Parliamentary Debates
(HANSARD)

FORTIETH PARLIAMENT
FIRST SESSION
2018

LEGISLATIVE COUNCIL

Tuesday, 9 October 2018

Legislative Council

Tuesday, 9 October 2018

THE PRESIDENT (Hon Kate Doust) took the chair at 2.00 pm, read prayers and acknowledged country.

WESTERN CAPE PROVINCIAL PARLIAMENT — DELEGATION

Statement by President

THE PRESIDENT (Hon Kate Doust): Members, I have a couple of statements and a message. The first statement is about the delegation from the Western Cape Provincial Parliament. Members from that Parliament are due to be visiting us as part of a delegation this week. The delegation is being led by the Speaker of the Western Cape Provincial Parliament, Hon Sharna Fernandez, and comprises three other members of Parliament and four staff. I remind members that there will be a welcome reception for the delegation in the parliamentary courtyard at six this evening. I encourage you to attend, if you have time, and welcome that delegation. I also let you know that the delegation will be joining Legislative Council members for afternoon tea this Thursday afternoon and I hope that you will give them a warm welcome to the upper house on Thursday as well.

BORDERLESS GANDHI PRESENTS MAHATMA IN COLOUR EXHIBITION

Statement by President

THE PRESIDENT (Hon Kate Doust): I also want to mention the *Borderless Gandhi* exhibition. Members may have noticed that we have a new photographic exhibition on display in Parliament House located in the Lee Steere Foyer. The exhibition, *Borderless Gandhi presents Mahatma in Colour*, was launched last week on 2 October, which was Mahatma Gandhi's birthday and the United Nations International Day of Non-Violence. The exhibition consists of 30 photographs of Mahatma Gandhi taken throughout his adult life. The original photographs were taken in the early 1900s in black and white and those on display have been digitally restored and coloured for presentation to a contemporary audience. Ghandi's successful campaign for an independent India was achieved through a message of nonviolence and peaceful noncooperation, with India transforming in the post–World War II era from a colonial outpost of Great Britain to the world's largest democratic nation by population. During the four-week exhibition, approximately 3 000 school students who visit Parliament will learn about Gandhi's legacy. They will have the opportunity to participate in the activity "What would you tell your leader?" in which they will write in a book displayed near the exhibit. Members of Parliament and other visitors will be able to read and reflect on the comments.

Borderless Gandhi presents Mahatma in Colour is one of a number of exhibitions planned by the Parliament House Art Advisory Committee. The recent exhibition by Frances Andrijich, *The Year of Living Dangerously*, the upcoming exhibition on the Warsaw Uprising, as well as the monthly art tours of Parliament House, all aim to bring people to Parliament and build connections with our diverse community. I encourage you to view the exhibition and promote it via your social media and other networks.

PARLIAMENT HOUSE — LOCAL GOVERNMENT ART COLLECTION

Statement by President

THE PRESIDENT (Hon Kate Doust): Members, as you are aware, the Parliament has an extensive art collection, including the 1964 local government art collection. The local government art collection was developed in 1964 to mark a very significant event in the history of this building—the opening of the eastern extension of Parliament House. For this occasion, each local government in Western Australia donated an artwork that represented its local area to be displayed in the newly constructed corridors. The collection is of significant interest to the Western Australian Parliament as it supports Parliament's community focus. The art collection was featured in the recent series on Parliament, *The Key to Your House*, and most of it is available to view on the Parliament's website.

To enhance this community focus, the Parliament House Art Advisory Committee is offering members the opportunity to display some of the local government art collection from their electorates in their Parliament House offices. It is hoped that by relocating some of the local government art collection to members' offices, Parliament can provide further opportunities to display artwork of significance to members and the community. If you are interested in taking up this offer, you are invited to contact Building Services to view the artworks available, and I encourage members to do so.

CORONERS AMENDMENT BILL 2017

Assent

Message from the Governor received and read notifying assent to the bill.

DAMPIER ARCHIPELAGO AND BURRUP PENINSULA — INDUSTRIALISATION

Petition

HON ROBIN CHAPPLE (Mining and Pastoral) [2.06 pm]: I present a petition containing 62 signatures couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned ask the Legislative Council to oppose the plans for the continued industrialisation of the Burrup Peninsula and Dampier Archipelago (Murujuga) reported in recent media. This is of great concern to our community, as there are alternative sites available for industry which won't infringe on heritage values of the region, in particular the Maitland Industrial Estate, located in close proximity to Murujuga.
>
> The petitioners reiterate the call for the World Heritage Listing of the Dampier Archipelago at the earliest opportunity available to the State Government.
>
> The petitioners oppose further development of heavy industry on Murujuga, and request that the State Government commit to review the following two documents: 30 August 2002 'Report into the Maitland Industrial Precinct' prepared for Hon Eric Ripper MLA (Deputy Premier), Hon Clive Brown MLA (Minister for State Development), Hon Alana MacTiernan MLA (Minister for Planning and Infrastructure), and Hon Tom Stephen MLC (Minister for the Pilbara), by the City of Karratha and the District Chamber of Commerce and Industries; and December 2002 'Maitland Heavy Industry Estate: Assessment and Comparison with the Burrup Peninsula Industrial Estate' prepared for the Shire of Roebourne.
>
> The petitioners call on the Government to evaluate the cumulative airshed of pollutants and emissions of current industry on rock art in the Burrup Peninsula (Murujuga), and quantify the increase in emission loads from known projected industries for the Burrup Peninsula (Murujuga).
>
> And your petitioners as in duty bound, will ever pray.

[See paper 2007.]

LOCAL GOVERNMENT — COMPLAINTS HANDLING

Petition

HON ROBIN CHAPPLE (Mining and Pastoral) [2.08 pm]: I present a petition containing 39 signatures couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned support Mr Crawford's serious concerns about the performance of the Office of the Information Commissioner, the Public Sector Commission and the Parliamentary Commissioner for Administrative Investigations (Ombudsman) in relation to these bodies handling of complaints and applications put to them in respect to Local Government.
>
> Your petitioners therefore respectfully request the Legislative Council inquire into the performance of the Office of the Information Commissioner, the Public Sector Commission and the Ombudsman in relation to their handling of complaints and applications put to them in respect of Local Government.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 2008.]

MOBILE BLACK SPOT PROGRAM

Statement by Minister for Regional Development

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [2.09 pm]: In June 2018, the federal government announced $25 million for round 4 of the national Mobile Black Spot Program. Western Australia has been the largest state contributor to the program to date. Our government has funding in the budget for round 4 of the program, which we will willingly co-invest if we are satisfied there has been adequate engagement with WA on the blackspot locations.

Hon Bridget McKenzie, federal Minister for Regional Communications, wrote to me last month inviting the WA government to register coverage gaps on the national blackspot database. The database can be used by mobile network operators and infrastructure providers to help identify locations for potential investment. The deadline for submissions was given as 11 October 2018. Last week I wrote to the federal minister seeking an extension of the database registration deadline of three weeks, to 1 November 2018. The Department of Primary Industries and

Regional Development is currently conducting a needs analysis and prioritisation study to identify and rank a broader group of locations for co-investment. This is a substantial undertaking, given WA's size, the sheer scale of coverage needs, and the large number of stakeholders being consulted, including 109 local governments. The state's study will be completed in early November. If the commonwealth deadlines are not extended, only a limited number of locations will have been evaluated before round 4 applications open, potentially leading to suboptimal funding decisions. In order to secure the best possible coverage outcomes for our regional businesses and communities, I urge the federal government to consider our request.

PAPERS TABLED

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

DISTRICT COURT AMENDMENT RULES (NO. 2) 2018 — DISALLOWANCE

Notice of Motion

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

HON KYLE McGINN

Leave of Absence

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

That leave of absence for six sitting days be granted to Hon Kyle McGinn on the ground of illness.

The PRESIDENT: Members, we now move to orders of the day.

DEPARTMENT OF COMMUNITIES — ANNUAL REPORT

Point of Order — Tabling of Papers

Hon NICK GOIRAN: Standing order 14 sets out the formal business that is to be conducted at the start of each sitting day, and standing order 14(2) states —

> At the completion of formal business and subject to Standing Order 15, the Council shall proceed to orders of the day as set down on the Business Program.

That is what you are endeavouring to have us do, Madam President.

The PRESIDENT: Yes, I would if you were not on your feet.

Hon NICK GOIRAN: However, I note that under standing order 14(1), only one opportunity is available every day for the tabling of papers. Madam President, you will see that at standing order 14(1)(g), which refers to the presentation of papers for tabling.

Standing order 4, "Authority of the President", states —

> (1) Order shall be maintained in the Council by the President.

When we were last sitting, the government tabled various documents, but one in particular signed by Hon Simone McGurk, MLA, the Minister for Child Protection. This particular document that was tabled in this place set out that the minister was unable to table the annual report for the Department of Communities, as required by the Financial Management Act 2006, and informed the house that this would be done on 9 October 2018. Unless I am gravely mistaken, today is 9 October 2018 and the one opportunity to table the report as set out in the standing orders has just passed.

Madam President, it is your responsibility, according to the standing orders, to ensure that order is maintained. It strikes me that if the government wants to table documents, as it told us it would do when we last sat, and it will no longer do it or is no longer able to do it, or if it wishes to treat our standing orders and our program with disdain and simply say, "We will just table it later when we feel like it", I do not think that order is being maintained. I think that the government is not only breaching the law of Western Australia by failing to table the Department of Communities' annual report, but is also, arguably, misleading the house with the tabling of those documents. The reason this is particularly important and the reason I am emphasising these points—the Leader of the House may find the matter trivial—is that —

Hon Sue Ellery: It is 9 October until we finish sitting.

Hon NICK GOIRAN: Tomorrow is the last time that members can lodge questions prior to the annual report hearings of the Standing Committee on Estimates and Financial Operations that will take place. How can I ask any questions of the Department of Communities if I do not even have the annual report to read and prepare the questions?

Madam President, I ask you to consider this matter and rule on whether order is being maintained given the conduct of the government at this time.

The PRESIDENT: Thank you, Hon Nick Goiran. You are right; it is my job to maintain order in this house. I have listened to what you have had to say. On this occasion, I do not think there is a point of order. I refer you to standing order 20, "Presentation of Papers and Committee Reports", the first part of which states —

> The President, a Minister or a Parliamentary Secretary may present a paper in the course of related business or at any time when other business is not before the Council.

Member, you have been here long enough to know that from time to time, when an opportunity avails in between different stages of the day, a minister or a parliamentary secretary or any other member may seek that opportunity to table a document. As the Leader of the House has mentioned, we are at the start of the day and the minister has until close of business today to table that report. I am sure that if the government has made a commitment, hopefully that report will be forthcoming and tabled at some point. I think you have made your point today, but I do not think there is a point of order.

DUTIES AMENDMENT (ADDITIONAL DUTY FOR FOREIGN PERSONS) BILL 2018

Committee

Resumed from 20 September. The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 1: Short title —

Progress was reported after the clause had been partly considered.

Hon MICHAEL MISCHIN: At the end of our last episode, when we were rudely interrupted by standing orders and suspended the sittings, I had posed a question to the minister with reference to some of the premises upon which the bill is based according to the second reading speech, in particular with reference to his answer to a question without notice of 13 September regarding the availability of information to Treasury as a basis for formulating its calculations as to how much money would be raised and the like. To refresh the minister's memory, he was asked a question with reference to the foreign buyer surcharge and the fact that Landgate and the Foreign Investment Review Board do not collect data on the number of properties that will attract the foreign buyer surcharge. He was asked on what basis Treasury arrived at the estimate that 1 000 properties would attract a surcharge and how Treasury forecast the total revenue. His response was —

> The Department of Treasury estimate was based on Foreign Investment Review Board approvals data, which was adjusted in accordance with assumptions on foreign investment in residential real estate used in the commonwealth government's House of Representatives Standing Committee on Economics' report. It was also informed through discussions with other state treasuries.

Plainly, information to other state Treasuries may not be relevant to Western Australia, but I asked whether the minister could give us some more information about how the figure of 1 000 was arrived at, based on the information that he identified.

Hon STEPHEN DAWSON: I thank Hon Michael Mischin for his question. I will give him the response provided by my advisers. I will give some of the information that he has just provided in his question to put it on the record. That estimate of 1 000 properties was based on the 2015–16 data from the Foreign Investment Review Board, which was the latest available data at the time the estimate was made. There were 1 646 approvals to purchase properties in Western Australia in 2015–16. However, not all approvals result in a purchase, reflecting that there may be multiple applications for the same property. Buyers may make applications for multiple properties or buyers may make applications and ultimately not purchase any property.

As a result, the number of approvals overstates the extent of foreign purchases in Western Australia. Treasury assumes that two-thirds of approvals will result in a purchase, resulting in an estimate of around 1 100 purchases. This assumption, as the member alluded to, is included in the commonwealth House of Representatives Standing Committee on Economics "Report on Foreign Investment in Residential Real Estate" and was also informed through discussions with other state Treasuries. In accordance with estimates derived by the commonwealth Parliamentary Budget Office, the number was further reduced by 11 per cent to reflect a small assumed reduction in foreign purchases of residential real estate in response to the surcharge, resulting in a final estimate of around 1 000 purchases.

Hon MICHAEL MISCHIN: To explore that a little bit more, the estimate of 1 000 properties based on that material presupposes that the information provided also gives a value to the properties against which the amount of duty that is currently payable can be calculated and how much additional duty would be paid in the event of a seven per cent surcharge being added to it. Does the information that has been relied on descend into that sort of detail, because it seems to me that various assumptions in rounding exercises have had to be engaged in? That being so, it seems to me that the value of properties concerned is also very uncertain as a basis for calculating the specific amount that is said that this surcharge will raise.

Hon STEPHEN DAWSON: I am told the data we have received does not have the value, so we have assumed the average price for that financial year. That is based on the transfer duty.

Hon MICHAEL MISCHIN: Thank you for that. We have been told that this will raise $123 million, as I recall, over four years, so it comes to just shy of $31 million a year in extra revenue based on, give or take, 1 000 transactions, and, of course, properties are of varied values. Can the minister tell us what assumption the value of each of these properties has been based on and how much additional duty per transaction the government is assuming will be raised by this?

Hon STEPHEN DAWSON: I can only give the member the same answer as I gave to his earlier question. The data we have received does not have the value so we have assumed the average price for that financial year applied across all transactions. It is an inexact science. The figure the member spoke about earlier—$130 million—that we estimate might come in is, again, an estimation based on an inexact science based on a range of assumptions. That is the level of detail I have on that.

Hon MICHAEL MISCHIN: In that case, can the minister tell us specifically the assumptions upon which Treasury has reached the figure of $123 million over four years—$30.75 million a year? The figure of 1 000 properties is one of them. What are the other assumptions and what figures have been used? They must have added up to that figure somehow.

Hon STEPHEN DAWSON: The revenue estimate is calculated as follows. Treasury estimated a number of foreign property purchases based on the most recently available data, as I said, from the Foreign Investment Review Board for 2015–16. These purchases are applied to the transfer duty data for the same year to provide an estimate of the portion and value of properties these transactions represent. This number, again, is decreased by 11 per cent to reflect an assumed behavioural response from foreign buyers. Again, this behavioural response is derived from work by the commonwealth Parliamentary Budget Office. The seven per cent rate is applied to this estimate to derive estimated revenue. The estimated revenue for the data year is then grown at the same rate as forecast transfer duty collections.

Administration costs associated with this are for one-off system changes for the Office of State Revenue. They will total about $1 million over 2017–18 and 2018–19. These costs are non-recurring. Essentially, the financial impact of the foreign owner duty surcharge is $10 million net operating balance impact in 2018–19, $35 million in 2019–20, $38 million in 2020–21 and $40 million in 2021–22. That is an estimate of about $123 million over the forward estimates period.

Hon MICHAEL MISCHIN: What would Treasury say is the value of the surcharge on average for each of the properties it is considering?

Hon STEPHEN DAWSON: I am told that the average property sale price is about $500 000, so the surcharge liability for that amount is about $35 000.

Hon MICHAEL MISCHIN: In addition to any existing duty that is being paid, $35 000 extra will be paid on the sale of a $500 000 property. How much duty is currently paid by one of the purchasers?

Hon STEPHEN DAWSON: The current transfer duty liability for a property of $500 000 is $17 765. That compares with New South Wales where the duty is $17 990; Victoria, $25 070; Queensland, $8 750; South Australia, $21 330; Tasmania, $18 248; the Australian Capital Territory, $12 100; and the Northern Territory, $23 929. It is an average across the country of $18 148.

Hon MICHAEL MISCHIN: Once this passes, with a seven per cent surcharge, is the minister saying that there will be an extra $35 000 on top of that? A foreign purchaser will be purchasing a $500 000 property and paying duty in the order of $50 000 as opposed to $17 000. Is that correct?

Hon Stephen Dawson: That is correct, member. The figure for $500 000 is $52 765.

Hon MICHAEL MISCHIN: And the government anticipates that there will be only an 11 per cent decrease in the number of transactions in which foreign buyers are willing to invest in Western Australian properties and buoy the local property market.

Hon STEPHEN DAWSON: It is based on the commonwealth House of Representatives Standing Committee on Economics report. We did not have the data. We looked at its data and the assumption is about an 11 per cent reduction in the number of foreign purchases of residential real estate in response to the surcharge. Again, it is an inexact science. We are relying on the information it has available to guide us here in Western Australia.

Hon MICHAEL MISCHIN: I thank the minister for that.

Moving on a little from that, the government's election commitment was a four per cent surcharge; it is now seeking a seven per cent surcharge. What informed a further three per cent increase in the surcharge? Was it based on some calculation or is it simply an arbitrary figure?

Hon STEPHEN DAWSON: With your indulgence, Mr Chair; Hon Michael Mischin, I addressed this issue previously but it has been some weeks since Parliament last sat so I will again give the chamber that information. Why has the government increased the rate to seven per cent? A rate of seven per cent is consistent with the other states that have introduced a foreign buyer surcharge. Increasing the rate to seven per cent will align Western Australia with Victoria, Queensland and South Australia. The rate will remain below the New South Wales rate of eight per cent. I remind the member that initially Victoria introduced a rate of three per cent from 1 July 2015

and increased it to seven per cent from 1 July 2016. New South Wales first introduced a rate of four per cent on 21 June 2016 and increased that rate to eight per cent on 1 July 2017. Queensland, too, introduced a rate of three per cent from 1 October 2016 and increased that rate to seven per cent from 1 July this year. The South Australian rate of seven per cent came into effect on 1 January 2018. It initially announced a four per cent rate but it came in at seven per cent. Tasmania introduced its rate in 2018 and it has not increased. The rate of seven per cent is consistent with the rates in the bigger states on the east coast.

Hon MICHAEL MISCHIN: I thank the minister for that information. The earliest imposition of a levy, if I understand correctly, was Victoria in 2015, which more recently increased its rate, with other states having had this surcharge for varying lengths of time. Has Treasury explored the effect these surcharges have had on the home market in other jurisdictions; and, if so, can the minister inform the chamber what Treasury has discovered? Has there been a deflation in investment? What economic consequences have been revealed in other places quite apart from the benefits of those state governments raising extra revenue?

Hon STEPHEN DAWSON: I am told that foreign buyers comprise less than two per cent of all house purchases; it is about 1.76 per cent, I think, all told. We did speak to the other states and they told us that the impact was negligible because it affected such a small number of properties. I have information about South Australia. As I mentioned earlier, it introduced its seven per cent levy in January 2018. Despite introducing that tax, in July this year, the South Australian Valuer-General revealed that median house values have hit an historic high of 2.41 per cent in the June quarter from the same quarter last year. Following the release of those figures, the president of the Real Estate Institute of South Australia said he is, and I quote, "delighted" to see that confidence remains in the SA marketplace and "The June quarter has been nothing short of spectacular". During our conversations with agencies from the other states, we were told that the impact has been negligible but certainly other factors could have been at play in South Australia. Certainly from what we have seen, there has been a change in the other direction in South Australia; there has not been a negative impact since it introduced its surcharge.

Hon MICHAEL MISCHIN: I thank the minister for that. I cannot imagine that the imposition of a surcharge on one sector of the property market, albeit a small one, would involve an increase in housing values for the rest of the market, so I would think, yes, other factors have come into play. I think the minister has provided just about all that he can reasonably provide in respect of the premises underlying the bill, so I have no further questions in that regard.

Hon MARTIN ALDRIDGE: I have a few questions that I want to go over with the minister in clause 1. The first is about the change. If I understand this right, the Labor Party in opposition took a policy to the election of a four per cent duty surcharge. That was reflected in the 2017–18 budget, the first budget of the Labor government. In the 2018–19 budget, the second budget of the Labor government, that duty surcharge was increased to seven per cent. I want to get some clarity about some of these figures because there is a bit of confusion, certainly in my mind, as we move from the 2017–18 budget of four per cent to the 2018–19 budget of seven per cent. I understand from questions that I have asked in this chamber that the expected revenue as shown in the 2018–19 budget over the budget year and the three-year forward estimates is total revenue of $123 million, of which $23 million is required for the TAFE fee freeze policy that is linked to this revenue measure. Can the minister tell me whether any of that is incorrect and can he advise the chamber of the step-change between the 2017–18 budget decision and the 2018–19 budget decision, but can he do so comparably because, obviously, we were one year on and another year of the forward estimates came in? If we are comparing apples with apples, what was the change from four to seven per cent over those budget years?

Hon STEPHEN DAWSON: All the things that the member said are correct. In terms of the financial impact or the difference, we anticipate that a four per cent increase would have brought in $6 million in 2018–19, $21 million in 2019-20, $22 million in 2020-21 and $24 million in 2021–22, which adds up to $73 million. I previously said that the difference between the four and seven per cent will contribute an extra $50 million to state coffers. I am not sure whether the member was here, but we anticipate that the financial impact of the seven per cent increase will be $10 million in 2018–19, $35 million in 2019–20, $38 million in 2020–21 and $40 million in 2021–22, which adds up to $123 million over that forward estimates period.

Hon MARTIN ALDRIDGE: If we are comparing apples with apples and the same budget period, an extra $50 million will result from the increase from four per cent to seven per cent. I understand that funding the policy that Labor took to the election to freeze TAFE fees will cost the government $23 million over the forward estimates. From what has been provided in this place, that seems quite lumpy in that the information I have is that $2 million is required in 2018–19, $7 million in 2019–20, $9 million in 2020–21, and $5 million in 2021–22. Can the minister clarify for me why it goes from $2 million to $9 million and back down to $5 million and to what extent that relates to the calendar training years that apply to TAFEs, rather than the financial years that we deal with in the budget?

Hon STEPHEN DAWSON: I do not have that information with me. We indicated that this amount would come in as a result of the foreign buyer surcharge, but the money will then go across to another agency. In this case, it is the Department of Training and Workforce Development. Therefore, the member would probably have to ask the question of that minister or agency. We do not have that information here on why those figures fluctuate. That

would have been a request made by that agency to cabinet through the Expenditure Review Committee process. I was not part of those deliberations. Certainly, I was not part of the conversation about why those amounts were needed in each of those years. I cannot be more helpful than that, unfortunately.

The CHAIR: Just before we proceed, I know members have an interest in this. The bill before us relates to raising some tax revenue. I do not believe that it relates to the disbursement of any funds, which presumably will go into consolidated revenue. Members, I think we have to be a little careful that we do not start to revisit the second reading debate, even though I have allowed these questions under the clause 1 debate, which will now proceed.

Hon MARTIN ALDRIDGE: I know we entered committee only briefly on 20 September when we last sat, but there was an interchange between the minister and Hon Michael Mischin about the surplus funds. Obviously, the TAFE fees freeze is linked to this bill, particularly through the second reading speech, in which the minister stated that the government's intent is to raise this revenue to, in part, fund the freeze on TAFE fees. We know that it will raise $123 million and that $23 million is required to give effect to that policy and commitment. That leaves a $100 million surplus, which is $50 million more than what was expected when we went from four to seven per cent in the two budget years.

On Thursday, 20 September, we had an interchange in this place during the Committee of the Whole stage on what the $100 million will be used for. Obviously, this is a budget measure. There was some talk about it being used to pay down debt. When we look at the budget papers, we see that they reflect the same thing. They reflect a net debt reduction, minus $1 million, which I think is associated with administrative costs, unless I am mistaken. That is what the budget papers reflect. I have reflected on *Hansard* of 20 September and the speech of the Treasurer, and indeed the minister representing the Treasurer in this place, when the 2017–18 budget was handed down. The speech referred to the government's budget repair measures and how any "unanticipated or windfall revenue"—that is a direct quote from the speech—will be placed into the debt repayment account. When we were last at the Committee of the Whole stage, the minister confirmed in this place that this money would not go into the debt repayment account. I am struggling to understand why not. Is it because the government does not believe this to be unanticipated or windfall revenue? Clearly, Labor took a four per cent duty surcharge to the election and increased it to seven per cent. I would have thought that the $50 million change between the 2017–18 and 2018–19 financial years would be a windfall for the government, certainly from its first budget. If the intent is to pay down debt, why is it not going to the debt repayment account?

