other parties in this chamber.

Rod is a very calm, intelligent man, who works in a very pressurised environment and has always managed to do excellent research work and liaise with everyone. I think everyone would agree that he is a very pleasant individual to deal with. I know he will be missed by those people who have worked with him on the Labor side of the chamber and those others who have engaged with him over many years. I wanted to put on the public record my thanks to Rod Clark and to wish him well in his next chapter and hope he has a very exciting time ahead of him.

RESIDENTIAL TENANCIES LEGISLATION AMENDMENT (FAMILY VIOLENCE) BILL 2018

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Alannah MacTiernan (Minister for Regional Development)**, read a first time.

Second Reading

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [6.33 pm]: I move —

That the bill be now read a second time.

Sadly, family violence continues to be a reality within our community. It takes many forms. It is not just physical violence. It includes financial abuse, sexual abuse, emotional abuse, stalking and cyber abuse. Family violence is not just something that occurs between a husband and wife. Family violence includes violence between extended family members; it includes elder abuse and it includes child abuse by family members. It also affects members of our lesbian, gay, bisexual, transgender, intersex community.

Although family violence knows no ethnic, gender, age or socioeconomic boundaries, we know that some people within our community are more vulnerable than others. Women represent by far the greatest proportion of victims of family violence, and Aboriginal women are substantially more at risk than non-Aboriginal women. The elderly within our community are also vulnerable as they become increasingly dependent on family members and others for assistance with day-to-day tasks. Regardless of who is a victim, it is undeniable that everyone has the right to live free of this violence. Data from the Western Australia Police Force and the Australian Bureau of Statistics tells us that the rate of family violence in Western Australia grew in 2015 and 2016. For example, in 2015–16, reports to the WA police of family violence exceeded 34 000. In that year and the following year, 2016–17, the former Department for Child Protection and Family Support stated that over 50 000 incidents of family and domestic violence were reported to the agency—an increase of 25 per cent since 2014–15.

The McGowan Labor government is committed to taking decisive action on family violence. The Residential Tenancies Legislation Amendment (Family Violence) Bill 2018 is a fundamental step in producing better outcomes for victims of family violence regarding their residential tenancy arrangements by giving them more choice and greater certainty about the outcomes. This bill is unashamedly victim focused. We do not shy away from that fact. In passing the amendments contained in this bill, Western Australia will be at the forefront of laws that provide better outcomes for victims of family violence regarding their tenancy arrangements.

One of the first questions that many people ask when confronted with a story about a victim of family violence is: "Why don't they just leave?" Until now, one of the key reasons that victims of family violence have not felt able to leave a violent relationship has had to do with housing uncertainty. If a victim of family violence is locked into a fixed-term residential tenancy agreement and needs to leave their home at short notice, they will continue to be liable for the rent at those premises until either a new tenant is found or the tenancy period expires. This is at a time when they are trying to locate affordable alternative accommodation and find the funds needed to relocate. Far too many victims of family violence and their children have become homeless because they cannot afford rent for new premises while they continue to pay rent for their former premises. In Western Australia, the top reason for clients seeking homelessness assistance is because of family and domestic violence—42 per cent compared with 37 per cent nationally.

This bill amends the Residential Tenancies Act 1987 and the Residential Parks (Long-stay Tenants) Act 2006 to allow a victim of family violence who is a tenant to choose to leave their premises without penalty by issuing the lessor or park operator with a notice of termination, or if the victim wants to remain in the premises, they can apply to the court to have the perpetrator's name removed from the tenancy agreement. This would mean the perpetrator would no longer have a legal entitlement to enter the premises. Another barrier that exists for victims of family violence is the liability they jointly incur with the perpetrator for any damage that occurs to the premises as a consequence of family violence. By holding to the principle of joint and several liability that attaches to many residential tenancy agreements, we are saying that the victim of family violence is somehow responsible for what has happened to them and to the rental premises as a consequence of family violence. This bill seeks to amend that principle and to hold perpetrators accountable for the consequences of their actions by empowering the court to assign liability to the perpetrator for tenancy-related debt, such as damage and unpaid rent.

Because a major cornerstone of this bill is to give victims of family violence the choice to remain in the premises, it is important that we also empower them to make the premises as safe as possible. Currently, under the residential tenancies and residential parks acts, a tenant can change the locks to the premises only if the lessor has given them permission to do so. If the lessor lives up north, interstate or overseas, the simple task of obtaining the lessor's permission can take days or even weeks. That can be too long in cases of family violence. The bill will empower a person who has been or is at risk of being exposed to family violence to change the locks without having to obtain the permission of the lessor. The lessor will be entitled to a copy of any new key after the locks have been changed.