Hon STEPHEN DAWSON: As the member quite rightly pointed out, this amount has been budgeted for in this year's budget. We do not believe that it is an unanticipated windfall. We have budgeted for it in the budget and, as a result, the money that is not being used to fund the TAFE fees freeze will go into consolidated revenue and will help us run the state. Part of our mission is to pay down debt, so that money will be used to pay down debt and will go into the consolidated account.

Hon MARTIN ALDRIDGE: That begs the question: why do we have a debt repayment account at all? If at the end of the day we just put it all back into the consolidated fund and just whack whatever we have left at the end of the financial year onto the credit card, it achieves the same outcome. It seems a bit odd to me that we have a debt repayment account and we are not putting money in it, even though we are saying that revenue will be used for debt repayment.

Hon Stephen Dawson: As I alluded to last time, we are putting money into the debt reduction account. We have been over the past couple of years. However, the member is correct that this money will go into consolidated revenue and it will help reduce state debt.

Hon MARTIN ALDRIDGE: I thank the minister.

I want to move to another area. If I were a member of a party that issued a media statement on 20 February 2017 supporting a 20 per cent surcharge on duty, which part of this bill would I need to amend to achieve the outcome that I took to the election?

Hon STEPHEN DAWSON: Not knowing what party the member is talking about or any media releases to which the member refers, I am told that it is proposed chapter 3A of the Duties Act. Changes would need to be made in the new division.

Hon MARTIN ALDRIDGE: Similarly, if I were a member of a party —

Hon STEPHEN DAWSON: Sorry; hang on. I am getting further advice on that. To stop the member from going on a wild-goose chase or down the wrong rabbit hole, the rate is mentioned in proposed section 205O on page 14 of the bill. If the rate were changed, further changes would need to be made in proposed sections 205ZE(2)(k) and 205ZJ.

Hon MARTIN ALDRIDGE: If indeed I were pursuing my party's election commitment of 20 per cent, or a lower reported value of 10 to 15 per cent, I would need to amend those sections. Is the minister aware of any amendments to those sections proposed by members?

Hon STEPHEN DAWSON: The only amendment I am aware of is the amendment that stood in the member's name last week that the second reading stage not proceed unless a particular commitment was given by government. I am not aware of any other amendments before the chamber at this stage.

Hon MARTIN ALDRIDGE: Similarly, if I were a member of a party and was seeking to negotiate an outcome with the government for the passage of this legislation by removal of the 10-lot exemption for property developments, which clauses of the bill would I need to amend to give effect to such an outcome?

Hon STEPHEN DAWSON: I am told that changes would need to be made to sections 205ZA, 205ZB, 205ZO, 205ZP and 205ZQ of the act.

Hon MARTIN ALDRIDGE: Thank you for your assistance, minister. Does the government intend to move such an amendment or is the minister aware of any other amendments proposed to those sections?

Hon STEPHEN DAWSON: The government does not intend to move any amendments and I am not aware of any further amendments before the chamber from other parties at this stage.

Hon MARTIN ALDRIDGE: That is very interesting. During the course of the consideration of this bill so far, there has been quite a focus on the impact on potential foreign investors. I think that it has been well canvassed. There has also been some speculation, or some people have articulated the view, that this measure will contribute in some significant or at least measurable way to dealing with housing affordability in Western Australia. Is the minister aware of anything that would substantiate such a claim about housing affordability?

Hon STEPHEN DAWSON: We expect the impact on house prices will be minimal. That is the government's view and it also has been the view of the deputy president of the Real Estate Institute of Western Australia, Damian Collins. When the original surcharge was announced, he was reported as saying —

> "While there could be a slight impact from this, foreign investment only represents a small proportion of the WA property market, instead, the billions of dollars' worth of key transport infrastructure spending will put the property market in a strong position to continue its steady recovery," …

From our perspective, the impact will be minimal and real estate industry representatives have been on the record as saying that the impact will be minimal.

Hon MARTIN ALDRIDGE: Those comments were attributed to a REIWA representative and focused on the likelihood of foreign investor motivation post passing the duty proposed in this bill, which in some respects is linked to the argument about housing affordability. If we are going to reduce demand for property, that will have an impact on housing prices. If advice to the government and modelling expertise suggests that there will be minimal impact, we would then think that there would be a similar minimal impact on house pricing in Western Australia. We are not likely to see a decrease in house prices in Western Australia directly associated with the decision we are about to make in the chamber.

Hon STEPHEN DAWSON: No, I do not believe we are going to see a dramatic decrease in house prices.

Clause put and passed.

Clauses 2 to 15 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [3.07 pm]: I move —

> That the bill be now read a third time.

HON DR STEVE THOMAS (South West) [3.08 pm]: I will not take very long. We have had a fairly forthright debate on the Duties Amendment (Additional Duty for Foreign Persons) Bill 2018. I thank all honourable members for their contributions to the debate, especially Hon Michael Mischin and Hon Simon O'Brien. I think it is very much a suck-it-and-see bill. We do not know the impact, as yet, in the particular circumstances of Western Australia. We will now wait and watch carefully to see what financial impact will be made by this bill and its initial impost on foreign purchasers of land in Western Australia. I remain of the opinion that the property market in Western Australia is quite independent of the eastern states. We have no real indication of what is going to happen. The government has gambled its reputation on the fact that the impacts will be minimal. I am intrigued to see that and I will absolutely make sure that if there are impacts above and beyond those proposed by the government, I will remind the government and the greater population of that in time to come. I think it has been a good debate. We will not really know the impact for some years to come. I will be watching the impacts of the bill with great interest and will remind members opposite, if there are untoward impacts, that we had the opportunity to do something differently.

Question put and passed.

Bill read a third time and passed.

FINANCIAL TRANSACTION REPORTS AMENDMENT BILL 2018

Second Reading

Resumed from 18 September.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [3.09 pm]: As I indicated on the last occasion I spoke on the Financial Transaction Reports Amendment Bill 2018, I am addressing the house in two capacities, as not only the lead speaker for the opposition on the merits of the bill, but also Chairman of the Standing Committee on Uniform Legislation and Statutes Review. I had reached the stage of dealing with elements of report 113 of the committee, which was tabled in June this year in discharge of the committee's function under the standing orders to essentially consider the legislation in the context of its remit to assist the house on its implications for Western Australia's parliamentary sovereignty. When we left off, I had been about to embark on comments regarding the time that the bill had taken to reach this place and be debated.

Members will recall that I commended the government on clause 2 of the bill, which provides that the substantive parts of the bill will take effect on the day after royal assent is received. One curiosity was the urgency that was placed upon this legislation. I had mentioned that the bill was first introduced in the other place on 20 February this year. The second reading speech took place on that occasion, presented by the Attorney General. The bill was debated on 8 May 2018. A month beforehand, on 10 April, a replacement explanatory memorandum was tabled in the Assembly to subsume the one that had accompanied the bill when it was first read in. It was explained that there were certain errors and infelicities of language in the original explanatory memorandum. Nevertheless, the debate in the other place was resolved in a remarkably short space of time. The member for Hillarys, who was dealing with the bill on the opposition's behalf in the other place, took some 38 minutes to dispose of it; there was a speech by the member for Girrawheen, which took up just short of half an hour; and the debate was resolved relatively quickly with, I think, a summing up by the Attorney General. The bill then came to this place, it having been passed by the Assembly on 8 May, and was introduced on 10 May this year and read into the chamber. The second reading speech occurred on that same day, 10 May.

As a matter of course, the bill was referred to the Standing Committee on Uniform Legislation and Statutes Review. The committee then received a request for expedited consideration of the legislation. Members will know that the committee has 45 days to deliberate on any bill referred to it and to report on it. Of course, that is no bar to the presentation of a report in advance of that 45-day time limit. One of the factors that comes into play is, of course, the provision of satisfactory and timely information by the minister responsible for the legislation and any response to requests for information sought by the committee. In this case, we also received a representation from the Minister for Police; Road Safety, Hon Michelle Roberts. She wrote to the committee on 18 May, some eight days after the bill had been referred. The letter was received by the committee on 23 May. A copy of that letter appears as appendix 1 to our report. I will not read the letter out in full, but the substance of it was a request for the expeditious passage of the bill. I quote paragraph 2 of the letter, which says —

> The expeditious passage of the Bill will be of considerable benefit to the WA Police Force in the fight against serious and organised crime, as it will allow officers to more readily obtain information from financial institutions concerning transactions that these bodies have reported to Austrac.

There was an offer to provide more information and a request that the committee expedite its deliberations on the bill. I had received a behind-the-Chair representation from the minister that, if possible, it would be very desirable that the bill be passed before the winter recess, which of course was not possible. Members will be able to see in appendix 2 the committee's response to those representations from the minister.

What was curious about the approach was that the bill was not considered an urgent bill when it was introduced into the Assembly, notwithstanding that it must have been apparent that the bill would be one that, more likely than not, would be referred to the standing committee here for consideration. There was no particular expedition on the part of the government to have the legislation dealt with there. There was no move, which is one that is available in the Assembly, to have the bill declared urgent under standing order 168 of the Legislative Assembly. The bill was not brought on for debate there until 8 May. I remind members that the Leader of the House, representing the Attorney General, did not indicate the bill was urgent when she introduced it on 10 May. During her second reading speech, the Leader of the House stated that given there were questions as to whether the bill was a uniform legislation scheme, it was prudent that it be referred to our committee under standing order 126. But she did not move to shorten the time limit of 45 days, indicate any particular desire to pass the bill before the winter recess, or ask the committee, as has been the case from time to time, to expedite its deliberations. I should add that that is something the committee does to accommodate the government and its legislative program if at all possible and if it is feasible to do so, having regard to other work it is doing. There was no information from the Leader of the House subsequently of any urgency in passing the bill. Interestingly enough, it was not the minister who was responsible for the bill—namely, the Attorney General through the Leader of the House—who was requesting that the committee expedite its consideration of the bill and expressing the desirability of the passage of the bill at the earliest opportunity, and hopefully before the winter recess.

I mention this for two reasons. Firstly, wearing my committee chair hat, a function is imposed upon us under standing orders as part of the purpose of the committee to assist this house with the consideration of legislation to satisfy the house about whether there would be a potential impact on parliamentary sovereignty. Several years ago, the time limit was extended from 30 days to 45 days because of the burden it put on the committee to deal with matters effectively. As I mentioned, approaches by the government to expedite the committee's consideration of the bill and to provide a report earlier rather than later is something that we will always assess on its merits and will entertain. We are not oblivious to the need to sometimes deal with legislation expeditiously to facilitate its passage through Parliament; however, it would be helpful if we could be alerted to this sort of thing at the time that the bill is being presented to this place. It would also be helpful in our assessment of the merits of such a request if it could come from the minister who is responsible for the bill rather than the minister who is not responsible for the bill. As I mentioned, this is a bill from the Attorney General and was managed by him in the other place. The Minister for Police may, of course, have an interest in it. Here I wear my member of the opposition hat and say that it seems to suggest some dysfunction in the government that the Minister for Police and the Attorney General do not have the same priorities with the Attorney General's legislation. If this bill were so important for law enforcement—something that the Minister for Police publicly said in the course of a media statement in which she criticised the previous government for not having dealt with this matter—and the minister cannot persuade the Attorney General, whose bill it is, to declare it urgent when he is introducing it and have through his representative in this place some representation about its urgency, some explanation about why it is urgent and some expression of the desirability of it being passed by a certain date, that is not something for which this house ought to be responsible. It suggests a disconnect within the cabinet and certainly between those ministers who are exercising responsibility for the administration of justice and effective law enforcement in this state. Nevertheless, we delivered the report at the earliest available opportunity and, despite the urgency expressed by the Minister for Police, it is only now being brought on for debate some several months after the winter recess; indeed, some three months. Our due date for tabling the report was 28 June. We tabled it on 14 June. We did the best we could with what we had and it was first brought on on 18 September. The urgency expressed by the Minister for Police seems not to have been communicated to those responsible for the management of government business in this place. I mention that as a curiosity, but also because although we will of course entertain legitimate requests for us to turn our attention to and dispose of the bills for which we are responsible in the committee, I would discourage ministers from crying wolf too often and saying, "Can you please deal with this as early as practicable? It's really important", and then if we do so, finding that the government does not actually share that opinion of the urgency of the legislation that we are dealing with.

I turn back to the merits of the legislation. I have dealt with clause 2 of the bill. Clauses 3, 4 and 5 are of no particular importance from the point of view of parliamentary sovereignty. There was a question about clause 9(2), which provides that when a cash dealer or a reporting entity communicates, gives information or produces documents as required under the commonwealth Financial Transaction Reports Act, the Anti–Money Laundering and Counter-Terrorism Financing Act, or this act, our principal act, the Financial Transaction Reports Act of Western Australia, they are protected from prosecution under the Criminal Code in respect of that information. The purpose of that provision is to encourage cash dealers, their employees or agents to fulfil their reporting obligations under the commonwealth and state legislation. It will, if enacted, protect Western Australian cash dealers from otherwise being guilty of a crime under the Criminal Code and liable to potential imprisonment of 20 years. There is no requirement from the commonwealth for WA to enact such a provision, but it does preserve Western Australian parliamentary sovereignty and lawmaking powers, and provides protection to those people who are providing this information that might otherwise be the basis of an offence. Otherwise, there are no clauses that the committee found raised any issue of parliamentary sovereignty or lawmaking for the state of Western Australia. Two subclauses—8(4) and 8(10)—at first sight might appear to have raised issues of parliamentary sovereignty and lawmaking power. That was the substitution of a reference from "director" to the "Australian Transaction Reports and Analysis Centre CEO", but we concluded that that did not diminish Western Australian parliamentary sovereignty as it was an administrative rather than a legislative matter. Otherwise, amendments to section 7(9) of the act, by providing that reportable details of a transaction means the details of transaction that are referred to in schedule 4 of the commonwealth Financial Transaction Reports Act prescribes certain information that is reportable, and that can change over time depending on what the commonwealth does. Given that this legislation is not seeking to impose an obligation on Western Australian authorities but rather is about providing access to the same information that is provided to AUSTRAC and federal bodies and allowing the commonwealth discretion to say, "This is information that is reported", and allowing the state, through the facility of the Financial Transaction Reports Act, to get access to that information, this legislation is not an impingement on state parliamentary sovereignty.

In summary, the committee had not identified any clauses in the bill that had an impact on the sovereignty or the lawmaking powers of the Western Australian Parliament. More generally, for the reasons that have been expressed in the second reading speech by the Leader of the House on behalf of the Attorney General as the policy imperatives underpinning the bill, the opposition supports the legislation. It is a useful facility for Western Australian authorities in the fight against crime, particularly organised crime and fraud.

The only questions I would pose to the Leader of the House—I hope she may be able to answer them in her reply to the second reading debate, which would obviate the need for us to go into Committee of the Whole House—are about the penalties prescribed. I draw the Leader of the House's attention to clause 6 of the Financial Transaction Reports Amendment Bill 2018, particularly subclause (3), which proposes in section 6(3) of the principal act to delete the penalty and insert the penalty of a fine of $20 000 and imprisonment for two years. I likewise draw the Leader of the House's attention to proposed section 6A(5), introduced by clause 7 of the bill. For failure on the part of a reporting entity to comply with a request, proposed section 6A(5) provides for a penalty of $20 000 and imprisonment for two years. It seems to me that a fine of $20 000 on a reporting entity, which may very well be a bank or other financial institution that thinks it is too much like hard work to go through its records and provide relevant information, may not be a sufficient incentive to require compliance with what is said to be a very important facility for the police in Western Australia to obtain information potentially regarding organised crime. I wonder whether consideration has been given to an increase in the penalties; there may be a very good reason why the penalties have been set at that level. Perhaps the Leader of the House can assist us in understanding what the basis was for having a monetary penalty of only $20 000 and up to only two years' imprisonment as a deterrent to those responsible. Of course, if it is a financial institution that is operating in respect of various people effectively making the decisions, it may be low-level employees who are simply adopting policy or taking instructions from someone else; we are not likely to start jailing them and we cannot jail a corporation. I would appreciate the Leader of the House's assistance in that regard, and to find out whether any prosecutions have taken place under the current legislation.

There is also an amendment to section 10(2) of the principal act through clause 11 of the bill, and, once again, an amendment to section 9 under clause 10 of the bill to provide for slightly more robust penalties of a fine of $50 000 and imprisonment for five years. Perhaps the Leader of the House can go through the nature of those offences for us, why those figures have been chosen, and why it is that the government believes those penalties will provide adequate incentive for compliance and deterrence against a refusal. Otherwise, I congratulate the government on bringing this legislation before the house. If we can get those answers during the course of the Leader of the House's reply to the second reading debate, I do not see any need for us to go into Committee of the Whole House at this time.

HON CHARLES SMITH (East Metropolitan) [3.33 pm]: I rise to say a few words on the Financial Transaction Reports Amendment Bill 2018. One Nation is broadly supportive of the bill in principle, and I commend the Attorney General for pushing it forward.

Money laundering is a serious issue in Australia. I have spoken on this issue in Parliament before when talking about the property market. I again cite a report by Dick Smith which states, according to my notes —

> […] the report also pointed out that some foreign purchases of Australian property are invariably funded with black, corrupt or laundered money from countries whose governments are attempting to crack down on corruption. Indeed, the global anti–money laundering regulator, the Paris-based Financial Action Task Force, found that Australian housing is a haven for laundered money, particularly from China.

In July 2017 the ABC itself reported —

> AUSTRAC, Australia's financial crimes regulator, said in a report two years ago that the laundering of illicit funds through real estate was "an established money laundering method in Australia".
>
> It said around $1 billion in suspicious transactions came from Chinese investors into Australian property in 2015–16.

A few years back, in 2015, the global regulator of money laundering released its mutual evaluation report. This report found that Australian homes are a haven for laundered funds, again particularly from China. In June 2017 it also placed Australia on a watchlist for failing to comply with money laundering and terrorism financing reforms. Even as late as March last year, Transparency International ranked Australia as having the weakest anti–money laundering laws in the Anglosphere, failing in all 10 priority areas. In February just gone, the Tax Justice Network released its "Financial Secrecy Index" for 2018. It joined the conga line shaming Australia for failing to police the international dirty money flooding into the housing market.

Today, Australia's property market has been labelled a prime target for money laundering, due to a lack of regulations. Consequently, young Australians have been forced to pay more for their housing. However, it is not just the housing market that is being used for money laundering, as we all know. I am sure members recall last year when the Commonwealth Bank was embroiled in a scandal involving its so-called Smart ATMs, which the media reported, and I quote —

> … may have allowed terrorists and criminals to launder millions of dollars.

AUSTRAC alleged that the CBA failed to report over 53 000 transactions—allegedly turning a blind eye and facilitating money laundering.

When New Zealand was exposed by the Panama Papers some years back, it took action. Australia has had case after case of money laundering taking place under its nose and has done very, very little to combat it. Although I think a great deal more can be done to combat money laundering at the state and, indeed, federal level, this legislation is at long last a step in the right direction to at least allow authorities to more quickly and readily commence investigations into money laundering.

HON ALISON XAMON (North Metropolitan) [3.37 pm]: I rise on behalf of the Greens as the lead speaker to say a few words about the Financial Transaction Reports Amendment Bill 2018. The bill amends the Financial Transaction Reports Act 1995. That act makes available to Western Australian authorities information provided under commonwealth law about financial transactions for the purposes of investigation or prosecution under our laws, and also for the potential enforcement of the Criminal Property Confiscation Act. Essentially, the bill updates the Western Australian act so that it refers to and reflects the two relevant commonwealth acts, the Financial Transaction Reports Act and the Anti–Money Laundering and Counter-Terrorism Financing Act. I note that when the legislation was being updated to reflect these provisions, the drafters took the opportunity to also modernise some of the wording, without changing the substance.

The principal act already provides that if a cash dealer reports information under the Financial Transaction Reports Act and the Western Australia Police Force carries out an investigation arising from and relating to the matters in that information, Western Australia police can request further information from the cash dealer, if the further information may be relevant to a state offence or may assist in enforcing the Criminal Property Confiscation Act. This bill will add to that provision a time limit that mirrors the commonwealth provision, to assist with promptly obtaining freezing orders to ensure that the money will stay in Western Australia. The bill also contains a similar provision on information communicated by a reporting entity under the other commonwealth act—the Anti–Money Laundering and Counter-Terrorism Financing Act 2006. I note that the police can also request documents about the matter to which the communication relates. The reason is to get evidence to ensure that a prosecution can be supported if the matter proceeds that far. The bill also provides that a cash dealer who is a party to a transaction but who is not required to report it must report it if they have reasonable grounds to suspect that the information may be relevant to an investigation or a prosecution of a state offence or, again, if it may assist in enforcing the Criminal Property Confiscation Act. Police carrying out an investigation arising from or relating to matters referred to in that information can request further information if it may be relevant to an investigation or prosecution of a state offence. The bill extends this to the other commonwealth act—the Anti–Money Laundering and Counter-Terrorism Financing Act and enables police to request documents about the matter to which the communication relates and similarly inserts a time limit.

In relation to the issues around this bill, I note that the police in particular have supported the bill and have said that this bill is necessary because, although the information can be obtained in the usual way via a notice to produce under the Criminal Investigation Act 2006, it currently takes longer to obtain—the threshold is higher and the penalty for noncompliance is lower. These concerns have been raised as they could increase the chance of the target hiding the moneys or moving the moneys out of the jurisdiction before a freezing order can be obtained. I note that appendix 1 of the committee's report contained a letter from the Minister for Police, which stated that the bill will be of considerable benefit to police as it will allow them to more readily obtain information from financial institutions about transactions that the institutions have reported to the Australian Transaction Reports and Analysis Centre. The alternative of orders to produce under the Criminal Investigation Act 2006 is burdensome and since the threshold is higher, sometimes essential information cannot be obtained.

The main concerns that the Greens have with bills of this type relate to getting the balance right and ensuring that protections against discrimination and protections for privacy are in place. Under the legislation, a person providing the information is safe from action against them if what they did was required under the act or, importantly, if they mistakenly believed that it was required under the act. Therefore, it will be really important to educate those using the act to use it correctly. I have a question for the minister, particularly in respect of cash dealers who will be affected by the provisions within this bill. I would appreciate it if the minister is able to confirm whether any awareness campaigns will be conducted to educate cash dealers about the extent of their responsibilities or, indeed, whether any discussions or dialogue have already been entered into.

Under section 126 of the Anti–Money Laundering and Counter-Terrorism Financing Act, AUSTRAC can authorise the WA police or the Corruption and Crime Commission to access AUSTRAC information for the purpose of their functions in exercising their powers. Also, the agency must undertake that it and its officials will comply with the Australian privacy principles in respect of the information obtained. The briefing that I received went into the circumstances in which the information is accessed and used, and I was satisfied with the response to that. My main concern is to ensure that there is a proper oversight to ensure compliance and that any breaches are detected and dealt with. Members are aware that every so often a media story will come out about how some official or other within Australia has improperly accessed private information. A common breach is when people inappropriately access information of an ex-partner. I would like the minister to confirm for this house that the state has in place robust procedures to detect and properly respond to any wrongful access to other people's private information. The second thing that I hope the minister can confirm is that police access to AUSTRAC information

is being very closely monitored internally and also that it is subject to oversight by the CCC. I would also appreciate it if the minister could explain, in detail ideally, what monitoring processes are in place and what will happen if a breach is detected in order to prevent recurrence. I hope that the minister can clarify those two points during her second reading reply. Otherwise, the Greens indicate that we will be supporting this legislation.

HON SUE ELLERY (South Metropolitan — Leader of the House) [3.45 pm] — in reply: I thank members for their contribution to the debate and for their support for the Financial Transaction Reports Amendment Bill 2018. I also thank the Standing Committee on Uniform Legislation and Statutes Review for the work that it did in preparing the report. I have information available for part of Hon Michael Mischin's questions. With respect to the last question that he asked about whether any offences have been prosecuted under the current legislation, best endeavours are being made right now to run a check over the database. It may be completed by the time I have completed my remarks. If not, I can certainly give an undertaking to provide that information to him subsequent to the house dealing with the bill.

Hon Michael Mischin: I do not see that as being fatal to the progress of the bill if it is not available, but I would be interested.

Hon SUE ELLERY: With respect to the penalties that Hon Michael Mischin drew attention to, in section 6(3) of the principal act and proposed section 6A(5) in the bill, although the WA Police Force already has powers under part 6 of the Criminal Investigation Act 2006 to apply for an order to produce a business record, which may include the relevant documents, the requirements that police must satisfy are different and more onerous and the penalties for failure to comply are far less. The penalty under the Criminal Investigation Act 2006 is a fine of $12 000 and imprisonment for 12 months. This compares with the penalty in the WA Financial Transaction Reports Act 1995, which is a fine of $20 000 and imprisonment for two years. Analysis was done of the fines and penalties in other jurisdictions, which identified that the penalty in all jurisdictions was imprisonment of two years for noncompliance. The fine amounts varied, from $8 000 in South Australia, up to 400 penalty units, or a $52 220 equivalent, in the Queensland jurisdiction. Western Australia's penalty sits in the mid-range at $20 000. Those penalty rates are not amended in this bill. South Australia is in a somewhat unique situation as it identifies separate penalties for a natural person versus a body corporate. For the body corporate, the fine is $30 000 and for a natural person, the fine is $8 000 or imprisonment for two years or both. If the information about the database check comes in, I will give it to the honourable member. If not, I undertake to give it to the honourable member outside of consideration of the bill.

Hon Alison Xamon asked whether an educative campaign would be undertaken to ensure that cash dealers were aware of the changes to the framework. The answer is yes. The Western Australia Police Force and the Australian Transaction Reports and Analysis Centre have prepared a strategy to ensure that all cash dealers and reporting entities are adequately notified of the legislative change and are aware of the new obligations to produce information and documents related to relevant Western Australia Police Force applications, prosecutions and confiscation proceedings. Cash dealers and reporting entities that operate at a national level are already familiar with those requirements where they have been implemented in other Australian jurisdictions, so they will be anticipating those, but a strategy is in place to make sure that the whole is captured.

Hon Alison Xamon also asked about monitoring and oversight. I am advised that the Western Australia Police Force treats breaches of information and unauthorised access to restricted records very seriously. Any identified breaches are investigated by the professional standards portfolio. Officers are investigated against statutory offences, the Western Australia Police Force policy and the code of conduct. All investigations undertaken by the Western Australia Police Force are oversighted by the Corruption and Crime Commission. Under section 21A of the Corruption, Crime and Misconduct Act, the Commissioner of Police must report matters that concern or may concern reviewable police action. Anyone else, including members of the public, may also report alleged police misconduct to the commission. Once an allegation is assessed, the commission will decide whether to investigate or take action itself, investigate or take action in cooperation with an independent agency or appropriate authority, refer the matter to an independent agency or appropriate authority for action, or take no action, in which case the commission will advise whoever made the report.

Did the honourable member ask a question about privacy as well?

Hon Alison Xamon: Raised concerns about privacy.

Hon SUE ELLERY: The 2016 statutory review of the commonwealth Anti–Money Laundering and Counter-Terrorism Financing Act and associated regulatory instruments included, amongst other things, that an improved approach to managing privacy risks was needed. In some areas the regulatory regime was identified as being too restrictive and that there was a need to expand the permissible uses and sharing of AUSTRAC information. On the other hand, there was a need to ensure better targeting of protections, safeguards and controls of the various confidential and sensitive information collected under commonwealth legislation. That statutory review concluded that a principles-based approach may provide a more appropriate contemporary framework for information sharing under the commonwealth Anti–Money Laundering and Counter-Terrorism Financing Act. I understand that those matters are now before the commonwealth government and it is considering its position.

Western Australia's Financial Transaction Reports Act states how privacy risks are managed by the Western Australia Police Force. Existing section 10 of Western Australia's Financial Transaction Reports Act deals with privacy. It provides that a person who is or has been a Commissioner of Police or a police officer must not make a record or divulge protected information. Protected information means information obtained under the act. The penalty for that is $20 000 or two years' imprisonment. They are able to make a record or divulge when it is done in the performance of their duties and relating to the enforcement of laws. Existing section 10(3) provides that in court proceedings a person is not required to divulge or communicate protected information unless it is necessary to do so for the enforcement of laws. In addition, Western Australia Police Force operations are governed by statutory provisions, legal oversight and management by the Western Australia Police Force legal services and information management unit. The Western Australia Police Force privacy statement provides an overarching framework for the agency. In addition, the Western Australia Police Force employs security safeguards to protect personal information, which include auditing systems to detect and respond to any breaches of conduct that expose privacy risks. Information will be disclosed only to the extent that it is necessary for the primary purpose of law enforcement. The code of conduct also binds employees of the Western Australia Police Force and breaches of that code of conduct may be subject to internal investigation and reporting to the Corruption and Crime Commission. Serious breaches of privacy by Western Australia Police Force employees may be dealt with by criminal charges in the Criminal Code. Training associated with the confidentiality of information is provided to all Western Australia Police Force officers and is reinforced through the application of the Western Australia Police Force code of conduct, to which all officers are required to adhere.

I thank members for their contributions to the debate and 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 Sue Ellery (Leader of the House)**, and passed.

STRATA TITLES AMENDMENT BILL 2018

Second Reading

Resumed from 28 August.

HON DONNA FARAGHER (East Metropolitan) [3.56 pm]: I rise as the lead speaker for the opposition on the Strata Titles Amendment Bill 2018. At the outset, I indicate that the opposition will support the bill. As it stands, it is an incredibly comprehensive bill. It encompasses some 397 pages—I will stand corrected on that, but that is what I saw at last count—with clause 83 of division 3 in part 2 spanning 200 of those pages. That one clause is 200 pages. I thank Minister Saffioti's office and Landgate—I particularly acknowledge Sean Macfarlane—for the time that they have taken to go through particular aspects of this bill with me. I know that they have also given a number of comprehensive briefings to other members. Sometimes briefings are really good and sometimes they are so-so, but the briefings that have been provided by Sean Macfarlane have been excellent and have been enormously helpful—certainly from my perspective—in working my way through the bill.

Members will all agree that strata has long been identified as an area in need of serious reform. The second reading speech identified that the bill is the first major reform to strata in 21 years. Much of the more recent and substantive work that was undertaken by Landgate on the bill, including consultation with other government agencies, the community and the private sector, commenced under the previous government and the minister has acknowledged that.

One of the early discussion papers was released in and around 2014. I certainly recall in my fairly brief tenure as Minister for Planning—albeit, the Strata Titles Amendment Bill does not fall within the planning portfolio directly and obviously falls within the lands portfolio a number of elements cross paths with the planning portfolio—that this matter was often raised in discussion with me by individuals. I understand that since coming to government, the government undertook further consultation and made further refinements before the bill was ultimately introduced in the other place.

Notwithstanding the reforms being sought through this legislation and, as I have said, it is a bill spanning some 397 pages with one clause spanning 200 of those pages, I indicate to the house that in my humble opinion it would have been better, given the level of changes that are being introduced through this amending bill, to have introduced an entirely new piece of legislation to replace the current act. The government has provided us with a blue bill, but, with all due respect, it is not the easiest bill to work through. We in this house are fairly experienced at working through legislation, but we need to make sure that the legislation that comes through this house is, as far as is practicable, easy to follow and understand. It is my very strong hope that should this bill pass this house—I expect that it will whether it is in the same form or changed—the final amended act will read a lot better than the blue bill does at the moment. I say that because it is particularly important for those who will be required to refer to this legislation and the framework it provides for managing strata on a regular or intermittent basis. The reality

is that once this bill passes, members of this house will probably not look at it again until further reforms are made at a future date, but strata managers, strata companies and individuals who have a very strong interest in the issue—everyone talks about strata on occasion, it comes up regularly—need to understand the legislation. At the moment, that is difficult. One of the challenges we have already seen—I will reflect on this a bit later with respect to one particular aspect—is that it is difficult for members of the community and organisations, if they have not looked at all the intricacies of the current act and compared them with the blue bill, to get confused and think that a provision is missing when, in fact, it is there but it has been moved to the beginning of the act or somewhere else. It is incredibly difficult. It is also equally important for owners who may ultimately be subject to the provisions relating to the termination of strata schemes, which is perhaps the most contentious part of the legislation. Notwithstanding that little unhappiness about how this bill has been developed, there is no doubt that it represents significant reform to strata in this state. According to the second reading speech, and I would not disagree with this —

> These reforms significantly improve upon existing strata legislation, addressing problems experienced in strata, while also modernising the language and structure of the act. This bill will also introduce a new form of land ownership—leasehold strata title schemes—creating greater opportunity for the delivery of more vibrant and liveable strata communities across the state. The bill, along with the Community Titles Bill 2018, will enable the delivery and effective management of innovative, well-planned strata properties throughout Western Australia.

Broadly, the bill can be segmented, if I can put it that way, into a number of discrete areas, albeit with some overlaps. As was mentioned in the section from the second reading speech to which I referred, significant parts of the bill update the terminology, parts of the legislation have been moved and general tidy-ups have taken place. Some of the identified key benefits of the legislation include, but are not limited to, the fact that strata managers will be regulated and made more accountable. I will have a bit more to say about that in a moment. Owners will have more say in how their scheme is managed, by-laws will be easier to enforce and owners will be empowered to improve their scheme. Every strata company with 10 or more lots will be required to have a reserve fund and will need to prepare a 10-year maintenance plan. The latter is obviously designed to assist strata companies in determining the amount of reserve funds that should be set aside for future requirements. At a personal level, when I first purchased a property it was part of a strata scheme. In the beginning, before we started getting more into the budget, we had to deal with special levies because when something went wrong and we did not have enough funds, we all had to put in money for a special levy. Hence, I think the requirement to undertake or develop maintenance plans is a good thing. Buyers will also receive more information about the strata lot they are buying and importantly—this is across a number of aspects of the bill—the State Administrative Tribunal's jurisdiction will be expanded to effectively enable it to become the one-stop shop for strata disputes. As I understand it, currently strata disputes can be dealt with across four judicial forums, including SAT and the courts. Under this legislation, SAT will be able to make orders to resolve disputes relating to the validity of certain by-laws or resolutions made by a strata company, as well as disputes between a strata manager and a strata company, among other things. I have already indicated that the bill aims to regulate, albeit not licence, strata managers and extend their statutory duties to make them more accountable.

Clause 83 of division 3 inserts parts 2 to 14. Proposed part 9 deals with strata managers. For example, proposed section 144 outlines the requirements that are to be met by strata managers; proposed section 145 outlines minimum requirements for strata management contracts; proposed section 146 deals with general duties and conflicts of interest; proposed section 147 deals with disclosure of remuneration and other benefits; and the remaining proposed sections relating to strata managers deal with accounts, auditing and other matters relating to contracts. I refer to page 1 of the explanatory memorandum, which, again, is a very expansive 79 pages, but I suppose that it what happens with a 379-page bill! In summary, the standards require the following —

> Statutory duties will be imposed on strata managers to make them more accountable and to encourage higher standards of professional service to be delivered to strata companies. Strata managers:
>
> a. must act honestly and in good faith
>
> b. must disclose to the strata company any conflict of interest or commission received
>
> c. must exercise a reasonable degree of skill, care and diligence
>
> d. must have a good working knowledge of the Strata Titles Act 1985
>
> e. must have specified educational qualifications
>
> f must provide a current police clearance
>
> g. must have professional indemnity insurance coverage
>
> h. must not make improper use of information acquired as the strata manager to gain an advantage for themselves or someone else, or cause a detriment to the strata company
>
> i. must not make improper use of their position as strata manager to gain an advantage for themselves or someone else, or cause a detriment to the strata company

I think that is the same point that has already been made; there is an error in the explanatory memorandum. I have just noticed it! It continues —

> j. must have a written contract with the strata company and
>
> k. must hold the strata company's money in a trust account that can be audited

These are obvious improvements to strata manager accountability. We have all heard about, or have had our own personal experiences of, dealing with strata managers. Some are excellent. Some perhaps are not entirely positive experiences. It should be noted, however, that the enforcement of statutory duties essentially comes down to the strata company. The explanatory memorandum states —

> The statutory duties will be enforced by the strata company. The strata company is in the best position to see whether the strata manager is complying with the duties.
>
> A strata company will have a statutory right to:
>
> a. terminate the strata management contract by giving notice if the strata manager breaches the statutory duties or the contract
>
> b. seek an order from the State Administrative Tribunal for damages against the strata manager if the breach of the statutory duties or breach of the contract causes the strata company to suffer a financial loss
>
> Strata managers will also be required to submit information to Landgate about the number of schemes they manage and the amount of money they manage on behalf of strata companies.

Notwithstanding these rights, some concern remains about how readily these new accountability measures will be enforced or, indeed, will be able to be enforced. Equally, there are some calls from people within the community for strata managers to be licensed. This is obviously not the subject of this legislation, but I want to refer to a letter I received from the Strata Community Association WA. I indicate to the minister that I will be asking for a response on a couple of aspects. It is dated 18 September 2018 and is signed by the president, Scott Bellerby. I have his authority to refer to this letter in the debate. It states —

> Lastly, we note that comments in the Legislative Assembly supported the decision not to license the strata management industry due to the relatively low number of individuals and businesses acting as strata managers in WA. SCA WA remains firmly of the view that licensing of the strata management industry is essential and that a working group should be established immediately following the passing of the current Bill to consider the implementation of a licensing regime.
>
> When considering the need for licensing in WA, we must consider not only the number of businesses and individuals acting as strata managers, but more importantly the number of consumers that a strata managers' activities impact and the amount of money that strata managers' hold on the consumers' behalf. More than 600 000 people live in or own strata property in WA and this number is rapidly growing. Strata managers are holding and managing many millions of dollars of client funds, and are guiding inexperienced volunteers (the owners) to manage multi-million dollar assets.
>
> Although the inclusion of statutory duties for strata managers in the draft Bill is a step in the right direction, it does not go anywhere far enough. Under the proposed model, a client can take their strata manager to the State Administrative Tribunal for failing to meet their statutory obligations. The SAT may assist that particular client. However, the SAT cannot stop the strata manager from acting as a strata manager or take any action to protect other current or future clients of that strata manager.

Regarding the two points raised in that part of the letter—I will refer to the letter again a little later—albeit it is not within the remit of the current bill, I am keen to understand the government's position on the matters raised by the association. There are two main points. Firstly, there is the notion of establishing a working group should this bill pass. Secondly, and perhaps more importantly in the context of this legislation, what is the government's view on the latter part of the letter, particularly the references to SAT? I will repeat it —

> … the SAT cannot stop the strata manager from acting as a strata manager or take any action to protect other current or future clients of that strata manager.

The legislation includes some quite noticeable improvements to the accountability and transparency of strata managers, but I think the association raises a couple of good points. I am keen to hear the minister's response to those points.

Hon Stephen Dawson: I was going to ask whether you would consider tabling the letter so I can make sure we get a proper response to the issues that have been raised.

Hon DONNA FARAGHER: Yes, I would be happy to table that letter.

The PRESIDENT: Members, Hon Donna Faragher seeks leave to table that document.

Leave granted. [See paper 2023.]

Hon DONNA FARAGHER: The bill also includes a new form of land ownership—the leasehold strata titles schemes. Through this legislation, a leasehold scheme can be established for a fixed term of anywhere between 20 and 99 years. The scheme operates under the same framework as a freehold strata or a survey strata scheme, obviously with some variation. As I understand through the briefings that were provided to me, this new form of land ownership has been identified as a potential option for a range of things, but one in particular is affordable housing. I want to thank the departmental officers for providing me with some significant detail on these schemes. I indicate that I will probably go through a number of elements of the scheme during the committee stage so we can get some clarity on the record. I want to go through some of the general aspects. The officers gave me a very helpful fact sheet, which deals with some of the general elements of the new strata schemes. That is helpful given that this legislation introduces a whole new form of strata scheme. Essentially, as I said, the scheme is set up for a fixed term of 20 to 99 years. There are variations in the number of lots that might exist within the scheme but they exist until the set expiry date and the owner of the lot has a long-term lease of the lot. That is a strata lease and it is held by a lessee. This is where we get into a lot of terminology regarding the lessee versus the lessor. Some of the central concepts that underpin the leasehold schemes include the fact that the owner of the leasehold scheme is a lessor under the strata lease; the owner of the lot is a lessee under the strata lease; the leasehold strata estate is the leasehold estate under a strata lease; the expiry day is the day, obviously, on which the leasehold scheme expires; and there is an opportunity provided through, I think, section 50 to postpone the expiry day though an ability to extend, but only up to a particular point.

The owner of a lot in a leasehold scheme can, without the need for consent of the lessor—the owner of the leasehold scheme—transfer the lot and the strata lease. They are also able to mortgage the lot. Those owners—I will come back to this point in a moment—of the lots are members of the strata company. I think that is very important. They decide how to run the leasehold scheme: they comply with the by-laws, they vote at the meetings, they serve on the council and they pay the contributions. That is what they do. On reversion of the scheme back to the owner of the leasehold scheme on the expiry day, it will go back to the registered proprietor. At that point, on the day of expiry, the scheme, the lots and the strata leases cease to exist and the owner of the leasehold scheme regains full ownership of the land and the buildings.

I mentioned that there is an opportunity to postpone the expiry date. I understand that is optional and it can be done through the by-laws. I understand that the expiry day can be postponed, but not beyond 99 years. So, 99 years is the endpoint of the scheme. A scheme might operate for 50 years, it is getting close to the expiry day and there is a decision to extend the expiry day. That can be done, but it cannot be for any more than 99 years. Why is it 99 years? The general response to me was that once we go past that time frame, we are really moving beyond what we would think of as being strata, and I can understand the reasons behind that.

A concern that has been raised about these new schemes is that as a scheme gets closer to the expiry day, the lessor, or the owner of the leasehold scheme, could well let maintenance run down and effectively let the property get to a point at which it might be demolition worthy. I am reassured that the bill does not allow for that—we hope it does not—insomuch that, as I have already mentioned, the owners of the lots, the lessees, not the lessor, are members of the strata company. If I do not have that quite right, I am sure that the minister will correct me. I understand that because the owners of the lots are the members of the strata company, they are the ones who decide how the leasehold scheme is run. They are the ones who have, effectively, the day-to-day responsibility of managing the strata, so if things need to be fixed, maintained, improved upon or whatever, one would expect that the strata company would act appropriately and not allow things to be run down, because, to be frank, they own the lots and it is in their interest to maintain them. It is probably their home.

Hon Alannah MacTiernan: People don't always behave rationally on this.

Hon DONNA FARAGHER: A contribution by the minister. The point that I am trying to make, minister, through your interjection, is the concern that has been raised is that the owner of a scheme, as such, may well let the buildings run down. What the government has put to me, and I am fairly accepting of this notion, is that it is the owners of the lots who actually still have the day-to-day role managing the strata, not the owner of the overall scheme. The minister's helpful contribution has enabled me to deal with that issue again.

Hon Alannah MacTiernan: Happy to help.

Hon DONNA FARAGHER: I know the minister is happy to help. I would like the minister to perhaps confirm that for me, but given a number of clauses relate to this new scheme, I will have a number of questions that we will go through.

Perhaps the most contentious part of the legislation relates to the termination of strata title schemes, which is inserted by clause 83 of division 3 in part 2 of the bill or, in other words, proposed part 12. I indicate that the bill has been amended in the other place, and a couple of amendments to this clause were agreed to. The amendments were in and around increasing the figure for agreement from 75 per cent to 80 per cent, and for lots of five or fewer to still require unanimous agreement, if I can put it in those terms, of the owners before any termination proposal can be considered. Given this is the most contentious part of the legislation, I normally

would have said quite a bit on this particular part of the legislation; however, as members would be aware, during the last sitting fortnight of Parliament, this clause was referred to the Standing Committee on Legislation for consideration and report, and I have substituted Hon Nick Goiran for the duration of the inquiry. Given that, I think it is perhaps more appropriate that I reserve my comments relating to this clause; I do not want to get myself in trouble here. I indicate to the minister that although I am not mentioning this clause in any real form in my contribution to the second reading debate, obviously, when we come to proposed part 12 when the committee reports, we will obviously spend quite some time in Committee of the Whole going through proposed part 12, as we would normally do, obviously with the benefit of a report at that point in time, so I will have more to say on that proposed part at a later date.

Another issue raised with me, and I think other members as well, is in relation to some concerns initially raised by People With Disabilities WA in response to disability access in strata. The minister handling this bill and I obviously take a keen interest in these matters, in the context of being the current and former Ministers for Disability Services. Samantha Jenkinson, the executive director of PWDWA, wrote to me, and I think a few other members, highlighting some concerns about this issue. As I understand, following receipt of that correspondence, and perhaps some discussion with the minister's office, further discussions were held between Landgate and PWDWA. I subsequently received another email from Samantha to indicate that based on the advice provided by Landgate, they were now strongly supportive of the amendments. I will go through that, but it is perhaps another reflection of the fact that when we are dealing with such a substantive change to legislation—a blue bill, remaining bits of the act and new bits coming in—and it is all over the place, it is difficult to necessarily follow all parts of the legislation.

Hon Stephen Dawson: I wouldn't agree it's all over the place, but it's certainly a complex area.

Hon DONNA FARAGHER: I say it in the nicest possible terms, minister. But parts of the act will be moved into completely new sections and, as I said at the beginning of my contribution, I do not want to be critical about the legislation, but, at the same time, when we are dealing with a 397-page bill, plus the existing act, which is not small, it is easy to miss something.

Hence why it is good to have good advisers to assist in working through these things.

Hon Stephen Dawson: And we do in this case.

Hon DONNA FARAGHER: As I have already reflected. As I have said, I understand People with Disabilities WA now strongly supports the amendments. That is good. But I do think it is important that we get some of the detail on the public record, not just for them but also anyone else, particularly from the perspective of disability access. As I understand, there are already options available under the current act to install disability access on or through common property. I think there might be two or three avenues for that to occur. Equally, some further options will now be available through the bill before us. For example, an owner could seek to obtain an exclusive use by-law from the strata company if they were seeking to install access infrastructure across common property, perhaps in this instance a lift.

Debate interrupted, pursuant to standing orders.

[Continued on page 6578.]

QUESTIONS WITHOUT NOTICE

ALBANY WAVE ENERGY PROJECT — CARNEGIE CLEAN ENERGY — FINANCIAL ASSISTANCE

885. Hon PETER COLLIER to the Minister for Regional Development:

I refer to the financial assistance agreement with Carnegie Clean Energy and the payment of $2.6 million.

(1) On what date was the payment made to Carnegie Clean Energy?

(2) Did Carnegie Clean Energy meet the 1 July 2018 milestone?

(3) If no to (2), on what basis was funding provided to Carnegie Clean Energy?

(4) What work has Carnegie completed up to 1 July 2018?

(5) What evidence did Carnegie submit to confirm procurement for common-user infrastructure and site development activities have commenced? Will the minister table the evidence submitted by Carnegie; and, if not, why not?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1) The payment to Carnegie Clean Energy is currently going through the Department of Primary Industries and Regional Development's authorisation processes.

(2) There are no deadlines attached to the milestones in the financial assistance agreement. The milestone dates refer to the date from which the milestone payments may be requested by the recipient on a not-earlier-than basis. The recipient is able to claim payment of the milestone after this date once the relevant deliverables relating to that milestone have been achieved.

(3) On 23 July 2018, Carnegie submitted a request for its first milestone payment of $5.25 million. DPIRD conducted a due diligence on the milestone and reviewed this with Carnegie. DPIRD was satisfied that Carnegie had commenced site development activities but did not believe that the aspect of the milestone relating to procurement of the common-user infrastructure had been demonstrated at that stage. DPIRD sought procurement advice and following further negotiation with Carnegie, on 27 August 2018, Carnegie submitted a revised proposal for a staged payment arrangement for milestone 1. On 28 September 2018, DPIRD and Carnegie signed a variation to the FAA to split the first milestone into two distinct deliverables. Following legal advice, on 5 October 2018, DPIRD confirmed that a $2.625 million payment will be made to Carnegie in recognition that it has met the revised first milestone through the commencement of site development activities.

(4)–(5) Carnegie provided a project update to DPIRD on the Albany wave energy technology development project on 23 July 2018. DPIRD considered these activities as constituting site development activities as per the performance measure against milestone 1 in the FAA.

I seek leave to have the following information incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

- *Site Layout*

For offshore aspects, Carnegie defined the preferred towing route, the site for the CETO 6, the cable route and the Horizontal Directional Drilling (HDD) exit point. For the onshore site, they had defined their preferred onshore site, HDD entry point, connection point to the electrical grid, the substation site and the onshore cable route. The work was based on the geophysical survey completed between 31 May and 3 June 2018 using the Empress Marine (Dunsborough) Vessel. Carnegie also carried out geological studies for the onshore location having secured borehole data, which will allow them to design the HDD route and performed analysis with the model to understand specific wave spectral characteristics and effect upon the predicted CETO power output.

- *Common User Infrastructure*

A request for Information (RFI) was issued to potential suppliers for the export cable including the export cable pigtail, seafloor instrumentation cable and the cable junction. A preliminary design for the offshore foundation had been awarded. Four foundation concepts were investigated with the preferred design being a single drilled and grouted pile. Cost estimates were prepared. A procurement study was conducted for the AC/DC/AC converter and other key components of the onshore substation. An RFI for the drilling works and geotechnical survey was issued to eight companies.

- *CETO design*

Study completed on the lifting options for different berths at Albany port, with potential wharf modifications required to allow the CETO lifts to proceed. The belt and pulley design was ongoing and a finite element analysis of the key components was completed. Phase 2 of the power offtake unit design was completed. Tank testing was completed at the Plymouth UK wave basin in March 2018. Request for Quotations for the mooring systems were issued with submissions received from five suppliers. The buoyant actuator design was completed in house by Carnegie.

- *Community Consultation*

Carnegie had made several public information displays and presentations including local supplier engagement sessions.

- *Approvals*

The environmental scoping study had been completed, which was ready to be lodged with the Environmental Protection Authority and the City of Albany. Onshore environmental surveys have been undertaken.