The bill also seeks to empower a tenant who has been a victim of family violence to affix certain security fixtures to the premises to prevent further family violence from occurring. It is expected that the types of changes that will be permissible include installing security screens on windows and doors, installing closed-circuit television cameras or installing locking devices on perimeter gates. The cost of making these alterations must be borne by the tenant and the premises must be restored to their original condition at the end of the tenancy agreement if the lessor requires the tenant to do so.

The bill also seeks to prohibit the listing of a victim of family violence on a residential tenancy database. This is to ensure that they cannot be excluded from the tenancy market into the future. Child victims of family violence are also protected. The bill has been drafted to ensure that all the protections available—leaving the premises, staying at the premises, changing the locks and adding security features—will be available in circumstances in which a dependant of the tenant is the person at risk of family violence.

Some may ask what protections there are against using the provisions of this bill for vexatious purposes. I repeat that our priority in these reforms is victim safety. Having said that, full procedural fairness is preserved for all parties—victim and perpetrator, and tenants and landlords. A tenant cannot simply claim on their word to have been a victim of family violence in order to end a tenancy agreement. They will need to provide some form of independent evidence of family violence. This could be in the form of a restraining order, a family court order or a form signed by a prescribed professional who has been working with the victim tenant, such as a doctor, a psychologist or a child protection worker. In any proceedings before the court, all parties will have a right to be heard.

Unfortunately, there is always a risk with any laws that people will try to use them in a way that was not intended. Although we have endeavoured to guard against the laws being used inappropriately in the ways I have just mentioned, if we made the laws so tight to prevent any possibility of them being misused, we run the very big risk that they become ineffective for the very people we are trying to assist.

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.

In closing, this bill seeks to remove some of the burdens that have long been experienced by victims of family violence to empower them to make choices that may ultimately save their life.

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

[See paper 1534.]

Debate adjourned, pursuant to standing orders.

LIQUOR CONTROL AMENDMENT BILL 2018

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

PORTS LEGISLATION AMENDMENT BILL 2017

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Stephen Dawson (Minister for Environment)**, read a first time.

Second Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [6.42 pm]: I move —

That the bill be now read a second time.

I have pleasure in delivering the second reading speech introducing the Ports Legislation Amendment Bill 2017. The legislation represents the culmination of a comprehensive review of port governance arrangements in Western Australia, following a significant expansion in port facilities and shipping operations over the past decade. This legislation, when passed, will enable the government to implement the second tranche of ports governance reform—that is, to bring all trading ports under consistent legislation for the first time in over 100 years. This is consistent with the terms of reference for this government's service priority review, in particular, identifying opportunities to deliver government services more effectively and efficiently, supporting economic activity, and achieving greater economies and efficiencies in public sector administration. The first tranche of the ports reform agenda was completed in 2014 with the Ports Legislation Amendment Act 2014 and the subsequent amalgamation and renaming of the regional port authorities, with the capacity and authority to manage or oversee multiple ports and to take a regional perspective to decision making. Currently we have nine ports regulated under the Port Authorities Act 1999 and nine other ports, encompassing 13 port facilities, regulated under the Shipping and Pilotage Act 1967 and overseen by the Department of Transport. The latter include the ports of Barrow Island, Cape Preston, Carnarvon, Derby, Onslow, Varanus Island, Port Walcott, Wyndham and Yampi Sound.

The Ports Legislation Amendment Bill 2017 is designed to enable all trading ports in Western Australia to be regulated under the Port Authorities Act 1999 by the relevant regional port authority. The Port Authorities Act 1999 provides a more comprehensive and cohesive framework for regulating modern ports than the Shipping and Pilotage Act 1967. This legislation will enable the Department of Transport to exit the business of regulating trading ports, although the department will continue to oversee and manage small boat harbours and marinas. The timing of the exit will depend in some cases on reaching agreement with proponents on changes to state agreements. Regional port authorities are better placed than the Department of Transport to oversee marine safety at these locations and to assist with trade facilitation at ports located in the regions. The reform will take advantage of each port authority's port management expertise and bring a more regional focus to port planning and landside access. This allows for enhanced planning, local government and community consultation, policy and priority setting, financial planning, budget allocation and decision-making.