NORTH METROPOLITAN HEALTH SERVICE — 2018–19 BUDGET

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

(1) What are the 2018–19 targets for the North Metropolitan Health Service for —

(a) total cost of service;

(b) net cost of service;

(c) total equity;

(d) net increase/equity in cash held; and

(e) approved salary expense?

(2) Why was the 2017–18 actual for approved salary expense at the North Metropolitan Health Service $99 million higher than target?

Hon ALANNA CLOHESY replied:

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

(1) The 2018–19 targets for the North Metropolitan Health Service are in table form, so I seek leave to have that incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

(1) The 2018-19 targets for the North Metropolitan Health Service (in $'000):

(a)	Total Cost of Service	$2,148,460
(b)	Net Cost of Service	$1,185,121
(c)	Total Equity	$1,881,882
(d)	Net increase/equity in cash held	$4,885
(e)	Approved salary expense	$1,161,027

(2) At the time of the S40 annual estimate being submitted, the targeted salary expense was offset by PathWest recoveries of $41 million. The actual salary expense does not include that $41 million offset. There were other salary expenses that were not known at the time of the estimate submission and were not part of the target—namely, actuarial adjustments of $14.5 million, voluntary severance scheme payments of $6.3 million, and additional salaries relating to commonwealth programs added during the year of $3.6 million. The net impact of other minor items account for the remaining variance.

ACTING MAGISTRATES

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

I refer to the Attorney General's answers on 11 and 12 September 2018 that at a meeting with the Magistrates' Society of Western Australia on 2 August 2018 he inadvertently, by way of an oversight, claimed that the Courts Legislation Amendment Bill 2017, which extends magistrates' retirement age, had passed the Legislative Assembly and was awaiting passage through the Council, and his denial on 12 September that he had suggested that the Liberal Party was being obstructive.

(1) When did the Attorney General first become aware that he had misinformed the Magistrates' Society?

(2) What steps did he take to correct that false information, when, and in what manner?

(3) What did the Attorney General communicate by way of correction; and, if in writing, will he table that communication? If the Attorney General declines to do so, for what reason?

(4) If the Attorney General did not take steps to correct his false advice, why not?

Hon SUE ELLERY replied:

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

(1) The Magistrates' Society of Western Australia wrote to the Attorney General on 13 August 2018. It is noted that the honourable member was copied into this letter by the society.

(2) None.

(3) Not applicable.

(4) It was not necessary to take any steps as the society had already written to the Attorney General.

EDUCATION — REGIONAL LEARNING SPECIALISTS

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

I refer to the answer given to question without notice 689 asked on 28 August 2018 regarding the government's election commitment to allocate regional learning specialists to work with year 11 and 12 students at regional schools.

(1) Will the minister provide a full list of the regional schools that these learning specialists will support and visit?

(2) Can the minister confirm that these specialists will work only with senior secondary students undertaking select ATAR courses who are enrolled at the School of Isolated and Distance Education?

(3) If yes to (2), will the minister list those ATAR courses that will be supported by these learning specialists?

(4) For each school identified in (1), will the minister advise how many students in 2018 are studying senior secondary ATAR courses that would be expected to be supported by these learning specialists?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. Recruitment processes for the regional learning specialist positions are close to completion.

The answers to (1) and (4) are in a table that sets out the information requested, so I seek leave to have that incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

Regional schools that learning specialists will support, as at 19 September 2018

School	Students* (enrolments for 2019 are not yet known)
Albany Senior High School	0
Australind Senior High School	2
Beverley District High School	0
Broome Senior High School	1
Bunbury Senior High School	5
Carnarvon Community College	1
Central Midlands Senior High School	13
Christmas Island District High School	9
Collie Senior High School	5
Dalyellup College	5
Dongara District High School	6
Eaton Community College	4
Esperance Senior High School	0
Exmouth District High School	20
Hedland Senior High School	9
Jigalong Remote Community School	4
Jurien Bay District High School	6
Kalbarri District High School	10
Karratha Senior High School	9
Katanning Senior High School	9
Kununurra District High School	7
Lake Grace District High School	1
Leinster Community School	3
Manea Senior College	2
Manjimup Senior High School	3
Merredin College	1
Morawa District High School	5
Mount Barker Community College	2
Mukinbudin District High School	8
Narembeen District High School	0
Narrogin Senior High School	3
Newman Senior High School	8
Newton Moore Senior High School	2
North Albany Senior High School	4
Onslow Primary School	4
Shark Bay School	4

Tom Price Senior High School	1
Western Australia College of Agriculture — Denmark	0
Wongan Hills District High School	10
York District High School	2
Total	**188**

Notes:

*Figures show Year 11 students who are likely to continue to be enrolled as Year 12 students in ATAR courses in 2019 and who will be supported by these learning specialists. The SIDE enrolment data for the 2019 Year 11 cohort is not yet available.

- Course enrolment for Learning Areas of: Mathematics; English; Science; and Humanities and Social Sciences.
- Many of these students will have multiple ATAR course enrolments.

---

(2) Yes.

(3) Yes. ATAR courses will be supported within the learning areas of English, mathematics, science, and humanities and social sciences. The SIDE 2019 senior secondary course offerings include English, literature, geography, economics, modern history, politics and law, mathematics applications, mathematics methods, mathematics specialist, biology, chemistry, human biology, physics and psychology.

FOSTER CARE — ABUSE ALLEGATIONS

889. Hon NICK GOIRAN to the Leader of the House representing the Minister for Child Protection:

I refer to the minister's answer to my question without notice 734 on 30 August 2018 in which she informed the house that children remain in the care of a male foster carer in Newman, notwithstanding that he has been served with a restraining order and has been the subject of a departmental carer review since 13 June.

(1) Was the review suspended on 11 July 2018?

(2) Was the review reactivated on 30 August 2018?

(3) Was one extension granted to 30 September 2018?

(4) Is the review now complete?

(5) If yes to (4), when was it completed and what was the outcome?

Hon SUE ELLERY replied:

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

The guidelines informing the practice of conducting carer standard of care assessments is contained online within the Department of Communities' casework practice manual at section 2.1.5, as tabled on 11 September 2018 in response to question without notice 752.

(1) Yes. A carer standard of care assessment may be suspended when there are issues or allegations that have arisen requiring further immediate assessment.

(2) Yes. When additional assessments are finalised, a carer standard of care assessment may be reactivated, taking into consideration the findings of related assessments.

(3) Yes. When additional assessments identify further issues requiring consideration in the carer standard of care assessment, the district director may approve extension of reporting time frames. In complex cases when there are no immediate safety concerns, there is potential for changing circumstances and additional information to impact on the time required to complete the carer standard of care assessment.

(4) Yes.

(5) The review was completed prior to 30 September 2018. The allegation of child sex abuse was not substantiated.

When a carer standard of care assessment has been completed, the Department of Communities must develop, implement and document an appropriate response. This may include a carer support plan, which will detail provisions such as carer supports from the district or external providers; carer training; and ongoing supervision. A carer support plan has been developed for the carers associated with this case.

DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION — COST RECOVERY WORKSHOPS

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

I refer to workshops scheduled for Perth, Bunbury, Geraldton and Broome.

(1) How many people attended the Perth and Bunbury sessions?

(2) How many people registered for the Geraldton session before it was cancelled?

(3) What was the target audience?

(4) Why were those four locations selected?

(5) When and why was the decision made to add Manjimup?

(6) Why has the government not scheduled workshops in the horticultural hotspots of Carnarvon and Kununurra?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided by the Minister for Water.

(1) There were 41 attendees recorded at the Bunbury session and 61 attendees recorded at the Perth session.

(2) There were five registrations for the Geraldton session.

(3) There was no set target audience for any session.

(4) The four locations were selected as the major regional centres, capturing both water and clearing native vegetation instrument holders.

(5) The decision to add Manjimup was made on 10 September 2018 following a number of stakeholder and sector body requests to the Department of Water and Environmental Regulation.

(6) It is anticipated that the Broome workshop will attract attendees from the Kimberley region. A workshop has been scheduled for Carnarvon on 23 October 2018.

EGGS — LABELLING

891. Hon RICK MAZZA to the minister representing the Minister for Commerce and Industrial Relations:

I refer to a 28 September Western Australia *Country Hour* radio segment on the poultry industry.

(1) Is the minister aware of any eggs arriving from the eastern states that are fertile chicken meat eggs that are then repacked or rebranded as free range or barn eggs and sold to Western Australian consumers?

(2) If yes to (1), what action will the minister take?

(3) If no to (1), is the minister concerned that such a practice may be taking place; and, if so, what steps is the minister prepared to take to investigate this situation?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided by the responsible minister, the Minister for Commerce and Industrial Relations.

(1) No, the minister is not aware of any such eggs.

(2) Not applicable.

(3) A national information standard under Australian Consumer Law concerning free range eggs came into effect on 26 April 2018. Under the standard, egg producers cannot use "free range" on egg cartons unless specified conditions are met regarding the production of the eggs. Additionally, egg sellers, like other traders in Australia, have obligations under the misleading or deceptive conduct provisions of the ACL when selling eggs.

The minister encourages anyone with pertinent information or related complaints to contact the Department of Mines, Industry Regulation and Safety's Consumer Protection division, which, in conjunction with the Australian Competition and Consumer Commission, has responsibility for the investigation of alleged breaches of this legislation.

DRUGS — REGIONAL AREAS

892. Hon COLIN TINCKNELL to the minister representing the Minister for Police:

The latest Australian Criminal Intelligence Commission report on drugs revealed that regional WA has the highest rate of illegal drug consumption of any regional areas in Australia.

(1) What is the government doing in regional areas to combat illegal drug use?

(2) What is being done in fly in, fly out areas to reduce illegal drug use?

Hon STEPHEN DAWSON replied:

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

(1)–(2) The latest Australian Criminal Intelligence Commission report indicates an 11 per cent drop in methamphetamine use in regional WA since the previous report, well below the peak of regional WA's meth consumption in August and December 2016. This government has provided funding of more than $100 million from 2017–18 to 2020–21 for the meth border force, as part of the meth action plan, to provide 100 extra police officers and 20 specialist and support staff to disrupt the supply of meth. In addition, new technologies such as the meth truck, the TruNarc drug detection device and portable mobile phone downloading devices are deployed across the state to support mobile drug interception activities. The Western Australia Police Force advises that it has been targeting known distribution points within both the metropolitan area and regional Western Australia, with a record 1.56 tonnes of meth intercepted during the 2017–18 financial year, most of which was recovered in regional WA. Operations to disrupt meth drug rings will continue across WA.

NORTH METROPOLITAN TAFE — ENROLMENTS

893. Hon ALISON XAMON to the Minister for Education and Training:

I refer to the answer to my question without notice 827 regarding enrolment numbers at North Metropolitan TAFE.

(1) Is the minister able to provide accurate enrolment numbers for semester 1 of this year at North Metropolitan TAFE or not?

(2) If yes to (1), could the minister please provide the enrolment number for semester 1 of this year at North Metropolitan TAFE?

(3) If no to (1), could the minister please provide the student curriculum hours delivered by North Metropolitan TAFE during semester 1 of 2018?

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

Hon SUE ELLERY replied:

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

(1) No. As previously advised, full-year validated data as at 31 December 2018 will be available in April 2019. This will include any enrolments for semester 1 not captured in 30 June 2018 reporting. Entry of North Metropolitan TAFE enrolments is currently up to date.

(2) Not applicable.

(3) No.

(4) The Department of Training and Workforce Development only reports validated student curriculum hours at quarterly intervals, reflecting all enrolments recorded from the start of the calendar year. A count of student curriculum hours delivered by North Metropolitan TAFE as at 30 June 2018 will include activity extending across both semester 1 and semester 2 of 2018.

If the honourable member would like a briefing on understanding how the data is reported so that the member is not wasting a question that I cannot answer, I am happy to provide that briefing.

HIGH STREET–STIRLING HIGHWAY INTERSECTION — UPGRADE

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

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

(1) How many houses or other buildings will be demolished in the course of these works?

(2) How many of these buildings are owned by the government and how will the remainder be acquired and by what date?

Hon STEPHEN DAWSON replied:

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

(1) There will be 17.

(2) All properties are owned by the government.

CORRUPTION AND CRIME COMMISSION — NORTH METROPOLITAN HEALTH SERVICE — MISCONDUCT — GOVERNMENT RESPONSE

895. Hon TJORN SIBMA to the Leader of the House representing the Minister for Public Sector Management:

I refer to the answer provided to my question without notice 878 of 20 September 2018.

(1) What are the specific terms of reference of the Public Sector Commission's audit and review of existing contracts with the firms named in the 16 August 2018 Corruption and Crime Commission report?

(2) What direct or indirect contact has been made with those firms by the Public Sector Commission in the course of undertaking this audit and review?

(3) Noting the government's commitment to a public release of the audit and review, when is it likely that it will be completed?

(4) Are any other similar reviews being undertaken into these or related matters by an agency of the state government?

Hon SUE ELLERY replied:

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

(1) The Public Sector Commission requested all public sector agencies and government trading entities to provide details of existing contracts with any of the firms identified in the Corruption and Crime Commission report. The contracts that were identified are currently being considered by the Department of Finance and the State Solicitor's Office as part of the review.

(2) As the review is not finalised, it would not be appropriate at this time to provide details of contacts with any of the identified firms.

(3) The review is ongoing and the results will be made public once it is finalised.

(4) The Public Sector Commission sent a CEO gateway message to all public sector agencies and government trading entities advising that it would be prudent for agencies to undertake their own internal review of contracts awarded since 1 July 2016 to the companies identified in the Corruption and Crime Commission report. This further work is not being coordinated by the Public Sector Commission.

ALBANY WAVE ENERGY PROJECT — CARNEGIE CLEAN ENERGY — BUSINESS CASE

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

I refer to the approval given by the minister to pay Carnegie Clean Energy Ltd $2.625 million as a newly agreed milestone payment towards the Albany wave energy project.

(1) Can the minister confirm that she has not yet confirmed Carnegie's financial capacity to deliver the project?

(2) Is it normal government practice to provide funding to projects prior to determining the financial capacity of a contracted company to actually deliver the project?

(3) Does the minister regret not doing a business case for the expenditure of $15.75 million of taxpayers' funds on her pet project, blind to the reality of its obvious failures?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

I note that in the past, right up until the election, the National Party was a great supporter of Carnegie and the wave project and, indeed, had made an election commitment that was possibly unrealistic but that involved a project that intended the Carnegie wave farm to go forward. I am not quite sure what happened between the Nationals making those commitments in the run-up to the election and during the election, but somehow or other they now no longer support the project that they had supported for many years. That is the way it goes.

(1)–(3) Of course we looked at the capability of Carnegie and its financial capacity to contribute to that project, but as we have stated before, some eight months after the project was signed it became possible that there was going to be a very new set of circumstances—that was, that the federal government flagged an intention to change the research and development tax concession, which radically changed the circumstances of that firm, as it did for many small, innovative companies across Western Australia. I am sure members have had representations from Northern Minerals Limited and Lithium Australia and a variety of companies that have been left on the back foot by these changes that were flagged in the federal budget, subject to a review. It now appears that that review has been completed, other than doing a carve-out for medical research, which obviously favours people in the eastern states, and that the federal government will proceed with these changes to research and development tax. It was a fundamental change in circumstances that was certainly not predicted and not predictable before the election.

Hon Martin Aldridge interjected.

Hon ALANNAH MacTIERNAN: We obviously were operating on the basis of the law as it existed at the time, so we have taken very careful and detailed legal advice. Carnegie is not in default of its agreement, but we have exercised the right we have under the terms of that agreement to ask it to outline, in this changed legal environment, how it is going to fund its contribution to the project before we make any further commitments.

HAWTHORN RESOURCES — PINJIN PASTORAL STATION

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

I refer to mining leases 31/79, 31/284, and forfeiture notice 536709, recorded 27 September 2018.

(1) Will the minister quote the full text of the forfeiture notice and explain the reasons for the forfeiture notice being issued?

(2) Will the minister explain how and why the penalty of $40 000 was imposed under section 97(5) of the Mining Act 1978?

(3) On 16 August 2018, the date of the regulation 50 notice for noncompliance with royalty provisions, what was the royalty debt, and has that debt subsequently been paid?

Hon ALANNAH MacTIERNAN replied:

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

(1) The notice of intention to forfeit, notice number 536709, was published in the *Government Gazette* on 24 August 2018, in accordance with regulation 50 of the Mining Act 1978 for noncompliance with tenement conditions to pay royalties for the June 2018 quarter, as prescribed by regulation 86A of the Mining Regulations 1981.

(2) A penalty of $40 000 was imposed in lieu of forfeiture with respect to mining lease M31/79, in accordance with the powers of the Minister for Mines and Petroleum under section 97(5) of the act for a breach of condition 21 of the mining lease. This penalty relates to fine 539730, referenced on the public tenement register, and is a different matter to forfeiture notice 536709.

(3) The royalty debt was zero on 16 August 2018.

BUNBURY OUTER RING ROAD ROUTE

898. Hon DIANE EVERS to the Minister for Environment:

I refer to the minister's response to question without notice 856 regarding the Bunbury Outer Ring Road route.

(1) Has the investigation of the alternative southern corridor been completed?

(2) If yes to (1), will the minister please table the results?

(3) If no to (1), when will it completed and how will the results be conveyed to the Gelorup community?

(4) Given that the government does not currently own all of the land required for the entirety of the proposed southern section of the ring road —

  (a) how many properties does the state government need to purchase if Main Roads uses the corridor through Gelorup; and

  (b) what is the estimated cost to purchase this land?

(5) Given that the traffic volume on the Bunbury Outer Ring Road will be considerably greater than expected when originally planned, what will be done to address the noise issues of higher traffic volumes?

Hon STEPHEN DAWSON replied:

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

(1) No. Investigations are currently being undertaken into both the alternative southern corridor and the existing road reserve.

(2) Not applicable.

(3) It is anticipated that investigations will be completed by the end of the first quarter of 2019. Certain landowners have requested that the results of environmental site investigations on their properties be shared with them, and this information will be provided to them directly. The overall results will be presented to the Southern Community Reference Group, which includes representatives of the Gelorup community.

(4) (a) Between Ducane Road and Bussell Highway the purchase of parts of six lots would be required.

(b) Estimated purchase costs for the parts of lots that may be required are yet to be determined.

(5) Traffic noise will be assessed and mitigated in accordance with state planning policy 5.4, "Road and Rail Transport Noise and Freight Considerations in Land Use Planning". Typical noise mitigation measures may include noise walls, quieter road surfacing or architectural mitigation to individual properties.

DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION — COST RECOVERY DISCUSSION PAPER

899. Hon KEN BASTON to the Minister for Environment:

I refer to the "Discussion Paper on cost recovery for the Department of Water and Environmental Regulation".

(1) During the process of authoring this discussion paper, did the department also seek to identify inefficiencies such as duplications or overly burdensome conditions that could reduce the cost burden to the department of issuing licences and permits?

(2) If yes, what inefficiencies were identified?

Hon STEPHEN DAWSON replied:

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

(1) No. This was out of the scope of the discussion paper. However, the Department of Water and Environmental Regulation and its predecessor, the Department of Water, have had a five-year regulatory efficiency program for the water business, REFOCUS. A complete review of water licence conditions was undertaken, a new water online digital system has been built, a regulatory capability division established, staff trained and advice to licensees reviewed.

Since the amalgamation of departments on 1 July 2017, there has been a concerted effort for all regulatory—clearing, water, industry and compliance—functions in the Department of Water and Environmental Regulation to be coordinated and improved to reduce red tape and increase efficiency of procedures. In addition, the department is progressing an upgrade of its digital systems for environmental licensing, and the proposed clearing and industry fee increases will help fund more licensing officers and support improved guidance to applicants.

(2) Not applicable.

WATER — LICENCE FEES

900. Hon JIM CHOWN to the minister representing the Minister for Water:

I refer to the announcement that the McGowan government proposes to raise fees for water licences, in which the Department of Water and Environment states, as quoted in *The West Australian* of 8 October 2018 —

"Government considers WA taxpayers bearing almost the full cost of providing regulatory services unsustainable," ...

(1) By how much does the government intend to increase the cost of new and renewed water licences?

(2) If the government intends to increase water licences, why is this increase being imposed on agriculture and horticulture?

(3) What licensing and permit costs for water are currently being borne by the taxpayer?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided by the Minister for Water.

The government has not made an announcement that it proposes to raise fees for water licences, which included the statement "Government considers WA taxpayers bearing almost the full cost of providing regulatory services unsustainable", as suggested in the preamble to the question.

(1) There are currently no fees for assessing water licence and permit applications, with the cost borne by the taxpayer. For mining and public water supply sectors only, the cost of assessing a new licence application will range from $5 357 to $8 929 and the cost to assess an application to renew an existing water licence will range from $4 001 to $6 668. Licences are generally issued for 10 years.

(2) No decision has been made to introduce water licence and permit assessment fees to sectors other than mining and public water suppliers. The Department of Water and Environmental Regulation is undertaking consultation on fees for other water use sectors.

(3) The cost incurred by the Department of Water and Environmental Regulation to assess water licence and permit applications was $15 577 921 in 2015–16 and $14 606 870 in 2016–17.

MOBILE BLACK SPOT PROGRAM

901. Hon COLIN de GRUSSA to the Minister for Regional Development:

I refer to the minister's statement this afternoon relating to the federal government's Mobile Black Spot Program.

(1) At the time the minister delivered the statement to the house this afternoon, had she written to the federal Minister for Regional Services, as stated?

(2) On what date did she write to the federal minister?

(3) What amount of funding has she allocated in the state budget to partner with round 4 of the Mobile Black Spot Program as suggested in the statement?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1)–(3) I have certainly signed the letter. I hope it has been sent. I will double-check that. We are keen to participate in round 4. The federal government is contributing $25 million. We anticipate that, as usual, WA might be lucky to get a maximum $3 million of that. We certainly have enough set aside to be able to match that federal funding.

JOBS — SKILLED MIGRATION LIST

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

I refer to the graduate skilled migration list in Western Australia.

(1) Why are professions like caravan park and camping ground manager, acupuncturist, dance teacher, finance broker, interior designer, television journalist and traditional Chinese medicine practitioner on the graduate occupation list?

(2) Has the state government conducted any labour market testing in creating this list?

(3) Has the government included safeguards for local workers?

(4) Has the state government placed any caps on the number of foreigners eligible for the list nomination?

Hon SUE ELLERY replied:

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

(1) Occupations on the graduate occupation list are sourced from Australian government skilled migration lists and include occupations that have higher education pathways to provide overseas students who study at Western Australian universities with a pathway to migration. The graduate stream of the state-nominated migration program aims to attract the best global talent with advanced qualifications, skills and experience, with priority being given to those students who have gained the highest level qualifications at a Western Australian institution.

(2)–(3) The compilation of the graduate occupation list references the state priority occupation list, which is based on extensive labour market analysis in Western Australia.

As previously outlined in the answer to question without notice 825 on 18 September 2018, such highly skilled graduates will be complementary to the state's workforce and, therefore, will help boost the economy and create jobs for Western Australians.

(4) The state-nominated migration program is a capped program. The final allocations available to states and territories have not been finalised by the commonwealth government for the 2018–19 program year.

CLIMATE CHANGE — POLICY

903. Hon TIM CLIFFORD to the Minister for Environment:

In response to my question without notice 346 asked on 10 May, the Minister for Environment said that a stocktake of climate change actions had been undertaken by the state government as the first step in establishing the McGowan government's climate change policy. As per the minister's response to question on notice 715, I understand that this was completed prior to 12 October 2017.

(1) Has the government subsequently commenced developing a climate change policy?

(2) If yes to (1) —

(a) what stage is it at and what is the scope of the policy;

(b) what consultations have occurred in the development of this policy;

(c) will the policy have an implementation plan to ensure the recommendations can be enacted; and

(d) when is the McGowan government likely to adopt the state-based climate change policy?

(3) If no to (1), considering that climate change is the most pressing issue of current times, and national emissions continue to rise, what is preventing the McGowan government from establishing a climate change policy?

(4) If no to (1), what actions has the minister taken since assuming government to ensure that Western Australia actively reduces emissions?

Hon STEPHEN DAWSON replied:

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

(1) Yes.

(2) (a) A process to support development of the policy is in preparation.

(b) Initial portfolio consultation has been undertaken.

(c) Implementation will be determined as part of the development of the policy in consultation with stakeholders.

(d) A date for adoption will be determined as part of the finalisation of the policy.

(3)–(4) Not applicable.

PLASTIC BAGS — BAN

904. Hon ROBIN CHAPPLE to the Minister for Environment:

I refer to the fact that it has been three months since the 1 July plastic bag ban.

(1) Does the minister agree that the public response to the plastic bag ban has been positive?

(2) Has there been a reduction in plastic bags smaller than 35 microns being distributed by businesses?

(3) Has there been an increase in plastic bags larger than 35 microns being distributed by businesses?

(4) Will the minister consider amending the regulation so that it encompasses all plastic bags?

(5) If no to (5), why not?

Hon STEPHEN DAWSON replied:

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

(1) I have been pleased with the positive community response to the ban on single-use lightweight plastic bags, which is consistent with the community survey results received in the lead-up to the ban.

(2) Yes.