Regional port authorities will be appropriately resourced and have the critical mass to oversee a number of ports and respond to, and cater for, trade opportunities. Besides having strong connections to government and industry, being regionally based, port authorities are well placed to understand the needs of regional port users and the workings of their local governments. As government trading enterprises, port authorities have a trade facilitation role and are well placed to realise commercial opportunities that present themselves in the regions. Regional port authorities will be able to work closely with private port facility operators to ensure a systematic and comprehensive approach to marine safety. This will lead to better service and improved management of marine safety risks. Shared learnings between private port facility operators and port authorities will further improve the management, productivity and efficiency of Western Australian ports. The amalgamated structures provide increased scale. This allows port authorities to benefit from the engagement of senior specialist staff whose skills and knowledge will be able to be accessed by multiple ports. The changes will result in a better overall structure for the oversight and governance of WA's ports and provide a sharper focus on the way ports operate in order to manage risks associated with the operation of ports, commercial shipping and other vessels. The proposed changes are essentially about how the government organises itself and undertakes its marine safety and other obligations at ports in Western Australia.

In most cases, the regional ports authorities will be acquiring only water areas and seabed at the transferring ports, because the land abutting the port is not vested in the body corporate Minister for Transport, and the assets upon such land are privately owned. This means that the port authority's role will primarily relate to marine safety oversight of private port facilities. This includes the appointment of harbourmasters, the approval of ships' pilots, the safe movement of vessels, the approval of new jetties and the placement and maintenance of navigational aids, and ensuring that the port is safe and free of obstructions. The exceptions to this are the ports of Derby and Wyndham whereby the Kimberley Ports Authority will be inheriting land, jetties and related port infrastructure as well as water and seabed that are currently vested in the body corporate Minister for Transport under the Marine and Harbours Act 1981. The Kimberley Ports Authority will assume the Department of Transport's role as landlord at the ports of Derby and Wyndham. The existing lease and management agreement between the state and the Shire of Derby–West Kimberley to operate the port of Derby will transfer to the Kimberley Ports Authority, unless replaced by agreement. The existing lease and operating agreement between the state and Cambridge Gulf Ltd to operate the port of Wyndham, which has not got long to run, will be allowed to run its course. The port of Wyndham will transfer to the Kimberley Ports Authority after the lease and operating agreement expire on 30 June 2019. Jetty licences for jetties within transferring ports that are wholly on port authority land, such as at Wyndham and Derby, will be transferred as converted licences under the Port Authorities Act. State agreement–related jetty licences and licences for jetties not wholly on port authority land will transfer as continued licences under the Jetties Act, under regulation by the Department of Transport. There will be provision for the continued licences to be prescribed in regulations, which will allow the port authority to take over regulation of the licences under the Jetties Act, and to renew or vary the licences at the request or with the agreement of the licence holders. The Minister for State Development, Jobs and Trade's approval will be required prior to continued licences relating to state agreements being prescribed and transferred to port authority control. Provision is also included in the bill for the limited number of Jetties Act licences within existing port authority ports to be similarly prescribed in regulations and transferred to port authority control. Again, the approval of the Minister for State Development, Jobs and Trade will be required prior to state agreement–related licences being prescribed. Licence holders' rights will be preserved.

Six state agreements will need to be amended to reflect the new governance arrangements before the related port facilities can transition to the Port Authorities Act 1999. While the amendments are expected to be minimal, they nevertheless require the prior agreement of the companies concerned. Government will be pressing to get the necessary amendments agreed so that ports can transition under this reform in a timely manner. All state agreement holders have agreed to engage with this process.

The legislation itself will not result in the automatic transfer of any port upon proclamation of the act. Rather, transitional orders will need to be made covering all the details before any port transfers. Port users and interested parties will be consulted before the transitional orders are made. The Minister for State Development's approval

will be required before the transfer of any state agreement–related port. Not all ports will transfer at the same time. The transition of ports will occur progressively as each one is ready and all matters of detail are resolved. The bill covers proposed amendments to other legislation in order to facilitate the new arrangements. It also includes some minor amendments to introduce consistency across maritime legislation, such as penalty regimes. The maritime acts that are amended by this bill include the Jetties Act 1926, Lights (Navigation Protection) Act 1938, Marine and Harbours Act 1981, Marine Navigational Aids Act 1973, Port Authorities Act 1999, Shipping and Pilotage Act 1967 and the Western Australian Marine Act 1982.