(3) Plastic bags thicker than 35 microns are not within the scope of the ban. Data on the number of thicker plastic bags distributed by retailers is not available.

(4)–(5) Western Australia and other states and territories are working with retailers to explore options to reduce thicker plastic shopping bags. This work is being led by the Queensland government as agreed through the most recent meeting of environment ministers.

SOUTHERN PORTS AUTHORITY — WORKSAFE INVESTIGATION

905. Hon Dr STEVE THOMAS to the minister representing the Minister for Commerce and Industrial Relations:

I refer to the WorkSafe review into allegations of workplace bullying and harassment in the Southern Ports Authority, the minister's answer to question without notice 704 asked on 28 August 2018, the *Albany Advertiser* report of 6 September 2018 on this issue, and the answer to question without notice 785.

(1) Has the investigator Justine McGillivray made any public or media comments on claims of workplace bullying and harassment at the Southern Ports Authority?

(2) If yes to (1), what comments were made?

(3) Has the investigator briefed any members of the public on claims of workplace bullying and harassment at the Southern Ports Authority?

(4) If yes to (3), what information was provided in those briefings and to whom was it provided?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided by the Minister for Commerce and Industrial Relations.

(1) No.

(2) Not applicable.

(3)–(4) On 11 September 2018, an email with the subject line "WorkSafe Investigation into Southern Ports Authority—Feedback on Outcomes", was sent to safety and health representatives of the Southern Ports Authority and complainants who requested feedback. I table a copy of the email.

[See paper 2027.]

QUESTION ON NOTICE 1606

Paper Tabled

A paper relating to an answer to question on notice 1606 was tabled by **Hon Sue Ellery (Minister for Education and Training)**.

PAPERS TABLED

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

STRATA TITLES AMENDMENT BILL 2018

Second Reading

Resumed from an earlier stage of the sitting.

HON DONNA FARAGHER (East Metropolitan) [5.12 pm]: Before we went into question time, I outlined some issues that had been raised by People With Disabilities WA about disability access to strata properties. I indicated that following the initial correspondence that was sent to me, further discussions were had between Landgate and PWDWA and that some of PWDWA's concerns had been allayed by advice provided by Landgate. I think it is important to place those concerns and the response to them on record so that PWDWA, any other group or organisation, or individual will be aware of what options will be made available through the Strata Titles Amendment Bill 2018.

I reflected on this before we went into question time. As I understand, options are already available under the act that enable disability access to be installed on or through common property. I think it may be three options, but the minister might correct me on that. The options that are already there will be further enhanced by clauses in this bill. I think I had got to exclusive use by-laws. One of the new options will be that an owner will be able to seek to obtain an exclusive use by-law from the strata company if they were seeking to install access infrastructure—an example would be a lift—across common property. Proposed section 43, "Exclusive use by-laws", is in clause 83, which is in part 2, division 3, of the bill. That proposed section goes through how exclusive use by-laws can be made. Proposed section 43(5) states —

> Exclusive use by-laws can only be made, amended or repealed if the owner of each lot that is or is proposed to be a special lot has given written consent to the by-laws.

I think that would be the preferable option for someone with a disability or a senior Western Australian who needs infrastructure for improved access. This would be a good option for them to start off with, but, if I read that proposed subsection correctly, they would have to get the agreement of everybody who has a lot. If they could not get that agreement, there would be another option; the State Administrative Tribunal, perhaps, would come in at this point. Proposed section 119(1) under division 2, "Objectives", in part 2, division 3, clause 83 of the bill, states —

> In performing its functions, a strata company is to have the objective of implementing processes and achieving outcomes that are not, having regard to the use and enjoyment of lots and common property in the strata titles scheme —
>
> (a) unfairly prejudicial to or discriminatory against a person; or
>
> (b) oppressive or unreasonable.

Proposed section 119 goes on with further elements of that. I have identified a couple of options there. The first would be to get the universal agreement of the other lot owners, which would obviously be the preferred outcome. If for whatever reason that is not achieved, proposed section 119 would give the person who is seeking to have the access infrastructure installed an avenue to go to SAT to say that they had been discriminated against. Perhaps the minister might elaborate a little bit on that in his response. We can go through that in the committee stage as well to clarify that for anyone who has an interest in this aspect of the legislation.

I have had a brief chat with minister behind the Chair so he would be aware that the Strata Community Association Western Australia has, in addition to the matters I have already raised about strata managers, identified six technical amendments to the bill. The advice that I have received from the minister's office is that the government will agree to five of the six amendments that have been raised. One has not been agreed to, but I think we might leave that discussion for the committee stage. I thank the Minister for Environment for providing the letter back to me. I also think that as I have been on my feet, a draft of a supplementary notice paper has been provided so that we can start having a look at the proposed amendments. We will obviously deal with that.

Obviously, I have not canvassed other parts to this bill extensively. I indicate that I have a number of questions that I will go through. I also appreciate, and as the house is aware, that depending on when we get through the legislation, we will have to deal with part 12 after the Standing Committee on Legislation has reported on that particular part. I will leave specific clauses to the committee stage. I am interested, though—the officers would be aware that I have raised this matter with them—in an education campaign about the reforms. As I understand from Landgate, a series of quite comprehensive fact sheets have been placed on its website. It has obviously over time had public consultation and all those sorts of things. However, it is quite clear that should this bill pass, it will be a substantive act with substantive changes to the 1985 act, if I can put it that way. It is a serious reform package. It brings in new elements and new strata-type schemes and deals with issues surrounding the termination of strata schemes and a whole range of matters. The concepts expressed in this legislation and, indeed, the regulations that are referred to quite often in the primary bill—there is the primary act and the regulations, whenever they come in—need to be understood by strata managers, strata companies, individual owners and, in fact, anyone who has a particular interest in strata. In particular, individual owners need to know and understand their rights. That is critical, particularly given some of the more contentious elements of this legislation.

With that in mind, I am keen to hear from the minister. I am aware that work is underway on an education campaign, but I think it would be helpful for the house to be made aware of what education campaigns are planned should this bill pass. Overall, the bill is a significant reform that has been years in the making. There are a number of very strong and positive elements to the legislation and I think it will carry us forward in the future when it comes to strata in this state. With those comments, I indicate again that the opposition will be supporting the legislation.

HON RICK MAZZA (Agricultural) [5.22 pm]: I rise to make some comments on the Strata Titles Amendment Bill 2018. I start by thanking the advisers for the very thorough briefings on this very substantial bill. The crossbench had two briefings, with many slides to try to digest what has been mentioned is a hefty bill. I confess that I have not read every word in the bill, but the main points are there, so I will go over those.

This bill seeks to amend the Strata Titles Act 1985 and make consequential and related amendments to other acts, aiming to improve existing strata legislation and address problems experienced in strata title while modernising the language and structure of the act. In saying that, over the many years that the act has been in operation, it has served us very well. There have been some issues with our 300 000-odd strata companies, but overall the act has served us quite well.

Reforms will give Western Australian strata owners, residents, developers and managers a clear, modern, transparent and accountable legislation framework for creating and managing stratas. Strata owners will have more say in the ongoing management and operation of the scheme and they will be empowered to improve schemes and retrofit their properties to include items such as solar panels and access for disability improvements. There will be better ongoing maintenance of the schemes, they will be easier to enforce, and disputes will be resolved quicker, cheaper and more effectively through a single specialist forum, being the State Administrative Tribunal. Buyers will receive better information about the strata lot that they are buying. If my memory serves me right—I am stretching it a little bit—currently, a form 28 has to be given to a potential buyer of a strata lot, and it must be given prior to any signing of an offer and acceptance, along with an information sheet, being form 29. Over the years, some real estate agents have come a little unstuck in making that a condition of the offer and acceptance rather than providing it as a disclosure prior to it. It is a very important document that gives information about strata titles. In most cases, strata titles are a fairly simple affair. If it is a duplex, a triplex or even a quadruplex, a lot of information is not required. But that document becomes more important with larger strata title developments of 10 or 100-plus lots, particularly because of registered by-laws. There will be more flexibility for staged subdivision of strata and survey strata schemes. In the current real estate environment, a lot of developers would want to be able to stage the building of strata lots on their englobo land so they do not have to build a large number of strata lots, only to find that the market is not going to take up those stratas. The bill provides for developers to stage and provide surveyed strata lots, which they can currently do, but it is a bit of a complex issue to get around. The fact that they will have that flexibility is very important in being able to stage their developments.

Safeguards will be introduced for the termination of schemes and, as Hon Donna Faragher pointed out, statutory duties will be imposed on strata managers to make them more accountable. It is planned that the regulations will provide that the strata manager will act in the best interests of the strata company, disclose any conflicts of interest, hold strata company funds in a trust account and hold a minimum standard of professional qualification, which I will talk about a little more. A lot more work needs to be done around the qualifications and standards as far as strata company managers are concerned. Duties will be enforced by the strata company, which will have a statutory right to terminate the strata management contract by giving notice if the strata manager breaches a statutory duty or the contract. If a breach of duty of a contract causes a strata company to suffer a loss, the statutory manager might be ordered to pay compensation. Strata companies will be able to keep records in electronic format to allow all owners to inspect the records. Some owners may wish to inspect the records, but my experience over the years, having managed a number of strata companies, some quite large ones, is that it is a specialist area. Out of 50 strata owners, we would be lucky to get 10 to come along to an annual general meeting, and most of those wanted to gossip about what was going on within the complex. Those meetings are sometimes a bit of a challenge, but having

an electronic format means that some people might take more interest in their strata development. A lot of strata owners usually turn up to a meeting only if a major issue has to be dealt with. Owners will be able to participate more in the management of their scheme, with voting being able to occur outside a meeting with electronic voting being permitted.

The bill establishes the requirement that the content of by-laws are not oppressive, unreasonable or unfairly prejudicial against owners. Standards will exclude council members from voting on matters when they have a conflict of interest, which is very important. There will be restrictions on proxies, but if people are able to vote electronically, I suppose that will assist with that. Owners will have a forum to review by-laws or resolutions. Owners will be empowered to improve common property. Larger schemes will need to have a reserve fund and prepare a 10-year maintenance plan. That is a very important feature of the Strata Titles Amendment Bill 2018. Having owned a strata lot when, on a couple of occasions, sufficient reserve funds have not been paid on a regular basis over the years to provide for maintenance, there is nothing more alarming than getting a bill on your strata levies for $10 000, $15 000 or even $20 000 to deal with a major maintenance issue. A water membrane may have started to leak or a big building may need repainting, which can be very costly. It is very important that reserve funds are paid on an incremental basis so that people do not get nasty surprises in the coming years.

The bill introduces safeguards for the termination of schemes. It is a transparent process including a full procedure and fairness review by the State Administrative Tribunal. If a vote has a majority but it is not unanimous, termination proposals need to go through a fairness and procedure review at SAT. That section of the bill has now been sent to a committee. Majority terminations will apply to schemes of five or more lots, so duplexes, triplexes and quadruplexes will need a unanimous resolution. A majority termination can proceed only with an order from the tribunal if satisfied that the termination process will be followed properly; that every owner receives fair market value; and the proposal to terminate is just and equitable. The clauses related to termination of the scheme have been sent to the Standing Committee on Legislation.

As I mentioned earlier, Western Australia has over 300 000 strata lots worth some $170 billion. That includes residential, retail and industrial business premises. It is estimated that 40 to 50 per cent of new lots created are strata lots and annual sales of strata lots exceed $10.9 billion. With an ever-increasing population in Western Australia, tipped to be five million people by 2056, it is important that we have legislation to support strata markets. People are moving to dwellings in higher density areas. As our population grows, a lot of city living will require strata lots. People no longer want the quarter-acre block where they have to mow the lawn and do the gardens, so strata lots will become more and more popular as time goes on. These amendments are quite timely so that strata owners will be better protected and there is more scope.

Some strata owners will self-manage their property and others will employ the services of strata managers. I am very pleased that the topic of strata managers has come up. However, there needs to be more than just regulations about the requirements placed on a strata manager. In the real estate industry, a real estate agent, a settlement agent and a valuer all need to be licensed. They need to comply with a number of standards and be experienced in order to be licensed through the Consumer Protection division. The reason for that, of course, is that they handle large assets and a lot of money, often in trust accounts. Settlement agents and real estate agents are required to maintain a trust account that is independently audited every year to make sure that the moneys are not being misappropriated.

Strata management is a complex and specialised area. At the moment, even though these regulations, which we have not yet seen, require certain things like a trust account and minimum educational standards, there is not any oversight other than that by the strata company itself. As I said earlier, most strata owners do not take a lot of interest in annual general meetings, so there is the potential for a major consumer protection issue to arise. If a large strata company has $100 000, $200 000 or $300 000 in a trust account and the strata manager decides to go on holiday to Rio and takes the trust account with them, there could be a major problem. Even though I have been advised that the regulations will require professional indemnity insurance, those who have ever paid premiums on professional indemnity insurance will know that it costs tens of thousands of dollars. If there is no scrutiny of strata managers, they may be cutting corners and not taking it out. Even though a strata manager may be responsible or they might disappear with the trust account, that does not necessarily mean they will hold professional indemnity insurance to be able to provide security for the owners of strata lots. Real estate agents and settlement agents contribute to a fidelity guarantee fund in the case of fraud, so if someone goes on holiday with the trust account, the consumer can be reimbursed. I am not aware at this stage of any strata manager who has misappropriated funds but the potential is there and I think the government needs to seriously look at it. I do not think that Landgate is the appropriate body to enforce and oversee that. The Consumer Protection division could set up a licensing regime and enforce requirements on strata managers to make sure they are accountable to an independent government body.

I am a little surprised that we do not have a licensing process for strata managers in Western Australia. We have a licensing regime for car salesmen, car dealers and pest controllers. Many occupations require licences to make sure that consumers are protected. We need to do more work on strata managers. Going back even as far as 2003, the Economics and Industry Standing Committee's "Inquiry into the Western Australian Strata Management Industry"

recommended that strata companies in category 2, which is schemes of six to 20 lots and all multistorey schemes from two lots up, and category 3 schemes, being schemes of more than 20 lots, be required to appoint a licensed strata manager. In 2011, the Standing Committee on Public Administration produced the "Report in Relation to the Inquiry into Western Australian Strata Managers." It states —

> **Recommendation 1: The Committee recommends that strata managers should be regulated by a system of positive licensing. Eligibility requirements for the granting of a license should include at a minimum:**
>
> - **Educational qualifications.**
> - **Demonstration that the applicant is a fit and proper person to hold a licence.**
> - **An indication the applicant has sufficient financial and material resources available to enable them to meet financial and operational requirements.**
> - **Current professional indemnity insurance.**
>
> **Recommendation 2: The Committee recommends that a transition period should apply to the implementation of the recommended licensing scheme.**

For quite some time, there has been concern around the licensing of this industry.

Hon Donna Faragher mentioned a letter sent to her by the Strata Community Association WA. I also received a letter. In part, it states, "simply to provide only regulation is unlikely to see an effective level of consumer protection." I think there is concern. Obviously inquiries have been made into this area. The plan at the moment to have regulations that require simply a general set of standards for a strata manager certainly needs to be looked at. I do not think that is sufficient.

I would like to touch on leasehold schemes. Leasehold schemes are a good idea and a very positive step for some flexibility within the Strata Titles Act. The application of leasehold strata titles of between 20 and 99 years would probably be used mainly by government. I do not think that the private sector would be that enthusiastic about it. I think around train stations and areas of high-density living where we are trying to create affordable living, a leasehold arrangement might be the way to go. I do not think there will be a big rush for leasehold, but the application may have some merit and there may be circumstances in which it is used.

The next area I want to touch on is the State Administrative Tribunal. The Strata Titles Amendment Bill 2018 will allow the SAT to be a one-stop shop for strata issues. That will cut some red tape. For example, good provisions within the bill include removing the $1 000 limit on SAT making monetary orders, enabling SAT to enforce non-monetary orders and having the power to order a strata company to terminate or vary a contract, and allowing SAT to make a summary decision at a directions hearing.

I would also like to touch on the safeguards surrounding strata schemes. Currently, a strata scheme can be terminated only by all the owners voting for the termination of that particular scheme. That is problematic when someone might be holding out. I know that there has been a lot of discussion around this issue, and that this provision is currently with the Standing Committee on Legislation, but I would like to make some comments on it. My understanding is that initially a 75 per cent majority was required, with some protections for those who did not agree with the termination. I think an amendment in the other place took that to 80 per cent.

There are arguments for and against that. Obviously, those who do not want to sell may have their reasons, and they can apply to the State Administrative Tribunal to flesh out those reasons, but we also have to consider the other side of the argument. If 75 or 80 per cent of the owners wish to sell because they know that the offer they have is a good deal, I do not know that they should be penalised by some who do not want to sell. In cases in which there is an old strata scheme, the units might individually be worth a certain amount; however, the highest and best use for that land may be to knock down all those units and build brand-new ones, which would increase the price per unit. The land in its current form has diminished value, because it is not the highest and best use of that particular piece of land, and the owners would get more, because the highest and best use would be as vacant land or for a developer to redevelop. It would be very frustrating for the majority of owners to be denied a higher price for that land if a few people did not want to sell, maybe because they were just being obstinate about it. I can understand that there may be other issues, which SAT may determine, which may be more important than that, but other than for reasons of obstinacy, I think people should be able to have a majority vote.

A lot of people, when buying a strata unit, think they are buying a freehold title, like a green title, and that it is theirs. That is somewhat true, but people have to understand that if they are in a complex of units, it is a community, and they own a piece of that overall community title, so the democratic process is usually that the majority rules. I think we need to be very careful where we tread with this legislation, but I think it will give some relief to people who may have an opportunity to sell to a developer. The SAT can force the developer only to offer up to 10 per cent more than what is being offered, plus costs, to the affected owner who does not wish to move. When it was asked in the other house what might constitute an exceptional circumstance, no answer was forthcoming, so I think there needs to be a bit of work around that, too.

As we know, proposed part 12 of the bill, "Termination of strata titles scheme", has been referred to the standing committee, so we look forward to seeing that when it comes back. But overall, Mr Acting President, I think it is a very timely bill. It is important that we modernise the Strata Titles Act to provide for the growing area of predominantly residential real estate, along with commercial and industrial real estate, as our population grows and we find that there are more strata complexes. We need that flexibility, and I know that many strata title developments have very awkward arrangements between one strata tower and another strata tower, and the sharing of car parks. It can be very complex, and when one searches the by-laws, there can be pages and pages of by-laws that have been developed over the years to try to cover all these areas. It is very timely that this legislation has come before us, and I support the bill.

HON ROBIN CHAPPLE (Mining and Pastoral) [5.43 pm]: The Greens will be supporting the Strata Titles Amendment Bill 2018.

The ACTING PRESIDENT (Hon Dr Steve Thomas): Hon Robin Chapple, are you lead speaker for the Greens?

Hon ROBIN CHAPPLE: Yes, I am.

In doing so, I really want to spend some time thanking the ministerial briefers Tom Wilson, Kelly Whitfield and Sean Macfarlane. They put hours into answering our many question on this bill and on the Community Titles Bill 2018, which is yet to be debated in this place. The work of the briefers in assisting us is to be appreciated.

I mirror Hon Donna Faragher's comments, and when it comes to legislation like this I am reminded that a former Clerk of this place, Laurie Marquet, once said that when there is a bill of this magnitude, with that many amendments in it, it might be worthwhile going back and making a new, shorter bill, rather than one with amendments on amendments on amendments.

Hon Donna Faragher: Hear, hear!

Hon ROBIN CHAPPLE: I mirror what Hon Donna Faragher said in relation to that. I apologise if that has upset her.

Hon Donna Faragher: No. I think it is good. I said "Hear, hear!"

Hon ROBIN CHAPPLE: The bill relates to two forms of strata title scheme. The freehold title, as we know, is a strata scheme with a building divided into lots, and a survey strata scheme has lots but no buildings. A new leasehold type that will be introduced by this bill is similar to the freehold type we already know, except that it lasts for only a fixed period, after which it reverts to the owner of land. The revision is as freehold fee simple, not as a scheme. The duration of this sort of scheme is for a minimum of 20 years, or as prescribed, and a maximum of 99 years plus any postponement of the expiry date pursuant to by-laws.

The bill binds the Crown. Much of the bill is not controversial, and I will not speak to those parts, except to say that the Greens support them. The non-controversial parts of the legislation include stricter standards for strata managers and companies, and easier processes for making improvements, enforcing by-laws and resolving disputes, with the State Administrative Tribunal to be the forum for dispute resolution.

Two parts of the bill are controversial. These are the new leasehold form of strata, and the process for the termination of strata titles schemes, which is the most controversial part by far, and the Greens strongly support the referral in the last sitting week of that part to be scrutinised by the Standing Committee on Legislation. The bill provides for review after five years.

I commend the briefers who took pains to differentiate between the new leasehold type of strata and the United Kingdom's version. I ask the minister to confirm that the version of leasehold in the bill is a form of private property ownership—the UK version is ordinary leasehold—and whether ground rent will be paid to the owner of the land on which the lot is built. Again, if the minister could respond to those two points, that would be great.

I also consulted separately with a law firm with expertise in strata matters. It, too, said that in its view the new leasehold type does not herald the death of home ownership in Western Australia. A new leasehold type is expected to be a niche form of tenure. I understand that it is about 0.1 per cent of the market in New South Wales, but is more common in Singapore. In Western Australia it will be used to provide housing on government land that decades hence, in the long term, will be destined for a different use.

Majority termination processes—currently there are three ways to terminate a scheme. One way to terminate a scheme requires a unanimous resolution; however, the other two ways need only an application to the District Court by a single owner under section 31 or 51 of the act. Clearly, termination by a single owner is not acceptable and needs to change. We need a termination process that suits the huge variety of properties. Early strata schemes were only two or three lots—duplexes and triplexes—but nowadays there is much greater variation in the number of lots, in their age and condition, and, indeed, in their type of use, from commercial to residential. Three main concerns have been raised with the Greens about the termination process, which I will now raise. I will seek the minister's confirmation of several matters relating to that process. I also urge the Standing Committee on Legislation to consider these matters as it scrutinises this part of the bill, because they reflect the concerns that have been raised by constituents about the majority termination process.

The first concern about the majority termination process that has been raised with the Greens by constituents is about selling someone else's home against their will. Strata homes at the modest end of the scale offer entry-level home ownership. Owner–occupiers in those homes teeter on the very bottom rung of home ownership. The thirteenth annual statistical report of the Household, Income and Labour Dynamics in Australia Survey, published in 2018, indicates that around 10 per cent of renters transition from renting to home ownership each year. Between 2001 and 2016, the proportion of non-rental residences that were separate houses decreased slightly, whereas those that were flats increased slightly, as did those that were semidetached houses. As I understand it, the government's policy reason for having a majority termination process is that some of the old schemes are now at the end of their life and are unable to be maintained or repaired at reasonable cost to the owners. Those owners cannot sell their properties independently because they are run-down. Although termination of strata schemes has not happened much to date, it is expected that this process will increase due to increased demand from developers. The current process does not protect owners adequately. A unanimous consent model traps owners who want to sell but cannot entertain costly maintenance, rewards owners who hold out longest, and traps owners if there is one person who holds out not because the lot they own is their home but because they are protecting the view from another scheme behind it.

The second concern about majority termination raised with the Greens is what owners will get in exchange for their loss. The State Administrative Tribunal will determine this. It does not have to approve the termination proposal. I ask the minister to confirm that SAT also has two other options available to protect owners—it can modify the termination proposal and, if the proponent rejects the modification, the process ends; or it can refuse to confirm the termination proposal. In making its decision, SAT must consider whether an owner is getting fair market value or like for like. It must also consider whether termination is otherwise just and equitable. The fair market value considerations are, first, that the owner must receive at least the amount that would be paid if the property was being compulsorily acquired by the government for public purposes. To this may be added a further amount of not more than 10 per cent of the amount unless SAT is satisfied that exceptional circumstances justify a higher amount. I ask the minister to confirm that one example of exceptional circumstances justifying a higher amount is where a lot is a person's home and there is no other similar home in the same area available to be purchased for the proposed price.

The second fair market value consideration is that the owner must not be disadvantaged in their financial position. I again ask the minister to confirm that if an owner would lose their pension or healthcare entitlements, the proponent must provide like for like, pay all costs of the move and ensure that the owner would not lose their pension if SAT is to approve the termination. If the owner's overall wealth would not change but the proportion of the wealth allocated to their home would increase, thereby decreasing the proportion of their wealth able to be allocated to other things, the proponent must offer like for like and pay all costs of the move if SAT is to approve termination. Lastly on that point, if the owner's home business cannot be reinstated elsewhere for some reason, the proposal would not be considered fair value and SAT could not approve the termination. In addition to those considerations, SAT must have regard for any loss or damage the owner will sustain via removal expenses, disruption and reinstatement of businesses, and liability for tax or duty or conveyancing and other costs related to the sale of the property and purchase of a replacement property.