Over the past 12 years, Western Australia has seen a significant increase in the amount of trade passing through our ports and in the number of ship visits. For example, the volume of trade has almost trebled from 319 million tonnes per annum in 2005–06 to 940 million tonnes per annum in 2016–17. The value of exports from Western Australia during this period rose from around $39 billion in 2005–06 to approximately $94 billion in 2016–17, having peaked at $132 billion in 2014–15 when iron ore prices were higher. This has coincided with a doubling of the number of calls to WA ports by vessels coming from overseas ports. Trade is set to continue to grow, with the iron ore sector continuing to expand, very large oil and gas projects coming into production, and the prospect of increased agricultural production in the state's northern regions. This has, and is, resulting in both the expansion of existing ports and the addition of new ones, such as Ashburton, against a backdrop of increasing vessel movements and the deployment of larger ships. Besides existing ports, new and planned ports such as Anketell, Balla, Browse, Cape Preston East and Oakajee will also be subject to the proposed oversight arrangements and regulated under the Port Authorities Act 1999.

Although our port governance arrangements have served the state well in the past, it is the role of a responsible government to review our existing arrangements to see whether they are still the best way of doing things today and into the future. The time has come to take a more holistic approach to port decision-making and governance, and to ensure that our port managers and regulators have the capacity to meet the port planning and operational challenges ahead, and to manage the risks and opportunities associated with the operation of ports and shipping. The Ports Legislation Amendment Bill 2017 positions the state and the port industry to meet the challenges of the future, while facilitating growth in trade for the ultimate benefit of the state of Western Australia and its citizens.

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 1535.]

Debate adjourned, pursuant to standing orders.

CORRUPTION, CRIME AND MISCONDUCT AND CRIMINAL PROPERTY CONFISCATION AMENDMENT BILL 2017

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

House adjourned at 6.52 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

POLICE — ROTARY WING AIRCRAFT

1191. Hon Martin Aldridge to the minister representing the Minister for Police:

I refer to rotary wing aircraft in use by the Western Australia Police (WAPOL), and I ask:

(a) will the Minister please identify each aircraft in permanent use by WAPOL, including aircraft type, age and call sign;

(b) for each aircraft type identified in (a), will the Minister please provide the hourly operating cost for each and the number of hours flown in each of the last three years;

(c) for each aircraft type identified in (a), will the Minister please provide the number of hours that the aircraft was not available due to maintenance or service related issues;

(d) for each aircraft type identified in (a), will the Minister please provide the annual maintenance costs for each of the last three years;

(e) for each aircraft type identified in (a), will the Minister please provide the number of missions flown in each of the last three years and relevant categorisation for executed mission type; and

(f) for each mission identified in (e), will the Minister please provide the policing district to which primary response is targeted for example, metropolitan or regional, and if regional please provide the specific police district within regional Western Australia?

Hon Stephen Dawson replied:

(a)

Aircraft	**Age (years)**	**Call sign**
Kawasaki Bolkow BK117	28	VH-WAH
Eurocopter AS365 N3+ Dauphin	7	VH-WPX

(b)–(d) This level of financial information is contained within the business case which is Cabinet-in-Confidence. Further, as the WA Police Force has commenced the procurement process, it is considered that the public release of this pre-market information could compromise WA Police Force's sourcing strategy and future contract negotiations.

(e)

Aircraft	**Task Category**	**2015/16**	**2016/17**	**2017/18***
BK117	Frontline and Serious Crime Support	241	399	277
	Frontline Support – Traffic	107	254	186
	Transport	1	4	14
	Search and Rescue	12	13	13
Dauphin	Frontline and Serious Crime Support	641	348	264
	Frontline Support – Traffic	375	225	142
	Transport	0	4	2
	Search and Rescue	27	26	10

*For the period 1/7/2017 to 9/5/2018

(f)

	Frontline and Serious Crime Support		**Frontline Support – Traffic**		**Transport**		**Search and Rescue**	
	BK117	**Dauphin**	**BK117**	**Dauphin**	**BK117**	**Dauphin**	**BK117**	**Dauphin**
2015–16								
Metropolitan	241	635	107	374	1	0	12	26
Wheatbelt	-	6	-	1	-	-	-	1

2016–17								
Metropolitan	391	343	253	225	4	4	9	18
Great Southern	1	3	-	-	-	-	-	2
South West	4	2	-	-	-	-	1	4
Wheatbelt	3	-	1	-	-	-	3	2
2017–18*								
Metropolitan	265	257	184	141	4	2	8	7
Great Southern	-	2	-	-	1	-	-	-
Goldfields–Esperance	4	-	-	-	6	-	2	-
Mid West–Gascoyne	3	-	-	-	3	-	-	-
South West	4	4	2	-	-	-	2	-
Wheatbelt	1	1	-	1			1	3

*For the period 1/7/2017 to 9/5/2018

POLICE — HELICOPTER REPLACEMENT

1194. Hon Martin Aldridge to the minister representing the Minister for Road Safety:

I refer to the Government decision to replace the ageing Kawasaki BK117 police helicopter, and I ask:

(a) what aircraft type has been chosen to replace the Kawasaki BK117;

(b) will the aircraft be owned or leased by the Western Australia Police;

(c) if the aircraft will be owned, what is the rationale against leasing aircraft;

(d) how will the State dispose of the Kawasaki BK117 aircraft;

(e) will the Minister please provide the business case for the replacement aircraft;

(f) of the $26.9 million committed in this years State Budget, how much will come from the Road Trauma Trust Account versus the Consolidated Fund and other sources;

(g) with reference to the direction issued by you to the Road Safety Council on 22 March 2018 requesting funding of $26.9 million from the Road Trauma Trust Account, why is the Consolidated Fund now contributing;

(h) did the Road Safety Council agree with your request for $26.9 million from the Road Trauma Trust Account and, if not, why not;

(i) please provide a copy of the response including any analysis done by the Road Safety Council with respect to your request for Road Trauma Trust Account expenditure; and

(j) is the Minister confident that based upon the advice received from the Road Safety Council that the highest priority for Road Trauma Trust Account expenditure, targeted at road safety outcomes, is the purchase of a new police helicopter?

Hon Stephen Dawson replied:

(a)–(j) The Western Australia Police Force advises that it is not yet decided which aircraft to purchase to replace the BK117. The WA Police Force will examine all options for purchase or lease, through the current tender process.

After seeking advice from the Road Safety Commission, the WA Police Force and taking into consideration the findings of the WA Coroner on the importance of the Police Airwing in police pursuits, the Government decided to commit $10.221m, 38% of the total cost, from the Road Trauma Trust Account (RTTA), with the remainder sourced from the Consolidated Fund.

The Minister is confident that the RTTA is part-funding a vital service for community safety that the previous government made no provision for. The helicopter spends 38% of its time involved in road safety and traffic enforcement activities, including the pursuit of vehicles. A police helicopter is invaluable for safely monitoring stolen or fleeing vehicles from the sky, often in a way that is not detected by the offender and which contributes to safely resolving these incidents on our roads.

POLICE — REGIONAL RESOURCES

1200. Hon Martin Aldridge to the minister representing the Minister for Police:

I refer to regional police resourcing, and I ask with respect to each regional district:

(a) what is the number and type of police motor vehicle allocated to each district currently and for each of the last two financial years;

(b) what is the total number of staff (FTE) allocated to each district currently and for each of the last two financial years, separating administrative positions from sworn officers and further listing by rank or employment level;

(c) with respect to Customer Service Officers (CSO), please identify which regional police stations have been assigned CSO including the amount of FTE allocated to each currently and for each of the last two financial years;

(d) have any police stations in regional Western Australia lost FTE allocation for the employment of CSO;

(e) if yes to (d), please identify the station name and amount of FTE lost and the amount of FTE available;

(f) is the reduction in CSO FTE a function of budget savings measures or the Voluntary Targeted Separation Scheme (VTSS), or both;

(g) will the opening hours of regional police stations be compromised as a result of the loss of CSO FTE; and

(h) if no to (g), how will these stations remain open with a reduction in CSO FTE?

Hon Stephen Dawson replied:

(a)–(h) The Western Australia Police Force advise the following:

There are currently 484 police vehicles allocated to regional Western Australia, including operational, support, mobile policing and trailers, performing a range of functions including across regional WA districts. The agency-wide vehicle fleet has increased by 39 from June 2016, with the additional vehicles allocated to Regional Western Australia, Specialist Units and metropolitan based units.

There are currently 2026 sworn police and police staff, including 66 CSOs, in regional and remote location in WA, an increase of 76 since 2016. The WA Police Force do not disclose allocated FTE at individual locations. The composition of public service staff at various locations is subject to determination by the Commissioner of Police who periodically reviews and adjust allocations. The opening hours of regional police operations will not be compromised.

TRANSPORT — PRINCIPAL SHARED PATH NETWORK — WORKS PROGRAM

1217. Hon Tim Clifford to the minister representing the Minister for Transport:

(1) I refer to the Minister's press release 'Major boost to cycling for the future', dated 4 September 2017, and the $55 million allocated towards filling gaps in the current Principal Shared Path network (PSP) around Perth. For each of the following four projects, will the Minister please provide, by item, the expected months and years in which each project is expected to begin and end:

  (a) Mitchell Freeway PSP, Glendalough Station to Hutton Street missing link;

  (b) Mitchell Freeway PSP, Erindale Road to Civic Place missing link;

  (c) Fremantle Line PSP, Grant Street to North Fremantle extension; and

  (d) Midland Line PSP, Success Hill Station to Railway Parade cul-de-sac missing link?