In SAT's consideration of whether like for like instead of fair market value is to be offered in exchange for the lot, it must consider the value of the like-for-like lot compared with the existing lot's fair market value. That is worked out as I have already described—the location, facilities and amenity of the like-for-like lot are compared with those of the existing lot. In addition to the fair market value or like-for-like considerations, SAT must also consider whether termination is just and equitable. Those considerations include the interests of each person who has an interest in a lot or common property; any impropriety in the termination process—for example, invalid proxies, undue influence, or false or misleading information—the proportion of those voting for and those against; the termination infrastructure report and options reasonably available to address those problems, including how much the contribution would need to increase to pay for those options; any buyback arrangement in the land following redevelopment; and the benefits and detriments to all those whose interests must be taken into account. Again at this point I ask the minister to confirm that the just and equitable considerations include nonfinancial considerations such as health impacts. I am thinking, for example, of a situation in which a dementia patient or an anxiety patient cannot be dislocated from their family surroundings without their health worsening, or consideration of the special situation of an owner–occupier for whom the lot is their only home.

The bill allows regulations to be made requiring the proponent to facilitate vulnerable owners getting independent legal advice or representation. From the briefings we have had, I understand that the reason for doing this by regulation is so that they can be more easily updated to reflect changing community expectations over time about who is vulnerable. The intention is to put all owners on an equal footing. Any or all owners in a particular scheme must be classed as vulnerable. One option being considered is to require the strata company to engage a third party to do a preliminary assessment of each owner and refer those considered vulnerable to independent legal advice or representation. Proposed section 181(5) allows regulations to impose extra requirements like this on the process. Proposed section 189 enables a strata company to recover the costs of complying with those requirements from

the proponent. I ask the minister to confirm that proposed section 190 permits all owners for whom the lot is their only home to be taken to be vulnerable owners. They are the people who stand to lose the most from the process, including, at worst, risking homelessness.

The third concern that has been raised with the Greens is about the frequency with which owners must deal with termination proposals. We must not allow the termination process to interfere with a person's quiet enjoyment of their home or to allow owners to be bullied by a proponent who owns enough lots in the scheme to prevent the strata company from prohibiting further termination proposals. I understand that there are safeguards in the bill against owners being harassed by a proponent. Proposed section 182(2) requires the vote to be held two to six months after the service of the full proposal. Proposed section 182(3) limits the number of votes per proposal to three. Proposed section 174 prohibits the submission of an outline of a termination proposal if the strata company has resolved to support a different termination proposal. Until then, owners are free to consider any number of competing termination proposals from different developers. The strata company can also resolve to prohibit submissions of proposals for up to 12 months.

Sitting suspended from 6.00 to 7.30 pm

Hon ROBIN CHAPPLE: Before the break, I was talking about proposed section 174, which prohibits submissions of an outline of a termination proposal if the strata company has resolved to support a different termination proposal—until then, owners are free to consider any number of competing termination proposals from different developers—the strata company has resolved to prohibit submissions of a proposal for up to 12 months; or the State Administrative Tribunal has prohibited submissions on proposals, in which case there is no time limit. Importantly, I ask the minister to confirm that if the proponent controls a strata company, an individual owner can either apply directly to the State Administrative Tribunal or apply to SAT on behalf of the strata company for an order prohibiting submissions for a specified period of any duration. I would like that confirmed if that is possible.

The last issue I would like to raise is about the State Administrative Tribunal itself. Under the provisions of the Strata Titles Amendment Bill, SAT will become the one-stop shop for strata disputes. It will be able to make interim orders, final orders or declarations—for example, a declaration as to the validity of a by-law, resolution or process; or whether a contravention has been committed. There are some orders it cannot make. The most important one is that SAT cannot make an order that a termination resolution is to be taken as passed. There will be a review process for SAT decisions. With leave from SAT, there can be an internal review of an order or declaration if the decision is of a kind specified in the regulations or is not made by a judicial member. I ask the minister to confirm that the regulations are intended to exclude only vexatious and unreasonable applications from the internal review process. Otherwise, review is as per part 5 of the State Administrative Tribunal Act 2004, which provides for appeal to the Court of Appeal of the Supreme Court, with the leave of that court, on a question of law.

Basically, we agree with the legislation but we seek some commentary about the points I have raised with the minister. We have obviously seen the technical amendments before us. We consulted on 3 September 2018 with Atkinson Legal, a law firm with expertise in strata matters. Atkinson Legal proposed six technical amendments to the bill. These relate to drafting, not policy matters. We ensured that those proposed amendments were brought to the government's attention. We were advised on 12 September 2018 that the minister will move five of the six amendments. I thank the minister for that. I will deal more with those amendments when we are in Committee of the Whole House.

One thing I need to get on the record right now is that amendments 1 and 2 to clause 83, on page 134 of the bill, refer to "the owner". I know there were some concerns that that should have been "the registered proprietor". That issue was raised with us by Atkinson Legal. I would like some clarification of why we are going with "the owner" and not "the registered proprietor".

That is my contribution to the second reading debate. The Greens will support the legislation.

HON COLIN TINCKNELL (South West) [7.36 pm]: I rise on behalf of One Nation to indicate our support for the Strata Titles Amendment Bill 2018. I would like to thank the other members for their contributions. I have listened very intently to what they have had to say and I generally agree on most areas. This legislation is obviously very overdue. I think Hon Donna Faragher mentioned that it is 21 years since there was last a review. The Strata Titles Act was last reviewed in 1985, but there were some small amendments made in 1990. I also listened to Hon Robin Chapple, who suggested that a brand-new policy or document would be good. Maybe that will be in the next 20 years!

Hon Robin Chapple: Hon Donna Faragher talked about it as well.

Hon COLIN TINCKNELL: Yes. Maybe it will happen in the next 20 years. It would obviously make it easier for everyone.

Hon Donna Faragher: Absolutely.

Hon COLIN TINCKNELL: Hon Rick Mazza is part of the crossbench and we have had discussions on this. He said most of what I want to say, so I will keep it brief. Being an ex–real estate agent, I think he has a bit of a head start with his knowledge of this industry. He made some very important points that I want to talk about.

This bill is much needed; it has been a long time coming. It may be a long time before we revisit this legislation, so we want to make the best of it that we can. I recognise that not everyone is happy about all the changes. No document is perfect but, as it stands, I believe these changes will make the process more effective and efficient. It is a start, but there is still work to be done. Some of those things have been mentioned; for example, establishing a strict regulation for strata managers and providing more comprehensive rules governing the management of strata properties is very important. Hon Rick Mazza mentioned that. The bill will help reduce the number of disputes needing mediation and referral to the State Administrative Tribunal. Many cases currently referred to SAT are a result of lack of governance built into the current act. We are hoping that some of the changes in this bill will help alleviate that. I also support the Standing Committee on Legislation inquiry on the part of the Strata Title Act reform that is seen as contentious; that is, proposed part 12 in clause 83 of the bill, dealing with the termination of a strata titles scheme. I look forward to the committee's report in due course. The committee's call for submissions closes on 25 October, I believe, so we still have a little bit of time.

Hon Stephen Dawson: That is not right, member. The committee is due to report next week.

Hon COLIN TINCKNELL: Thank you. Has that been moved forward or changed?

Hon Donna Faragher: I think public comments closed on 25 September.

Hon Stephen Dawson: Yes, 25 September. I think it was open for comment for a week.

Hon COLIN TINCKNELL: I thank the minister for correcting me there.

We support this bill. We know that it is not perfect in every way, but it is a step in the right direction. In conclusion, One Nation supports the Strata Titles Amendment Bill 2018, and notes the current review of part of the bill by the Standing Committee on Legislation. Those are the things that are important to us, and I commend the bill to the house.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [7.41 pm] — in reply: I thank every member who made a contribution to the debate on the Strata Titles Amendment Bill 2018. I thank in particular Hon Donna Faragher and Hon Alison Xamon, who have been involved in many conversations behind the Chair over the past few weeks. I also acknowledge the advisers on this bill and the Minister for Lands and her office, who have offered briefings when they were needed and answered all questions as quickly as they could. The minister is very keen to work with all parties to make sure that this long overdue piece of legislation passes the Parliament. Essentially, everybody out there is calling for it. It has been a long time in the making, and I think it will be supported once we land. The Strata Titles Amendment Bill 2018 will significantly improve the existing strata legislation by fixing current problems experienced by owners and strata companies, by modernising the language and by streamlining the structure of the act. The bill also introduces a new form of land ownership: leasehold strata title schemes. I thank the opposition for its work in the previous government in beginning these reforms. As Hon Donna Faragher pointed out, this has been in the pipeline for a very long time, and a great deal of the work commenced under the previous government. I ask opposition members to continue their good work by supporting this bill to ensure that we make strata better for the people of Western Australia.

I will now respond in particular to the comments of Hon Donna Faragher. On the suggestion of drafting a whole new act, although the amending bill is complicated, the blue bill that we have provided to the house shows how much clearer the Strata Titles Act will be when amended. The government will consider the suggestion that a working group be formed to consider licensing after the passage of this bill. On the question of whether the State Administrative Tribunal has the power to ban a strata manager from operating if the strata manager commits a breach of statutory duties against a strata company, I confirm that the State Administrative Tribunal does not have the power to ban a strata manager from operating. If a strata manager breaches the statutory duties they owe to a strata company, that strata company can terminate the contract of the strata manager and/or apply to SAT for an order for damages against the strata manager if the strata manager suffered a loss as a result of the breach by the strata manager. For leasehold schemes, I can confirm that the strata company, which is made up of the owners of the lots, is responsible for maintaining the common property buildings within the strata scheme. The owner of the leasehold scheme, who is the lessor under the strata lease, does not have the power to prevent the owners of the lots from maintaining the common property buildings.

In relation to disability access, I have had similar conversations to those of Hon Donna Faragher and Hon Alison Xamon with individuals and the disability sector. There are multiple options for installing disability access on or through common property under the current Strata Titles Act 1985. These options include an exclusive use by-law. An exclusive use by-law can be obtained under section 42(8) to give one owner exclusive access to a specified part of the common property, and can be used to enable that owner to install things on that part of the common property, including a lift or a ramp. The by-law cannot be repealed without that owner's consent. Obtaining such a by-law requires a resolution without dissent—meaning that no owners object to the resolution—and lodgement of the by-law with Landgate by the strata company, essentially to register the by-law.

The second option is a lease over common property, which will allow an owner to occupy part of the common property and install things such as a lift for the duration of the lease. The relevant provision is section 19 of the act. Creation of such a lease requires a resolution without dissent, and consent of people who effectively have an interest in the common property. If the lease is for a prescribed period, the approval of the Western Australian Planning Commission and the local government will be required, and the lease will also need to be registered.

The third option is a licence over common property. An owner can obtain a licence from the strata company to install a lift or ramp over common property. This is provided in section 19(10) of the act. If the licence is for a prescribed period, the approval of the WAPC and the local government, along with a resolution without dissent, will be required. It is worth noting that section 94 of the act gives the State Administrative Tribunal power to order the creation of such a licence, where a lot cannot be reasonably used by an owner or occupier without such a licence being granted.

The fourth option is an easement over the common property. The strata company can grant an easement over the common property, allowing a person to install something like a lift or ramp. This is provided for under section 20 of the act. It requires a resolution without dissent of the strata company and the consent of people with a registered interest in the common property, and then the easement needs to be registered.

The fifth option is re-subdivision, which is a very complicated approach to installing lifts for the purpose of disability access on common property by altering the boundaries of lots and the common property. An owner could essentially try to buy part of the common property from the strata company. The common property is actually owned by all lot owners as tenants in common, and the strata company has certain powers to deal with the common property on behalf of all the owners. The re-subdivision process involves redrawing the boundaries of the lots to include the location of the common property that the owner wishes to acquire, for the lift to be installed. Re-subdivision is provided for in sections 8 to 8C, 14 and 25 of the act. Re-subdivision requires many steps, approvals and consents, including a unanimous resolution; subdivision approval from the WAPC; consents from persons with a registered interest and caveators; a licensed valuer revaluing lots within the scheme to prepare and lodge a revised schedule of unit entitlements; a licensed surveyor drawing up an amended scheme plan of re-subdivision, showing the new boundaries of the lots and the common property; a transfer of the common property to the owner and payment of duty by the owner; and the registration of the amended scheme plan and schedule of unit entitlements.

The Strata Titles Amendment Bill 2018 will make it easier to install disability access on or through common property, and this is a good thing for people with disability, as well as older people or people with mobility issues, as referred to by Hon Donna Faragher early on. Under the bill, the multiple pathways to install disability access on common property listed before will still exist. The key improvements under the bill are as follows. Where an owner is seeking to install disability access infrastructure across common property within a strata scheme, often the simplest solution is to obtain an exclusive use by-law from the strata company, enabling installation without the need for the boundary change for subdivision approval. Under the amending bill, the strata company will have imposed upon it an obligation to make decisions that are not unreasonable, not oppressive and not discriminatory. That is proposed section 119 in clause 83.

By-laws of the strata company are invalid if they are unfairly discriminatory against one or more owners. That is proposed section 46(j). Further, the State Administrative Tribunal will have the power to make by-laws under proposed section 200(2)(a) and (n). This power can be used by SAT to make a by-law when the strata company has failed to make a by-law and the result of that failure would be discriminatory against an owner or occupier.

SAT will be given the power to review all strata company resolutions. Owners and occupiers will be able to apply to SAT to review strata company resolutions. If an owner needs an exclusive by-law to install a lift on the common property and the strata company fails to pass a resolution without dissent to make that by-law—because, for example, another owner does not want the lift installed on the common property—the first owner can apply to SAT for an order making the exclusive by-law. SAT will ask whether the strata company has acted consistently with the objectives of the strata company, set out in proposed section 119 of the bill, which includes making decisions that do not discriminate against an owner. If SAT finds that a failure to make the exclusive use by-law is discriminatory against the first owner, it will give an order making the exclusive use by-law.

The current act and the bill require owners to obtain approval of the strata company, by resolution without dissent, if they wish to undertake a structural alteration to their lot. If an owner needs to alter their lot to provide for disability access and the alteration is of a structural nature, the owner will need the approval of the strata company. The bill makes this approval easier to obtain because it will enable an owner to go to the tribunal to seek an order that a resolution is taken to be passed as a resolution without dissent on the basis that the refusal to pass the resolution was discriminatory.

There may be situations in which an owner needs to alter common property in some way to install disability access infrastructure, such as a lift. This is an issue under the current act because the strata company does not have an express power to alter or improve common property. As a result, SAT has stated in decisions that to alter common

property, a resolution without dissent is needed. The bill resolves this issue because it gives the strata company the express power to improve or alter common property. That is proposed section 90(1). The power to improve or alter common property can be exercised within the expenditure limits of the company, meaning that if the owner offers to pay to cut a hole in the common property slab, no vote is required. It would need approval by a simple majority of the council of the strata company. If the strata company has to pay to cut a hole in the slab, the vote required is an ordinary resolution—a simple majority of the owners who attend the general meeting—to approve the general budget if the amount of money required to alter the common property is below a prescribed amount. Alternatively, a special resolution—more than 50 per cent in favour and no more than 25 per cent against—of the strata company is needed if the money required to alter the common property is above a prescribed amount. Please note that the regulations could specify that alterations to common property for disability access if lower than, for example, $100 000 require only the lower level ordinary resolution.

We should note that lifts can be installed through common property without the need to alter lot boundaries, obtain Western Australian Planning Commission approval or do a reallocation of unit entitlement or a revaluation of all lots. In addition, the bill specifies that removing a lot boundary structure does not result in the lot being destroyed or the boundaries being altered. That is proposed section 9(7) of the bill. This means that an owner can put a hole in their floor to allow a lift into their lot. Proposed section 9(7) overcomes an issue under the current act highlighted by the Tipene case, which held that if an owner removes the walls, floors and ceilings of their lot in the strata scheme, their lot ceases to exist.

An example of how these amendments in the bill would work for a situation such as the one described in the South Perth strata scheme, which was raised in the debate in the other place, is that if the owner in that strata scheme wishes to install a lift through the common property and into their apartment to provide for disability access, the owner needs the approval of the strata company to occupy a part of the common property. They also need the approval of the strata company to alter the common property—that is, to cut a hole through the concrete slab of the common property. Further, they need the approval of the strata company to undertake a structural alteration to their lot that will result in part of the lift being seen from outside their lot. Currently, the owner cannot obtain the resolution without dissent required to obtain the various approvals of the strata company because another owner keeps blocking those resolutions that are required under the current act. Under the provisions of the bill, the owner could do the following. They could seek to obtain an exclusive use by-law for the owner to occupy the part of the common property that the lift will need to be installed within. This would require a resolution without dissent of the strata company in a general meeting. Alternatively, they could seek to obtain approval for structural alteration of the owner's lot. That is also a resolution without dissent of the strata company. Alternatively, they could seek to obtain approval of the strata company to alter the common property where the lift will be installed. If the owner pays for the alteration, the strata company can, through the council of the strata company, provide approval to do the alteration of the common property. If the owner cannot obtain the resolution without dissent for the exclusive use by-law or the resolution without dissent to structurally alter their lot or indeed the approval of the council of the strata company to alter the common property, the owner can lodge a simple application with SAT seeking the following orders: that the strata company is taken to have made the exclusive by-laws on the grounds that the failure to make the by-law was unreasonable and discriminatory; the strata company is taken to have passed a resolution without dissent approving the structural alteration of the lot on the grounds that the failure to pass the resolution was unreasonable and discriminatory; or the council of the strata company is taken to have approved the alteration of the common property on the grounds that the failure to approve the alteration of the common property by the council was unreasonable and discriminatory. Once the owner obtains these orders from SAT, the owner can install the lift on the common property and into their lot.

In answer to Hon Donna Faragher's question about an education campaign, I confirm that the government will provide extensive education materials and will work closely with industry bodies and community organisations with an interest in this area to ensure that they have access to consistent and accurate educational information.

In response to Hon Rick Mazza's comments about strata managers, I am told that regulating strata managers will deliver the same protections for owners and strata companies as a full-blown and expensive licensing regime, with the one exception that a fidelity fund is not provided under the registration model. The protections in the regulation model matching the protections from an expensive licensing regime include, firstly, that the strata manager owes statutory duties to the strata company. That is proposed sections 146 to 150 and 152. Secondly, the strata manager must have indemnity insurance. That is proposed section 144. Thirdly, the strata manager must disclose a conflict of interest and commissions. That is proposed sections 146 and 147. The strata manager must have specified educational qualifications. That is proposed section 144. The strata manager must keep money in a trust account. That is proposed section 148. Further, the trust account can be audited. That is proposed section 150. The strata manager must report key information to government. That is proposed section 153. Further, the strata manager will be subject to the equivalent of penalties and fines because SAT can give damages orders against a strata manager. That is proposed sections 197 and 200(2)(k) and (o). Further, the strata manager needs a police clearance. That is proposed section 144. The strata manager is subject to a fit and proper person test, and convictions and

insolvency are grounds for contract termination. That is under proposed section 151. The strata manager will lose their strata management contract if they breach their statutory duties or even the contract. When the strata manager breaches duties owed to all their strata company clients, the effect is the equivalent of losing their licence. That is proposed section 151.

The model in the bill for regulating strata managers is based on the models used successfully in Victoria and the Australian Capital Territory. Under a licensing model, a strata manager may face a relatively small fine for the breach of a statutory duty. Under the regulation model, if a strata manager breaches a statutory duty, the strata manager may be ordered to pay millions of dollars in damages as compensation for losses suffered by the strata company, and the risk of such a large financial penalty will encourage better conduct by strata managers. The regulation of strata managers is the first step in making strata managers, who are not even mentioned in the Strata Titles Act 1985, more accountable. Even though there have been two parliamentary inquiries into strata managers, these inquiries did not result in a detailed understanding of the size or, indeed, the scope of the strata management industry in this state. Proposed section 153 of the blue bill specifies that the regulations can require strata managers to lodge information with Landgate setting out how many schemes they manage, how many lots they manage, and how much money they have under management. This will mean that after a few years of gathering this important information, the government will be in a better position to decide whether we need to move down the track of licensing strata managers, how that licensing can be funded, and what the licensing can target. I am advised that, as a rough estimate, about 300 strata managers are operating in Western Australia. A full-blown licensing regime for strata managers would cost at least several million dollars a year to run. Therefore, with only about 300 strata managers in the industry, licensing fees would likely be in the order of $10 000 a year for each strata manager, and that cost would be transferred on to consumers. In addition, a $10 000 a year licence fee would act as a large barrier to entry for strata managers, so essentially it would close the system. Some of the larger strata manager businesses now in operation would welcome such a high licensing fee because it would drive the smaller strata manager businesses out of the market and allow the larger players to establish more of an oligopoly.

I make the point also that licensing will not fix every problem. In New South Wales, strata managers are licensed. However, the New South Wales government admits on its website that it cannot act quickly enough to cancel a licence even when it is aware that an agent is causing harm to the strata company. The New South Wales government admits, and I quote —

> The time needed to investigate before taking action could mean that the agent's misconduct continues and more consumers suffer losses.

The regulation model we have proposed means that if a strata manager is breaching their contract or, indeed, their statutory duties, the strata company has a statutory right to terminate the contract. This means that the strata manager cannot keep causing damage to the strata company while a government licensing body slowly investigates the complaints and grinds through the process of trying to suspend or cancel the strata manager's licence. Hopefully, that answers the points raised by Hon Rick Mazza.

I am giving an extensive reply to the various questions that have been asked. I understand that we will be going into Committee of the Whole; therefore, if I do not touch on all the issues members have raised, or if members think I have misunderstood what they have asked, by all means ask it again.

Hon Robin Chapple asked whether leasehold will destroy private land ownership. The answer is no. Leasehold gives people who are renting the chance to buy a lot that they can sell, mortgage or even bequeath in their will. The owner of the lot can hold and deal with that lot until the expiry day of the scheme, which, as Hon Donna Faragher pointed out, may be up to 99 years. This does not destroy private land ownership. It is a form of land ownership that has provided millions of people in other countries with the ability to buy their own home and live in that home without being subject to the whims of a landlord. Leasehold provisions provide the owner of the lot with substantial protections and are a viable, robust and well-used form of land ownership. Not everyone in Western Australia can afford to buy a house in Cottesloe; and, if they are renting, they should have the further option of getting off the rental treadmill. This bill will allow for that.

Another question that was raised is how will leasehold deal with the threat of ground rent. Ground rent is an insidious practice that has emerged in the United Kingdom, of which Landgate has been aware. As a result, the STA bill imposes strict limits on what a lessor, or landlord, can do and can charge for lots in leasehold schemes. When a person in the United Kingdom "buys" a long-term lease of a house by paying a large up-front sum, the lease they sign may contain a ground rent clause stating that the lessee, or the person who bought the long-term lease, will pay to the lessor, or the landlord or "freeholder", an annual ground rent. The ground rent may start out low but may increase to a substantial fee over time, as set out in the lease. In response to the issue of ground rent, the bill and regulations provide that no ground rent may be charged. Proposed section 52, in clause 83 of the bill, provides that a strata lease can contain only covenants or conditions allowed by the regulations. The regulations will provide that no rent can be charged under a strata lease. Therefore, the ground rent problem in the United Kingdom will not be permitted for leasehold strata and survey strata schemes in Western Australia.

In relation to termination, the first strata schemes in Western Australia were constructed over 50 years ago. Scheme buildings are ageing, and many are costing owners large amounts in maintenance. Owners in some schemes are now getting to the point at which they simply cannot afford to maintain these old buildings. Therefore, based on experience in other jurisdictions, termination and redevelopment of strata or survey strata schemes will become increasingly common. In order to protect the assets held by all strata owners, safeguards for the termination of a strata scheme will be introduced.

Before we look at the safeguards, it is important that we understand the current law for terminations and dispel some of the myths that are being circulated about this part of the reforms. Under the act, there are three ways in which a strata scheme can be terminated. Most people know that all owners can vote to terminate a scheme through a unanimous resolution. However, what most people do not know or understand is that two other pathways may also be used to terminate the scheme. Under section 31 of the act, one owner or one mortgagee can apply to the District Court for an order to terminate a scheme. Under section 51 of the act, one owner can apply to the District Court for an order deeming that a special resolution to terminate is a unanimous resolution.

The act does not provide inadequate safeguards for owners in relation to the termination of a scheme. There is no requirement that a detailed proposal be prepared or even given to other owners before launching a District Court action. There is no requirement for a vote to be taken before applying to the District Court.

Hon Peter Collier: Is this the part that has been referred to the committee?

Hon STEPHEN DAWSON: Yes, the part about termination is, but there are some answers that I am happy to put on the record. There will be a debate about this later, but because it was raised tonight, I am just providing —

Hon Donna Faragher: It is unusual.

Hon STEPHEN DAWSON: I am providing an answer to it. Just be fair.

Hon Donna Faragher: I do not have an issue with that. I am just making sure —

Hon STEPHEN DAWSON: That we are not having the debate twice.

Hon Donna Faragher: Yes. I want to make sure that we are all on the same page. It is difficult. I accept that.

Hon STEPHEN DAWSON: I am trying to answer now all the comments and questions that were asked tonight, and obviously we will have another bite at the cherry in relation to the termination provisions when the committee reports next week. Hopefully, that will mean we have a swifter debate in Committee of the Whole, but we never know.

I have given some examples of how the safeguards in the act are inadequate. There is no additional assistance or safeguards for vulnerable owners to help them respond to a District Court action. The act also provides no guidance for the District Court on whether it should terminate a scheme.

The majority termination process will introduce safeguards for owners. It will establish a termination process that is transparent and reasonable, and requires a vote. It will require a full procedural and fairness review by the State Administrative Tribunal to consider the views of all owners. Owners who object must be properly compensated and must not be any worse off financially if the termination goes ahead. Vulnerable owners will be resourced so that they can receive independent advice, paid for by the developer. The majority termination process will be more than just a vote. There is a complete and transparent process that must be followed. I will leave that there for the moment.

I turn now to the question of exceptional circumstances—for example, termination for pensioners. The like-for-like replacement lot protection, when combined with the requirement that an objecting owner is to be no worse off financially, and SAT's power to modify a termination proposal are a useful set of provisions that can ensure that objecting owners will still have a home in the same suburb and are not financially out of pocket as a result of moving. A like-for-like replacement lot is something a proponent can choose to offer to an objecting owner. However, if the objecting owner can give evidence to SAT that they need a like-for-like lot so that they are no worse off financially, SAT can modify the proposal under proposed section 183(13) of the bill to require the proponent to give the objecting owner a like-for-like lot and cover all taxes, moving costs and other transaction costs, including discharging and re-registering a mortgage over the replacement lot. An example of being financially worse off as a result of being paid a lump sum instead of being provided with a like-for-like replacement lot is when the objecting owner is a pensioner. If the pensioner were paid a lump sum by the proponent in exchange for their lot, they may lose their pension. In such a case SAT could not order that the termination proceed because the objecting owner who is a pensioner would be worse off financially as a result of the termination. SAT could order the modification of the termination proposal to require the proponent to provide the objecting owner with a like-for-like replacement lot that would be in a nearby location, have equivalent facilities, have equivalent amenity and be equivalent to the fair market value of their current lot. SAT could also require the proponent to pay all of the owner's duties, taxes and moving costs, and ensure that the owner would not lose their pension if the termination resolution was confirmed by SAT. If the owner's overall wealth would not change, but the proportion of their wealth allocated to their housing increased and their discretionary wealth decreased, the proponent either would need to make good that loss or avoid the loss by offering like for like instead of cash. If an

objecting owner was being offered fair market value in the form of a cash payment and the objecting owner wanted to remain within the same neighbourhood, they may find that all the remaining apartments in the neighbourhood are much newer and thus more expensive than their current lot. To buy back into the neighbourhood, the objecting owner may need to spend some of their own savings, and this is an example of being worse off financially, even though the total value of assets remains the same when the value of the newer apartment is added up with the reduced level of savings. In such a case, that objecting owner could demonstrate to SAT that they would be worse off in terms of having to commit a portion of their savings to stay in the neighbourhood, and as a result have a reduction in their discretionary wealth. If the owner demonstrated this, SAT would find that the objecting owner would be worse off financially as a result of having fewer savings. SAT could then order the modification of the proposal so that this objecting owner must be given a like-for-like replacement lot in the same neighbourhood, with all taxes, duties and other expenses paid for by the proponent.

On the question of awarding compensation above fair market value in an exceptional circumstance, a further example of when SAT may modify the proposal to require the proponent to provide a like-for-like replacement lot would be when the objecting owner owned a lot in a scheme within a suburb where there were no more old schemes. In such a case, if the objecting owner was paid a lump sum for the replacement lot, they would be unable to buy a lot within the same suburb with a lump sum. That objecting owner could show SAT that they would be worse off financially if the termination proceeded and they wanted to buy back into their current suburb. In such a case, SAT has the power to order that the termination proposal be modified so that the objecting owner is provided with a like-for-like replacement lot in the same suburb, even though the replacement lot is worth more than the current lot and all of the objecting owner's duties, taxes and moving costs are paid by the proponent.

In relation to the question about business, if the owner's home business could not be reinstated elsewhere for some reason, the proposal would not be considered fair value. If someone is operating a business from the lot they own and they object to the termination proposal, the proponent will need to pay for the owner's removal expenses and for the disruption and reinstatement of their business on the basis that they are to be no worse off financially. That is referred to in proposed sections 183(10)(a)(ii) and 183(10)(c)(i) and (ii). The proponent will also have to pay for any taxes and duties incurred by the objecting owner as a result of the termination and the acquisition of a new lot for them to conduct their business. Some businesses do operate in unique locations and the objecting owner could establish that the proponent must provide them a like-for-like replacement lot in such a unique location and that the proponent must pay all of the other costs, including removal, relocation and reinstatement of the business, and duties and taxes et cetera. If the business could not be reinstated elsewhere—for example, because of the uniqueness of the location and the lack of any replacement lots that would enable the business to continue at the same profit level as before—SAT would likely find that the objecting business lot owner would be worse off financially and in such a case SAT could not order that the termination proceed.

On the question of whether the non-financial circumstances of the owner are considered by SAT, I confirm that the individual circumstances for each owner, whether those circumstances are financial or non-financial, are considered, including whether the owner has specific mental health issues, other health issues or other physical requirements. They are to be considered by SAT when it asks whether the termination proposal is just and equitable, and in particular when it considers the benefits and the detriments of the termination proposal proceeding or not for all those, including owners, whose interests must be taken into account. Proposed section 183(12)(e) deals with that issue. I am getting close to it!

I turn to the question of an independent advocate. Proposed section 181(5) provides that the regulations may impose additional requirements about the process required for consideration of a termination proposal by a strata company. Those regulations could include a requirement that the strata company refer the proposal to an independent advocate, for example. Subject to further consultation, the regulations referred to in proposed section 181(5) will specify that a strata company must refer the full proposal to an independent advocate, and the regulations will specify who can be an independent advocate. The independent advocate will review the full proposal and provide the strata company with an independent assessment of the full proposal, and arrange a briefing session conducted on a multisensory basis to cater for people with disabilities. It will provide for owners to deliver the independent assessment of the full proposal. The independent advocate will assess which owners in the scheme are vulnerable for the purposes of proposed section 190, will provide initial advice to vulnerable owners, will refer the vulnerable owners to a panel of specialist advisers of lawyers et cetera whom vulnerable owners can see to obtain advice and/or representation as provided in proposed section 190, and will assist vulnerable owners in obtaining funding provided by the proponent under proposed section 190 to pay for the advice and/or representation. The independent advocate will represent vulnerable owners in SAT if the proponent disagrees about who is or is not a vulnerable owner entitled to the funding.

Point of Order

Hon DONNA FARAGHER: I did do this by way of interjection. I appreciate why the minister is referring to these proposed sections of the bill, because they were referred to in contributions to the secondary debate, but I have to say that we seem to be going into a lot of detail about the provisions that have been referred to the Standing Committee on Legislation, so I ask your advice, Madam Acting President. I am not trying to be difficult

here. There is a process that we need to follow in this place. I want to make sure that we are not straying beyond what we should be doing in looking at these provisions. I appreciate that we find ourselves in a unique circumstance of having a proposed part of the bill referred and we are still debating the bill, so I appreciate that some latitude may need to be given, but I seek your advice about how much latitude can be given.

The ACTING PRESIDENT (Hon Adele Farina): Members, in relation to the point of order, the motion that was agreed by the house actually stated that the house may proceed with consideration of the bill other than the matters referred under paragraph (a)—that is, the part that was referred to the Standing Committee on Legislation. But the Committee of the Whole shall not agree to a resolution to report the bill to the house until after the legislation committee reports on the referral of proposed part 12 and any related matter. So the part that has been referred to the legislation committee still forms part of the bill that is being considered as part of the second reading debate. A member in the house has raised questions in relation to that particular provision, and I do not think it is unreasonable for the minister to respond to the questions that have been asked. I think the point that Hon Donna Faragher makes is valid in that we may have to repeat all this once we get the committee report. But I do not think it is unreasonable for the minister to respond to questions that have been asked by a member during this debate. This is very unusual, and I think we will have a fair degree of repetition as a result of how we have chosen to handle this matter.

Debate Resumed

Hon STEPHEN DAWSON: I appreciate Hon Donna Faragher's point of order. I guess the motion relating to the Strata Titles Amendment Bill 2018 states that the committee can look at other clauses if it deems them linked. The committee could be looking at other parts of the bill that I am not sure of; I do not know the other work that the committee is doing, and it is not appropriate that I should. In light of that, I am just trying to answer all the honourable member's questions now and place the answers on the record.

Hon Donna Faragher: I'm not trying to be difficult —

Hon STEPHEN DAWSON: No, I know you were trying to be helpful.

Hon Donna Faragher: — I just want to make sure that we are not straying where we shouldn't; that's all.

Hon STEPHEN DAWSON: I appreciate that you were trying to be helpful, so thank you.

I was talking about the independent advocate, and I hope Hon Robin Chapple was up to where I was at. The independent advocate will represent vulnerable owners in the State Administrative Tribunal if the proponent disagrees about who is or is not a vulnerable owner entitled to the funding under proposed section 190, to ensure vulnerable owners have access to funding to pay for expert advice and legal representation. The independent advocate will ensure the strata company will be required to pay the independent advocate for the services I have previously listed. The strata company can require the proponent to pay to the strata company the full cost of the independent advocate services, under proposed section 189.

Vulnerable owners will be provided with funding for advice and representation so that they can respond to the termination proposal, and that is under proposed section 190. The proponent will be required, under the regulations provided for in proposed section 190 of the bill, to pay for owners who meet specified criteria that will be set out in the regulations to obtain independent legal advice, legal representation, valuation advice and financial and taxation advice in connection with termination proposals. The regulations will likely specify that vulnerable owners are owners who meet the specified criteria, and are therefore entitled to the funding to be paid by the proponent to obtain the independent advice.

In relation to the question on a strata company's ability to block multiple proposals, the outline proposal to terminate the scheme cannot be submitted to a strata company during a period when the strata company has passed an ordinary resolution in favour of an outline proposal and that proposal has not come to an end. That is under proposed section 174(2)(a). Also, during a period not exceeding 12 months when the strata company has an ordinary resolution, that prohibits termination proposals from being submitted to it. That is under proposed section 174(2)(b). I note that there is no limit on how many times a strata company can hold a general meeting and pass an ordinary resolution to prohibit outline proposals from being submitted. In other words, a strata company could hold a general meeting every year to extend the prohibition on the submission of outline proposals for a further 12 months during a period for which SAT has, on the application of the strata company, ordered that termination proposals are not to be submitted to the strata company. That is under proposed section 174(2)(c).

There may be situations when a person controls the majority of votes in the strata company and uses that voting power to prevent other owners from making an ordinary resolution to prohibit termination proposals being submitted to the strata company. If that happens and the strata company is forced to consider new termination proposals on a regular basis, the owners who hold minority voting power have two options. One owner can seek to obtain an order from SAT to bring an application on behalf of the strata—that is, under proposed section 198(1)—and then apply to SAT on behalf of the strata company for an order to prevent termination proposals; or outline full proposals to terminate the scheme being submitted to the strata company for any period, including, for example, five years to enable the owners to live in peace if they are being pursued by a developer. Members might want to go into that a bit later on, but I will leave it there.

In relation to Hon Colin Tincknell's comments, I thank him for his contribution and support of the bill, and his recognition that this bill is long overdue and will make for positive change in Western Australia. With those comments, I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1: Short title —

Hon DONNA FARAGHER: I have one question, and I reckon I know part of the answer the minister will give me. I have a general question on the regulations that will ultimately accompany the amended act. Throughout the entire bill there is reference to regulations. I know that the normal answer is that we do not deal with regulations until we have dealt with the bill; however, I seem to recall that in perhaps one of my briefings there has already been some discussion with relevant parties with an interest in strata. I am keen to get an understanding of how long the government thinks it will be before regulations will be drafted.

Hon STEPHEN DAWSON: I am advised that it will probably take at least a year for the regulations to be finalised. Earlier this year conversations commenced with affected parties or interested parties, but I am confident—I am expressing confidence in my contribution this evening—that upon passing this place, it will take up to about a year for the regulations to be finalised.

Clause put and passed.

Clauses 2 to 7 put and passed.

Clause 8: Section 3A amended —

Hon DONNA FARAGHER: I would like some clarification because it is at this point that my notes on the bill refer to blue bills and various other things. I will not go into my views on the bill again, but I understand that clauses 8, 9 and others that come after this are being moved to schedule 2A and they relate to matters surrounding single-tier strata schemes. If I am correct, everything that relates to single-tier strata schemes will now be referenced by and moved to schedule 2A; is that correct?

Hon STEPHEN DAWSON: The member is correct. Everything relating to single-tier strata schemes will be moved to a separate schedule, and that is schedule 2A. This will ensure that there is a unique set of rules for single-tier strata schemes.

Hon DONNA FARAGHER: Can the minister explain what a single-tier strata scheme is?

Hon STEPHEN DAWSON: I am advised that single-tier strata schemes are lots that cannot be above or below another lot except for permitted boundary deviations.

Hon DONNA FARAGHER: Can they be joined together?

Hon STEPHEN DAWSON: Yes, they can.

Hon DONNA FARAGHER: Can they be a townhouse; is that an example as well?

Hon STEPHEN DAWSON: That is an example.

Clause put and passed.

Clause 9 put and passed.

Clause 10: Section 7 amended —

Hon DONNA FARAGHER: I recall from my notes that this section relates to structural alterations to lots. I glanced at the debate in the other place in relation to parts of the bill. Whilst I do not reflect on the debate in the other place, I note that the Minister for Lands stated —

> The current provisions have been reworded, because there has been a substantial change to policy.

What is the change to the policy?

Hon STEPHEN DAWSON: I will do this in a couple of parts. This clause amends section 7 of the act for greater clarity. Section 7 provides that an owner of a lot must obtain approval from the strata company or, indeed, other owners before structurally altering a lot. Section 7 is a set of provisions that provide for structural alterations of lots. As part of the change, we are allowing owners who have structurally altered lots without approval to seek approval from the State Administrative Tribunal after the fact.

Hon DONNA FARAGHER: Would that be similar to local government approval? For example, is that the same as someone putting on a structure without seeking approval from the local government authority but who seeks approval retrospectively? I am trying to get some understanding. Is that what the government is effectively seeking to achieve in this instance? If so, would the local government authority not also have a role, potentially?

Hon STEPHEN DAWSON: These provisions relate to the approval of the strata company, not to local government approvals. Approvals from local government would still be required; this is essentially about the strata company and approvals by that strata company.

Hon DONNA FARAGHER: Perhaps an example might be helpful. Correct me if I am wrong, but if someone in a strata scheme with individual lots decides to put on a garage door that has not been part of the general agreement, are they required to get retrospective approval by SAT only if the strata company objects afterwards? It would be useful for the minister to give a hypothetical example of retrospective approval from SAT. If he did that, we could move forward.

Hon STEPHEN DAWSON: I am not quite giving the member what she wanted but let us see whether this explains it. Owners will still need to obtain approval of the strata company to alter their lots. That is resolution without dissent. That is the blue bill clause 87. Other owners can oppose the application to alter a lot in a strata scheme only on limited grounds. The grounds to oppose are: carrying out a proposal will breach plot ratio restrictions or open-space requirements; alteration results in a structure visible outside the lot; alteration may affect the structural soundness of the building; or alteration may interfere with the statutory easement. The statutory easement provides for support and shelter of other lots in the scheme. SAT has the power to exempt an owner from obtaining approval for a structural alteration of a lot both before the structural alteration has been made and after the structural alteration has been undertaken. Altering a lot does not include altering a boundary. The bill clarifies that if a person alters their lot in such a way that they alter the boundary of their lot, they will need subdivision approval from the WA Planning Commission.

Hon DONNA FARAGHER: Can the minister tell me what the current retrospective approval provisions are if someone were to make a structural alteration with or without consent?

Hon STEPHEN DAWSON: SAT cannot currently give retrospective approval if someone alters their lot.

Hon DONNA FARAGHER: What is the recourse here? Why would someone get retrospective approval? I am probably not making sense because I am thinking about this as we are talking about it. Why would they need to have retrospective approval? We would think they would want approval in the first place. I take that as the first point. However, if they require retrospective approval, for what purpose, if currently there is no retrospective approval? Is the minister saying that people can do what they want now without any form of approval?

Hon STEPHEN DAWSON: Currently, approval is required. We are seeking to give retrospective approval if SAT thinks it is appropriate within the lot. People cannot make structural alterations outside their boundaries; they can do so only within their boundaries, but at the moment they require approval. However, essentially, with the retrospective approval, we are giving SAT the power to allow it if it deems it is necessary, but again, inside the lot, not external to the lot.

Hon DONNA FARAGHER: I understand that. We are talking about inside the lot, not outside. What happens if SAT does not give the retrospective approval?

Hon STEPHEN DAWSON: I am advised that SAT can order the person to make restitution—to change the alteration and put it back to where it was in the beginning.

Hon DONNA FARAGHER: The minister is telling me that under the act—I will be guided by him if I have this wrong—if a change is made within the lot, whether it is the installation of a garage door or whatever it might be, and there is no approval, there is no recourse. Is there any actual recourse to have it removed if for whatever reason the other owners do not agree after it has occurred?

Hon STEPHEN DAWSON: Currently, if owners who make structural alterations to the lot do not have approval, the strata company can go to SAT seeking restitution—for the change to be put back to where it was previously. There is no financial penalty per se, but I guess the penalty is the restitution.

Hon Donna Faragher: There is a mechanism for the structure or whatever it might be to be removed if SAT agrees, but it can be done only through the strata company?

Hon STEPHEN DAWSON: Yes; the company has to make that approach to SAT and then SAT can make the decision to order restitution. I am not sure whether restitution is the right word in this case, but the member knows what I mean.

Hon DONNA FARAGHER: Really, the additional change to policy is that we are giving the owner an added opportunity that currently does not exist to get retrospective approval?

Hon Stephen Dawson: Yes.

Hon DONNA FARAGHER: If SAT says, "No, the structure has to be removed", it may well have to be removed depending on what the order is and that will be no different from the strata company objecting and referring the matter to SAT and they get the same outcome.

Hon STEPHEN DAWSON: Under the act, if they are in a two-lot scheme, the other owner can go to SAT seeking restitution. It does not have to be through a strata company. What was the second point?

Hon Donna Faragher: I think I have answered my own question.

Hon STEPHEN DAWSON: The member is more helpful than I am; is that what she is saying?

Hon Donna Faragher: I would never say that!

Hon SIMON O'BRIEN: I have a point for clarification. We are looking at Strata Titles Amendment Bill 80–2 I believe, and clause 10 of that bill.

The DEPUTY CHAIR: That is correct.

Hon SIMON O'BRIEN: Mr Chair, your patience in this matter is greatly appreciated. I just want to confirm that the content of this clause is intended to basically create what will be the future section 87 of the Strata Titles Act. Is that the case?

Hon Stephen Dawson: That is correct.

Hon SIMON O'BRIEN: Why have we renumbered the current section 7, amended it and then put it in section 87 of the Strata Titles Act? Why are we not dealing with just amending existing section 7, for those of us who have difficulty with these matters?

Hon STEPHEN DAWSON: That is a very good question, member. I am told that the bill will substantially reorder sections of the act to provide greater clarity, essentially. It might not seem that way this evening, but I am told that once the bill passes and the act is reordered, we will have greater clarity. The act was amended over time so that related topics were scattered throughout the act and unrelated topics were grouped together. This has had the effect of making the act confusing to navigate. The amending bill has substantially reordered the act so that large general principles are dealt with early, and similar concepts are addressed together. The relocation of provisions is intended to restructure the heavily amended act so that it is easier to find material. The restructured amended act is also intended to align more closely with the structure of the companion community titles legislation, introduced at the same time as this bill, which we will be debating in this place over the coming weeks. Where changes of this type have been made, the reason given for the change in the explanatory memorandum will be amended for greater clarity. If changes have amended the substance of the bill, further explanation will be given. Essentially, in this case it is about providing greater clarity at the end of the day, and in the long run.

Hon SIMON O'BRIEN: I look forward to reaching the promised land of clarity in due course, and I thank the minister for that. I do not want to be tiresome, but at the committee stage of a bill we need to clarify these things. If I am having a bit of difficulty with it, chances are that one or two other old fossils around the place might be as well.

Hon Stephen Dawson: Not even fossils, member!

Hon SIMON O'BRIEN: I am not sure whether I should thank the minister for adopting my vernacular so readily. Where, in clause 10 or somewhere else, do we as a legislature adopt the decision that this shall in future be section 87? All I can see there is a note.

Hon STEPHEN DAWSON: I take this opportunity to explain to the committee how the amending bill operates and give some context and hopefully the clarity that we all seek. The amendments to the act in the bill are extensive and complex, as we know. The bill involves a two-stage process to amend the act. The first stage of amendments, in division 2 of part 2, make specific amendments to provisions of the act. The second stage of amendments is as follows. In division 3 of part 2, clause 82 deletes almost all headings and divisions from the act. Clause 83 then inserts sections 4 and 5 and parts 2 to 14 into the act. The new parts have gaps, and these are to be filled by the relocations of provisions in division 4. Sections amended in division 2 of part 2, and other sections of the act that are not amended there, are redesignated or renumbered and relocated by divisions 4 and 6 of part 2. There we see clauses 84 and 116. Division 5 amends the schedules to the act. Schedules 1 and 2 are amended and schedule 2A is replaced.

Hon SIMON O'BRIEN: Where do I look in the bill, and on what page does it state that henceforth this amended section 7 will be known as section 87?

Hon STEPHEN DAWSON: I am advised that it is clauses 84 and 116.

The DEPUTY CHAIR (Hon Matthew Swinbourn): Minister, do you have the page number? Does it help if I suggest page 315?

Hon SIMON O'BRIEN: Through you, Mr Deputy Chair, if I happen to like this new material but prefer it to be called section 7, I should agree to clause 10, and then kick back hard against clause 84 in due course. Is that right?

Hon Stephen Dawson: If that is what you choose to do, member.

Hon SIMON O'BRIEN: If I am still here by then, that is what I will do. I thank the minister for clarifying that.

Clause put and passed.

Clause 11: Section 7B amended —

Hon DONNA FARAGHER: That exchange alone highlights to me, once again, the challenges in this bill and why, although we dealt with this in the second reading debate, a replacement act would have been more useful. The bill goes right across a range of things, and it is very difficult for people to work through this piece of legislation. We are changing sections, they are moving into different areas and all of that sort of thing. I said what I had to say in the second reading debate, but it is difficult. I worry for anyone who does not have to deal with it like we do. We are finding it difficult. Others who would have to work through this legislation would be finding it incredibly difficult. Notwithstanding that, clause 11 deals essentially with approvals and objections. Again, can I just get some clarification? The way I read it against the act, the procedures remain substantially the same. I want some clarity. If there are any differences, could the minister explain them? I have not picked up on any, but I would just like some clarification.

Hon STEPHEN DAWSON: To respond to the member's opening comments, it is a complex piece of legislation. I think it was many years in the making, but I think people outside this building are demanding action. Work commenced under the previous government and continued under this government. A decision was made some time ago not to create a new act, but rather to amend the one that we have.

Hon Donna Faragher: I'm not necessarily reflecting on your government. I think it is irrespective of who was in power.

Hon STEPHEN DAWSON: Of course, and indeed I am not trying to sheet home the blame. I am not going to say what might have happened in an ideal world, but the work had commenced. Years of work was put into this, and this is the bill that we have before us now.

This clause amends section 7B of the act for greater clarity. Section 7B provides a process for obtaining approval to structurally alter a lot. There has been no change to the approval periods set out under section 7B of the act. Essentially, there is no change.

Clause put and passed.

Clause 12: Section 12A amended —

Hon DONNA FARAGHER: I am going back to my notes here. As we have discussed before, we are clumping those sections relating to single-tier schemes in schedule 2A. Amended section 12A relates to single-tier schemes; is that correct? I want to make sure that we are on the same page.

Hon Stephen Dawson: That is correct.

Hon DONNA FARAGHER: The way I read it, though, it appears to be a fairly general provision relating to access. I am wondering whether similar clauses within the bill or sections within the act relate to access—what we are talking about here—with respect to other schemes.

Hon STEPHEN DAWSON: Yes, other provisions in the bill relate to access.

Hon DONNA FARAGHER: Are they in a similar form to the words proposed here with respect to other strata schemes? If the minister could point me to the right section, I can quietly look at those.

Hon Stephen Dawson: I am told it is a tough question. We can certainly —

Hon DONNA FARAGHER: I am happy to move on. If it helps, can we take that on notice? If the minister can come back to me at a later time, that will be fine.

Hon STEPHEN DAWSON: Sure. On that question, my adviser tells me to refer the member to division 3 of part 5 of the blue bill, and there may well be some stuff there.

Hon Donna Faragher: Can the minister give me a page number?

Hon STEPHEN DAWSON: Absolutely. I am on the case.

Hon DONNA FARAGHER: He is a very good minister.

Hon STEPHEN DAWSON: I am not getting into that, but I am certainly trying this evening. It is at page 78 of the blue bill, and it provides for statutory easements.

Hon Donna Faragher: Yes. They are obviously not identical, but relevant to, in that instance, statutory easements. I am happy with that.

Clause put and passed.

Clauses 13 to 15 put and passed.