(2) With reference to the map on the Department of Transport's website titled 'Principal Shared Path Program (2017–2022)', dated 30 August 2017, will the Minister please list in what ways funding commitments and time frames on the map differ from the funding commitments and time frames that were current under the previous Government, prior to the March 2017 State election?

(3) In relation to (2), will the Minister please table the equivalent map showing PSP funding commitments and time frames that was current prior to the March 2017 change of Government?

(4) If no to (2), why not?

(5) If no to (3), why not?

Hon Stephen Dawson replied:

(1) (a) Expected to commence in the first quarter of 2018–19, with completion in 2019.

  (b) Expected construction commencement and completion in 2019–20.

(c) This is split into three sections. The first two sections (Grant Street to Jarrad Street and Jarrad Street to Victoria Street Station) to be constructed in 2018–19. With the third section (Victoria Street Station to North Fremantle Station) following in 2019–20.

(d) Construction to commence in late-2018 and be completed early-2019.

(2) As part of the Government's commitment to cycling, a number of projects were brought forward including the Fremantle Railway Principal Shared Path (PSP) and Graham Farmer Freeway to Great Eastern Highway projects.

Additionally, new projects include the Midland Railway PSP (Success Hill Station to Railway Parade cul-de-sac, Armadale Road PSP (Tapper Road to Anstey Road), Roe Highway PSP (Kalamunda Road intersection), Reid Highway PSP (Altone Road to West Swan Road) and the Yanchep Railway PSP.

(3) [See tabled paper no 1527.]

(4)–(5) Not applicable.

LOCAL PROJECTS, LOCAL JOBS PROGRAM — DEPARTMENT OF PRIMARY INDUSTRIES AND REGIONAL DEVELOPMENT — PROJECTS

1268. Hon Tjorn Sibma to the Minister for Regional Development:

Will the Minister please provide in tabular form, the details of all Local Projects Local Jobs projects funded by the Minister's department since March 2017, by individual electorate from Albany to Willagee inclusive?

Hon Alannah MacTiernan replied:

The Department of Primary Industries and Regional Development is only responsible for regionally-located Local Projects Local Jobs projects.

[See tabled paper no 1528.]

LOCAL PROJECTS, LOCAL JOBS PROGRAM — RECIPIENT ORGANISATIONS — ACQUITTAL PROCESS

1271. Hon Tjorn Sibma to the Minister for Regional Development:

(1) I seek details concerning the acquittal process, including the information provided by recipient organisations regarding the funding they received via that portion of the Local Projects Local Jobs (LPLJ) scheme administered by the department, in particular I ask:

(a) was there a standard form provided to all recipient organisations to acquit the LPLJ revenue they received against their expenditure;

(b) what standard documents were each recipient organisation obliged to provide the department prior to/after LPLJ funds were released;

(c) by when was this information required by the department;

(d) did the department undertake any audits to confirm the accuracy of acquittal documentation submitted by recipient organisations;

(e) did any organisation's project expenditure deviate from the purpose for which the grant was provided, or from the amount provided by the department by an amount of five percent or more (in either direction);

(f) if yes to (e), what are the details; and

(g) whenever there was concerns arising from the acquittal information submitted by a recipient, how were concerns followed up, and what was the outcome?

(2) Will the Minister please identify the project, recipient organisation and associated funding for acquittals that are/were:

(a) thirty to forty four days overdue;

(b) forty five to fifty nine days overdue;

(c) sixty to eighty nine days overdue; and

(d) over ninety days overdue?

(3) Are any acquittals presently outstanding and, if so, which project and organisation is involved?

Hon Alannah MacTiernan replied:

(1) (a) Yes.

(b) Prior to funds being released to grant recipients, a signed grant agreement was required to be in place.

After project completion, grant recipients were required to provide evidence of appropriate expenditure of funds (for example through photographs of the project, itemised tax receipts etc) to authenticate that the funds had been spent in the manner required for the Department of Primary Industries and Regional Development to formally acquit the project.

(c) The grant agreement requires projects to be acquitted within 60 days of project completion.

(d) Standard small grants administration processes were followed to ensure that appropriate documentation was received that would provide for the Department of Primary Industries and Regional Development to agree to a final acquittal.

(e) None, as at 30 May 2018.

(f) Not Applicable

(g) The standard small grants administration process was used to ensure that final acquittal only occurred following sufficient evidence (including photographs, receipts etc) provided of appropriate expenditure of grant money. This includes the Department of Primary Industries and Regional Development seeking additional information if required.

(2)–(3) [See tabled paper no 1529.]

LOCAL PROJECTS, LOCAL JOBS PROGRAM — DEPARTMENT OF PRIMARY INDUSTRIES AND REGIONAL DEVELOPMENT — PAYMENTS

1278. Hon Tjorn Sibma to the Minister for Regional Development:

With respect to all payments to each Local Projects Local Jobs (LPLJ) project funded by the Department of Primary Industry and Regional Development, including the same entity prior to the machinery of government change, since March 2017, I ask:

(a) what amount was paid;

(b) to whom was it paid;

(c) for what purpose was it paid; ie what conditions applied to the transfer;

(d) by what means was the money paid;

(e) when was the money paid; and

(f) who approved the release of funds and on whose authority?

Hon Alannah MacTiernan replied:

(a)–(b) and (d)–(e) [See tabled paper no 1530.]

(c) To deliver the election commitment.

(f) Subsequent to the decision of the Expenditure Review Committee.

LOCAL PROJECTS, LOCAL JOBS PROGRAM — DEPARTMENT FOR REGIONAL DEVELOPMENT — FUNDING

1295. Hon Tjorn Sibma to the Minister for Regional Development:

I refer to funding for the Local Projects Local Jobs (LPLJ) program, sourced via the now Department for Regional Development (the department) budget since 17 March 2017, and I ask:

(a) what was/is the total— amount of LPLJ funding provided to recipients via the department in the 2016–2017 and 2017–2018 financial years;

(b) which individual LPLJ projects were funded via the department in the 2016–2017 and 2017–2018 financial years;

(c) did the Minister approve of the release of departmental funds for each of these LPLJ projects; and

(d) if yes to (c), when did the Minister grant approval, and for which projects?

Hon Alannah MacTiernan replied:

(a) For 2016–17, $6.6 million was provided to recipients. For 2017–18, $1.6 million was provided to recipients.

(b) [See tabled paper no 1531.]

(c) Funding approval of Local Projects Local Jobs was a decision of the Expenditure Review Committee.

(d) Not applicable.

PLANNING — LOT 2 FANSTONE AVENUE, BEELIAR — CONTAMINATED SITE

1302. Hon Robin Chapple to the minister representing the Minister for Planning:

(1) Has the Western Australian Planning Commission (WAPC) received any application or applications for approval of a rezoning, local structure plan, subdivision or other development (applications) relating to Lot 2 Fanstone Avenue, Beeliar (land) since 1 October 2016?

(2) If yes to (1), will the Minister please provide the following information:

(a) was the land listed as a contaminated site under the *Contaminated Sites Act 2003* at the time of each of the applications;

(b) what was the nature of each application;

(c) who made the applications to the WAPC and when;

(d) at the time each of the applications were received, was the applicant the registered proprietor of the land (owner) at 1 October 2016 and, if not, who was the owner at the time of each of the applications;

(e) has the owner changed since 1 October 2016 and, if so, when and who is the owner now;

(f) has approval of each of the applications been granted and, if so, when; and

(g) if any of the applications are still extant, has the Department of Planning, Lands and Heritage completed its assessment of the applications?

(3) If yes to (2)(g), will the Minister advise of the following:

(a) what further advice or action (if any) is necessary before approval of any of the applications can be granted;

(b) has the Department of Water and Environmental Regulation (DWER) been asked to provide advice to the Minister and/or the department as to whether or not the land should remain a contaminated site and, if not, why not;

(c) if DWER has provided advice concerning the land being a contaminated site, what was that advice and what conditions (if any) must be fulfilled for the land to no longer be listed as a contaminated site;

(d) has the WAPC exercised, or does it intend to exercise, its powers under section 165 of the *Planning and Development Act 2005* to require a notification of a hazard on Certificates of Title of the land (titles) when it is subdivided and, if not, why not;

(e) if yes to (3)(d), is potential exposure to toxic gases and particulates from the Cockburn Cement Limited lime/cement factory such a hazard to be notified on the titles and, if not, why not; and

(f) if yes to (3)(e), what hazard(s) will be notified on the titles?

Hon Stephen Dawson replied:

(1) Yes.

(2) (a) The land was registered in 2008 as 'possibly contaminated – investigation required' under the *Contaminated Sites Act 2003*'.

(b)–(c) (1) Amendment 110 to the City of Cockburn Town Planning Scheme No. 3 to transfer portions of Lot 2 Fanstone Avenue, Beeliar from the Special Use zone to the Development zone and Lakes and Drainage reserve – City of Cockburn at the request of Rowe Group on behalf of the then landowner Cockburn Cement Ltd, 4 November 2016.

(2) Local Structure Plan for Residential Development – Rowe Group, 7 November 2017.

(3) Subdivision of one lot into two lots for Development and Special Use Purpose – Rowe Group, 30 June 2017.

(4) Subdivision of one lot into 149 Residential lots, 5 Public Open Space Reserves and associated roads – Rowe Group, 5 April 2018.

(d) (1) Yes.

(2) No – Cockburn Cement Ltd.

(3) No – Cockburn Cement Ltd.

(4) No – Beeliar Management Pty Ltd.

(e) Beeliar Management Pty Ltd became the registered proprietor of Lot 81 McLaren Avenue, Beeliar on 22 December 2017.

(f) (1) Yes – 26 April 2017.

(2) No.

(3) Yes – 8 September 2017.

(4) No.

(g) No.

(3) Not applicable.

WATER CORPORATION — DESALINATION PLANTS

1303. Hon Peter Collier to the minister representing the Minister for Water:

(1) What is the average cost, per kilolitre, for the Perth Seawater Desalination Plant for the following years:

(a) 2017–2018;

(b) 2018–2019;

(c) 2019–2020; and

(d) 2020–2021?

(2) What is the average cost, per kilolitre, for the Southern Seawater Desalination Plant for the following years:

(a) 2017–2018;

(b) 2018–2019;

(c) 2019–2020; and

(d) 2020–2021?

(3) What is the forecasted output of the Southern Seawater Desalination Plant for the following years:

(a) 2017–2018;

(b) 2018–2019;

(c) 2019–2020; and

(d) 2020–2021?

Hon Alannah MacTiernan replied:

(1) (a)–(d) The operating cost is estimated to be $0.62/kL. The total unit cost, taking into consideration construction costs and conveyance infrastructure, makes the total cost of desalinated water to be approximately $2 – $3/kL.

(2) (a)–(d) The operating cost is estimated to be $1.01/kL The total unit cost, taking into consideration construction costs and conveyance infrastructure, makes the total cost of desalinated water to be approximately $2 – $3/kL.

(3) (a) 103 GL.

(b)–(d) Production is reviewed annually based on inflows to dams and expected customer demand.

MINISTER FOR SENIORS AND AGEING — MEETINGS — SOUTH METROPOLITAN REGION

1304. Hon Nick Goiran to the Leader of the House representing the Minister for Seniors and Ageing:

I refer to the email from the Minister's office, dated 9 May 2018 and received at 9:47am from the Minister's Appointments Secretary, and I ask:

(a) for what period of time was the Minister in the South Metropolitan Region;

(b) further to (a):

(i) how many meetings, events, functions or similar did the Minister attend;

(ii) who attended each of the meetings, events, functions or similar with the Minister; and

(iii) did the Minister 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 Minister table those documents;

(e) if yes to (d), when; and

(f) if no to (d), why not?

Hon Sue Ellery replied:

(a) 1 hour, 6pm – 7pm.

(b) (i) 1 event. The Singapore National Team v State's Under 21 Women's Team at the Perth Hockey Stadium in Bentley.

(ii) Ross Verne, Senior Media Adviser.

(iii) Yes.

(c)–(f) The Minister attended the event at the invitation of Hockey WA as outlined in the attached 'Media Call', with only personal information redacted.

[See tabled paper no 1526.]

BANKSIA HILL DETENTION CENTRE — DRUG AND ALCOHOL PROGRAMS

1331. Hon Alison Xamon to the minister representing the Minister for Corrective Services:

How many young people have received a court referral to a drug and alcohol program, but are currently accommodated in Banksia Hill Detention Centre because there is no space available in a drug and alcohol program?

Hon Stephen Dawson replied:

The Department of Justice advises:

As at 15 June 2018, there are two young people currently accommodated at Banksia Hill Detention Centre awaiting a placement in a drug and alcohol program.

BANKSIA HILL DETENTION CENTRE — YOUNG PEOPLE ACCOMMODATION

1332. Hon Alison Xamon to the minister representing the Minister for Corrective Services:

(1) Has the new model of care for young people accommodated at Banksia Hill Detention Centre been finalised?

(2) If yes to (1), would the Minister please table a copy?

(3) If no to (1), when will it be finalised?

Hon Stephen Dawson replied:

The Department of Justice advises:

(1) No.

(2) Not applicable.

The Model of Care project is part of the broader Banksia Hill Detention Centre (Banksia Hill) Project. A Banksia Hill Project Business Case (including the Model of Care) is currently in development and will be considered by the Department of Justice in the first quarter of the 2018/19 financial year.

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