Clause 16: Section 21F amended —

Hon DONNA FARAGHER: Could the minister explain to me why it is proposed to delete "in the prescribed form" and insert "by resolution in the approved form"?

Hon STEPHEN DAWSON: I will first talk to what an approved form is. A reference in the bill to the approved form includes the ability to set requirements for the completion of that form within the regulations, including what documents need to be appended to the form and how those documents are to be certified. A document will be in the approved form only if it is in the form approved under the regulations or Transfer of Land Act requirements and it complies with any requirements of the regulations or the Transfer of Land Act. A prescribed form is a form contained within the regulations at the moment. This is what an approved form is.

Hon DONNA FARAGHER: Within this part, it appears that there is a change to resolutions. The act distinguishes two-lot schemes from others, but from what is in the bill now, it seems more general in nature; is that correct? Have I read that correctly?

Hon Stephen Dawson: I might ask the member to ask that question one more time if she does not mind.

Hon DONNA FARAGHER: I have to go back to the blue bill again. My note is that it appeared that there will be a change to the resolution part in the act. The act currently distinguishes two-lot schemes from others, but the amended legislation will not. It will become more general.

Hon STEPHEN DAWSON: I am told that that question was not anticipated, so we might take that on notice and we will get some further information to answer that to be provided at a later stage of the debate.

Hon Donna Faragher: That would be appreciated.

Hon Nick Goiran: Will it be provided during the committee stage?

Hon STEPHEN DAWSON: Yes.

Hon Nick Goiran: This is unprecedented. The other ministers do not do this. You have to give them some lessons.

Hon DONNA FARAGHER: There is just a bit too much love in the room at the moment! I am happy to move from that clause and to await the information that the minister will provide very soon. I am happy to move to clause 17.

Clause put and passed.

Clause 17: Section 21G amended —

Hon DONNA FARAGHER: It is the difficulty of going back to the blue bill, but, again, it seems that "60 days" has been added to the bill, which perhaps was not there previously. I am keen to understand why 60 days was chosen. I do not believe that the period of 60 days is in the act. I am trying to find it again. The act does not refer to 60 days.

Hon STEPHEN DAWSON: I am told that this is simply to require the strata company to lodge the resolution within a reasonable time frame, and 60 days was deemed a reasonable time frame. The member is correct. It is not in the act.

Hon Donna Faragher: See—I have read the bill!

Hon STEPHEN DAWSON: Absolutely!

Hon DONNA FARAGHER: I am happy with that.

Clause put and passed.

Clauses 18 to 29 put and passed.

Clause 30: Section 26 amended —

Hon DONNA FARAGHER: This amendment to section 26 seems to provide greater clarity around applications for the review of decisions by the State Administrative Tribunal. Can I clarify that that is the case?

Hon STEPHEN DAWSON: The member is correct. This clause seeks to amend section 26 of the act to provide greater clarity and to provide that a decision of a local government for planning approval relating to a strata title scheme is subject to review by the State Administrative Tribunal under part 14 of the Planning and Development Act 2005.

Hon DONNA FARAGHER: What is the current lack of clarity in the act, if I might put it that way? Why do we need to improve this section? What were the concerns previously expressed?

Hon STEPHEN DAWSON: I am advised that it simply was not phrased in a modern way. The changes reflect more modern language and also reflect the proposed community titles bill. We are modernising the system to provide consistency across those two bills.

Clause put and passed.

Clause 31: Section 28 amended —

Hon DONNA FARAGHER: Again, this question is for clarification. It seems that the proposed amendment to section 28 deals in part with the transfer of responsibility from the District Court to SAT. Is that correct?

Hon STEPHEN DAWSON: Yes.

Hon DONNA FARAGHER: I thank the minister for that answer.

Clause put and passed.

Clause 32 put and passed.

Clause 33: Section 29A amended —

Hon DONNA FARAGHER: This amendment to section 29A deals with an application for an order and by whom an application for an order can be made. It refers to the strata company; the owner of a lot in the scheme; a registered mortgagee of a lot in the scheme; and, for a leasehold scheme, the owner of the leasehold scheme. Again, it is not clear to me from my reading of the act who can make an application for an order. I am interested in knowing what the current process is and why it needs to be changed. In asking that latter question, I assume it is to provide greater clarity about who can and who cannot make an application for an order.

Hon STEPHEN DAWSON: The act states that it is the strata company, the owner and the registered mortgagee. This clause seeks to amend section 29A of the act, again for clarity, and again to transfer the jurisdiction from the District Court to the State Administrative Tribunal. Again, it is a shift, as was the case with the previous clause.

Hon DONNA FARAGHER: The act makes clear who can make an application for an order.

Hon STEPHEN DAWSON: Yes. Section 29A(1) of the act states —

> Where part of the land in a parcel in a survey-strata scheme is taken, the District Court may, on an application by the strata company or by a proprietor or a registered mortgagee of a lot within the scheme, make an order for or with respect to the variation of the existing scheme or the substitution for the existing scheme of a new scheme.

That is at page 77 of the act.

Hon DONNA FARAGHER: From what I am reading, the only thing that has been added is the owner of the leasehold scheme, because that is obviously a new concept.

Hon STEPHEN DAWSON: That is correct.

Clause put and passed.

Clauses 34 to 45 put and passed.

Clause 46: Section 34 amended —

Hon DONNA FARAGHER: This clause proposes to amend section 34(1) of the act by deleting "varying or discharging" and inserting "varying, extending, discharging or terminating". I am keen to understand the reason we need these extra definitions. I can understand the need to insert the words "varying" and "extending", but "discharging" and "terminating" —

Hon Stephen Dawson: Do not forget that "discharging" is already in the act.

Hon DONNA FARAGHER: Yes. Therefore, it is the word "terminating" that I am most interested in. Discharging may mean the end of a contract, but effectively that is the same as terminating. I want to get an understanding of why both terms have been included.

Hon STEPHEN DAWSON: We are essentially covering the whole field by say "discharging" and "terminating". Some people see that they mean different things, so by covering the whole field we are trying to cover all circumstances. We are trying to broaden by capturing everything.

Hon Donna Faragher: You are capturing everything.

Hon STEPHEN DAWSON: We are capturing everything so there can be no question over what is in and what is out, essentially. It is literally just trying to ensure that we have captured everything.

Clause put and passed.

Clause 47 put and passed.

Clause 48: Section 35A amended —

Hon DONNA FARAGHER: Again, this is just a point of clarification. I understand the penalty identified here, a fine of $3 000, is quite a substantial increase to the current penalty. Is that to make this more consistent with other legislation?

Hon STEPHEN DAWSON: The member is correct. The current penalty is $400 and this clause increases it to $3 000. This is consistent with penalties for equivalent offences in other legislation. It is consistent with the Associations Corporations Act 2015, which in section 35 establishes that an incorporated association must keep and maintain a copy of the rules of the association. In that case the penalty is $2 750, but we have increased the penalty in this bill to $3 000 to make it comparable.

Clause put and passed.

Clause 49: Section 36 amended —

Hon DONNA FARAGHER: This clause deals with the establishment of a reserve fund as well as the requirement that a 10-year plan is established. I am going on memory here, but my understanding is that there is a requirement for a 10-year plan for schemes with 10 or more lots. How did we arrive at 10?

Hon STEPHEN DAWSON: Essentially, under the bill schemes of 10 or more lots or schemes with a high building replacement value must have a 10-year maintenance plan. The 10-year maintenance plan is aimed at assisting the strata company in deciding how much money it should set aside in its reserve fund, and clause 49 amends current section 36. Under the bill schemes of 10 or more lots or schemes with a high building replacement value must have a 10-year maintenance plan. The 10-year plan may include things such as a list of building defects and the estimated costs and time period within which the work might need to be done. The number of 10 lots was essentially chosen in response to stakeholder consultation. We were consulting and we were advised that that was a figure we should include in the bill. Earlier drafts of the bill used a different figure.

Hon DONNA FARAGHER: This is interesting, because I agree with it. I think it is important, having once owned a property that was in a strata. I appreciate for a two or three-lot strata it is probably unnecessary, but I would have thought that it would be a good rule of thumb for a strata company or the strata to be required to have some form of plan. I think Hon Rick Mazza mentioned this and I mentioned it as well. There might be six or seven lots in a strata, and that might seem small in a complex, but if they were six separated townhouses and there are sink well problems or whatever it might be, a person may find themselves having to pay a series of, I think, special levies to cover costs, if it has not been managed well, for the additional works. I am not unhappy with the number of 10 as such and I certainly support the maintenance plan, but I think there is merit for a requirement that strata companies of fairly small size should still be required to have a management plan. I think that is good practice, and I am keen to get the government's response to that.

Hon STEPHEN DAWSON: I just make the point that strata companies can choose to have such a plan at this stage, but this clause stipulates that those of a certain size must. The term "designated strata companies" for the purposes of administrative reserve funds and contributions means a strata company included in the definitions by regulation 100. The intent here is to require a strata scheme of fewer than 10 lots but a high building replacement value to also be subject to the requirement to have a 10-year plan. The 10-year plan is especially useful for schemes that may be subject to very large maintenance costs. Preliminary consultation with stakeholders on the building replacement value for schemes that would need to prepare this 10-year plan has been undertaken, but further consultation will be undertaken as part of the regulations. I take the member's point, but this is the figure we landed on after consultation with the sector. Obviously, smaller strata sizes can have such a plan, but we are just not requiring them to.

Hon DONNA FARAGHER: I accept the fact that it is ultimately up to strata of less than 10 lots to do that if they so choose, and they are not prohibited from doing that, if I can put it that way. Just out of interest, with respect to the initial consultation, was there a figure; and, if so, what was it?

Hon STEPHEN DAWSON: Yes, a $5 million replacement value was suggested previously. It was a $5 million amount. I will just check with my advisers whether we talked about the number of lots previously. I am informed that we did go out with a different figure. We do not know it was, but what was consulted on with industry was 10 lots or a $5 million replacement value. That is what was suggested.

Hon DONNA FARAGHER: I am not going to get into an argument about whether it should be 10 lots, eight or whatever, but as a general concept, and I hope Landgate takes this on board in any of its education campaigns or whatever else, although there is a requirement for strata with 10 lots or more or high replacement costs—that is the terminology that minister used; it is getting late in the night!—it would be seen as desirable that a smaller scheme still put forward these maintenance plans. I think it is important as a general rule, and it is good practice, particularly as they age, and they all do. There are costs that are not anticipated. I understand that, but there are also issues with painting and all those sorts of things. I think it would be good practice for strata as a general rule to have some form of plan that looks at issues of maintenance and all those sorts of things. That also helps in determining strata fees and all those sorts of things, so, again, people are not left with special levies for this and that. That can happen. I have experienced it, and that was in a small scheme. So I think it is good practice, and I would certainly hope, as I say, that Landgate takes that on board and makes sure that as part of the consultation and all those sorts of things it is reflected.

Hon STEPHEN DAWSON: I cannot promise that we will make it desirable—I think the member used the word "desirable"—but I agree with the member that it is probably good practice, and that it would be helpful to strata schemes across the state. I give an undertaking that I will raise this issue with the minister. The member heard during my second reading reply earlier on that there is an intention to provide educational materials. I will certainly raise it with the minister and her office to see whether it is able to be suggested, as part of that education campaign, to stratas of fewer than 10 that they may look at having a maintenance plan and that fund.

Hon Donna Faragher: That would be excellent, minister.

Clause put and passed.

Clause 50: Section 37 amended —

Hon DONNA FARAGHER: My question relates to clause 50(1)(o)(i), regarding the granting of —

> … a lease, licence or other rights over common property for the purpose of utility infrastructure or sustainability infrastructure; …

Would this relate to when there has been a request to grant a lease, or whatever it may be, for the installation of solar panels? Would that be the main reason?

Hon STEPHEN DAWSON: Member, I am advised that that is not the case. This arose out of stakeholder consultation; in fact, it has been raised over the years by a number of stakeholders. I will read the whole of the information on proposed amended section 37 to put it into context. The clause amends section 37 of the current act to provide greater clarity and confirm that a strata company has the powers to grant a lease, licence or other rights over common property for the purpose of utility infrastructure or sustainability infrastructure, but also for the purpose of performing any of its functions, develop and turn to account any technology, software or intellectual property that relates to the function. For that purpose it can apply for, hold, exploit and dispose of any patent, patent rights, copyright or similar rights. Notwithstanding what I have just told the member, I have now been advised further that, yes, the member is correct—paragraph (o) is in relation to solar panels.

Hon DONNA FARAGHER: I thank the minister for that. So solar panels and sustainability infrastructure; are there any other examples of what that could be, or is this essentially dealing with just solar panels? What other infrastructure would fall within this remit?

Hon STEPHEN DAWSON: I am advised that it could also include, say, a power generator in a remote location if someone needed to access a power generator periodically. That would be captured by this clause as well.

Hon DONNA FARAGHER: As the minister was so eloquently dealing with matters surrounding software and intellectual property, I think he might have been referring to paragraph (j)—I think I might be right there. I would like a little more detail about what this actually relates to. I would just like some clarity.

Hon STEPHEN DAWSON: If a strata company sets up a website or other processes that create intellectual property, that can done and revenue can be raised and distributed as a result. During the debate in the other place the minister is on the record as having said it will enable owners to install software. If it was software around the management of strata developments, they could onsell that intellectual property and that money would then come into the strata company. If that is to be redistributed or used for management of the company that owns the intellectual property, that would allow for that.

Clause put and passed.

Clauses 51 to 78 put and passed.

Clause 79: Section 130 amended —

Hon DONNA FARAGHER: I specifically refer to subclause (2)(f), which inserts paragraphs (g) and (h). It is on page 122, if that helps. It refers to —

> (g) the review by the Tribunal of a decision made under the regulations; and
>
> (h) additional requirements relating to the first annual general meeting of the strata company.

I am keen to understand why these parts cannot be dealt with in the primary act. I would have thought that the additional requirements relating to the first annual general meeting of a strata company would have been pretty standard—what we would expect to deal with at a first annual general meeting. I appreciate there is always good reason for putting some things in regulations, such as things that might change over time and all that sort of thing, but in relation to both of those why could these parts not be detailed in the primary legislation?

Hon STEPHEN DAWSON: As my advisers get that information for me, I will place on the record what clause 79 does. Clause 79 amends section 130 of the current act for greater clarity; to provide that the regulations may require a review by the tribunal of a decision made under the regulations; to provide that the regulations may impose additional requirements relating to the first annual general meeting of the strata company; to provide that the fees

fixed by the regulations for an application lodged with the Registrar of Titles may include a separate fee for lodgement of a scheme document or an amendment to the scheme document, and that the separate fee is payable when the document or amendment of the document is lodged, including in anticipation of the application; and to increase the maximum penalty for contravention of the regulations from $400 to $3 000 for consistency with equivalent provisions in other legislation. I made that point earlier on; I gave the example of the Associations Incorporation Act 2015, whereby that penalty of $2 750 is imposed. In fact, other Australian land registries set a maximum penalty for breach of the regulations as follows: the Northern Territory has a penalty of $3 080 and Queensland has a penalty of $2 523. Another reason for the amendment is to provide that the regulations address transitional matters that may arise after changes have been made to the current act by the amending bill.

I have been told that over time new requirements may arise from general meetings. If general meeting requirements are locked into the act, we may have to wait another 20 years to change the requirements. For that reason we are looking to the future and, hopefully, this bill will stand the test of time.

Hon DONNA FARAGHER: This is where it gets tricky. Maybe to assist, clause 83 contains a series of proposed sections that take up about 200 pages of the bill. Maybe we can get to clause 83 and then work out how best to work through each clause.

Clause put and passed.

Clauses 80 to 82 put and passed.

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

The DEPUTY CHAIR (Hon Matthew Swinbourn): We are now dealing with clause 83, but, noting the time, I will report progress.

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

MENTAL HEALTH WEEK — SUICIDE

Statement

HON ALISON XAMON (North Metropolitan) [9.44 pm]: This week is a significant week in the calendar of the mental health sector. It is, of course, Mental Health Week. There are always a number of things that we can and, indeed, need to talk about around issues of mental health. I rise tonight because I want to once again speak up about the issue of suicide. Some very disturbing statistics were recently brought to the public's attention about what is happening with suicide rates within Australia, with some particularly disturbing rates within Western Australia. From the outset I want to make clear that not everyone who chooses to take their life has a mental health issue. We know that, but we also know that a significant number of people who die by suicide do have a mental health issue, so the issue of suicide prevention and making sure that we are addressing issues of mental health in that regard are intrinsically interlinked.

The data that recently came out from the Australian Bureau of Statistics shows a disturbing increase in the number of people who are dying by suicide in Australia. In 2017 in Australia, 3 128 people died from intentional self-harm, increasing from 9.1 per cent in 2016 with 2 866 people dying. Intentional self-harm was ranked the thirteenth leading cause of death in 2017, moving up from the fifteenth position in 2016. The median age of Australians dying by suicide is 44.5, compared with the leading cause of death, which is heart disease, which has a median age of 85 years. This is a really important consideration, because when the years of potential life lost are included in the analysis of the impact of this data, intentional self-harm results in more years of potential life lost than any other cause of death.

During 2017, 409 Western Australians died by suicide, compared with 300 in 2008. This equates to a standardised death rate of 13.8 deaths out of 100 000 in 2008 compared with 14.8 deaths out of 100 000 in 2017. Western Australia has the third highest rate of suicide in the country after the Northern Territory and now Queensland. By any measure, it is evident that the number of people dying by suicide is increasing across the country and also within our state. Within these statistics it is also clear that the trends are even more alarming for particular communities. For example, Aboriginal suicide rates have increased by an appalling 21 per cent over the last decade. Suicide is the second highest cause of death among Aboriginal men and the fifth highest cause of death amongst Aboriginal women, and suicide accounts for a third of all deaths in people aged between 15 and 24 years.

This type of quantitative data is really important. It allows us to track trends over time, it highlights the prevalence of suicide across the life span and it is an indicator of how well we, as a society, are addressing the causes that contribute to death by intentional self-harm—or not, as the case may be. But, of course, it is just one measure. What this data is telling us is how many lives have been lost to suicide, but behind these numbers are the experiences of many, many other people who are affected by suicide. For every one death, up to 30 more people have attempted suicide. For every single death, there are family, friends, work colleagues, children and so on who are all profoundly affected. The most disheartening part of reflecting on the terrible numbers that I speak of today

is that despite the irrefutable evidence before us, unfortunately we are yet to take the necessary steps to turn this trend around. We know that around half of all visits to general practitioners involve mental illness, yet at the moment, our health system funnels approximately 90 per cent of its funding to physical health. I want to be clear that I am not suggesting that we need to spend less money on physical health; I think it highlights that we need to ensure we invest more money into mental health because, clearly, we are just not meeting the need.

There are numerous reports on this and much research has been done into it, so I do not need to revisit all that, but I know that now is the time that we need to start taking this seriously. As I recently mentioned on World Suicide Prevention Day, at the state level, we have an idea of some of the steps we need to undertake. We have a widely endorsed 10-year mental health and other drugs plan in place that outlines a plan for rebalancing the mental health system. It was encouraging to see that it was mentioned today in *The West Australian*.

It is the same at the federal level. Professor Allan Fels aptly summed this up when he launched an extensive review of mental health programs and services in 2014. He pointed out at the time that there is an extraordinarily high degree of consensus about the directions needed to create a system that promotes good mental health and wellbeing and a contributing life, but practical steps now need to be taken.

We need to also ensure that the process of evaluating the current suicide prevention strategy does not result in any interruption to the on-the-ground services that are working, and many of them are. It is really important to keep them going. As I have said before, any new strategy also needs to ensure that we are addressing areas of emerging need, such as the increasing rate of suicide amongst older Australians.

I am looking forward to the *Government Mid-year Financial Projections Statement* for evidence of what I hope will be an even greater commitment from the government to bolstering our efforts, particularly in community support and prevention, as the minister indicated during estimates this year. I also point out how I really hope that we will see some money put into suicide prevention in the forward estimates at some point. In answers to my questions in Parliament it was pointed out that we need to have in place the new strategy and that money will be available. But at the moment, not one dime is in the forward estimates to go into suicide prevention. Until such time as the money is there and, hopefully, is maintained at stable levels but also increases as necessary to reflect the fact that we are losing more and more people to suicide, I will not feel any sense of comfort.

We know that we have the road map, but the Australian Bureau of Statistics figures show that we will have to commit to greater investment in following the directions laid out because, quite simply, we cannot afford not to. I recognise this is a sombre issue to keep raising, but those in this place whose lives have been touched by suicide will understand the lifelong impact it has. We owe it to our constituents and to Western Australia to make sure we do far more in this space.

AFL 2018 GRAND FINAL — WEST COAST EAGLES

Statement

HON MATTHEW SWINBOURN (East Metropolitan) [9.52 pm]: I have been encouraged by some other members to make this statement tonight regarding an event of state significance and, importantly, national significance. It is about the efforts of the West Coast Eagles not that long ago in the 2018 Australian Football League grand final. It was a fantastic result for this state and I would like to sincerely congratulate the West Coast Eagles for that wonderful effort on that day. They made it hard for their fans—they waited until the last few minutes—but, boy, was it worth it!

Without taking too much more time of members' statements I say: congratulations, West Coast Eagles. You were the big birds of the big game and you were flying high. Well done, Eagles.

The PRESIDENT: Member, you may very well get the Hon Ed Dermer award tonight! Just for members' information, you will note that in the last week, Parliament flew the Eagles' flag at the front of Parliament House to acknowledge the win for that team.

House adjourned at 9.53 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

TRANSPORT — MATAGARUP BRIDGE — SUPPLY AGREEMENT

1582. Hon Peter Collier to the minister representing the Minister for Transport:

I refer to the supply agreement between York Rizzani and the Bianco Engineering Services, Toyota Tsusho Joint Venture, to manufacture the bridge decking and design features of the pedestrian footbridge to the Perth Stadium, and I ask:

(a) did Main Roads or any other State Government department, agency steering group or committee, receive progress reports from either Main Roads or the joint venture on the manufacture of the bridge;

(b) if yes to (1), on what date were those reports received and will the Minister table copies of those reports:

  (i) if no to (b), why not;

(c) was the Minister for Transport, or her office, provided with copies of those reports;

(d) at the termination of the supply agreement in May 2017, how much of the construction of the bridge under the supply agreement was complete, including which components; and

(e) when the supply agreement was terminated, was there an estimated completion date for the work by the joint venture and, if so, what was the expected completion date and the date for delivery of the bridge to site?

Hon Stephen Dawson replied:

(a) Yes.

(b) Reports were received by MRWA from the JV as part of regular monthly reporting and reports were provided monthly to the Perth Stadium Transport Infrastructure Group and Perth Stadium Steering Committee. The Minister is advised that in excess of 100 such documents exist and as such the member is asked to specify which report/s he is after.

(c) No.

(d) Approximately 50 percent, comprising of the bridge arches and the deck.

(e) No, at the time of termination Toyota Tsusho was unable to provide a definitive completion date for the Bridge.

POLICE — FIT FOR CUSTODY ASSESSMENTS

1588. Hon Martin Aldridge to the minister representing the Minister for Police:

I refer to the Minister's answer to question on notice No. 1401, in relation to admitting a person to custody under the influence of drugs and/or alcohol, and I ask:

(a) separately, for each month in the 2017/18 financial year and with respect to Geraldton please provide:

  (i) the number of persons prior to admission to a lock-up subjected to an initial 'medical assessment' as defined in the 'Custodial Lock-up Standard Operating Procedures' of Western Australia Police;

  (ii) the number of persons prior to admission to a lock-up that were referred for a 'professional medical assessment' as outlined in the same Standard Operating Procedures above mentioned; and

  (iii) the total amount of time involved transporting and assessing those persons identified in (ii) for the purpose of a professional medical assessment?

Hon Stephen Dawson replied:

The Western Australian Police Force advise the following:

(a) (i)–(iii) The number of episodes recorded on Custody Management for the Geraldton Lock-up were July 2017 182; August 2017 237; September 2017 204; October 2017 229; November 2017 246; December 2017 228; January 2018 226; February 2018 173; March 2018 222; April 2018 175; May 2018 241; June 2018 214. The WA Police Force's custodial management system database does not have the capability of reporting on those parameters and would require a manual search which take a significant amount of time to collate. As a result, the WA Police Force advised it determined to source this information would require significant police resources.

POLICE — PURSUITS

1589. Hon Martin Aldridge to the minister representing the Minister for Police:

I refer to question on notice No. 1393, in relation to Western Australia Police pursuits, and I ask again:

(a) in relation to police pursuits, will the Minister please identify for each of the last 10 years, the number of fatalities that have arisen from such pursuits in each year;

(b) of those identified in (a), will the Minister, where possible, identify the nature of the involvement in the pursuit i.e. police driver, police passenger, pursued vehicle driver, pursued vehicle passenger, bystander, unrelated vehicle driver or passenger etc.; and

(c) for each of the past 10 years, will the Minister please identify the number of fatalities and, separately, the number of serious injuries that have occurred on Western Australian roads, noting that it is not appropriate for a Minister to direct the Parliament to a website.?

Hon Stephen Dawson replied:

(a)–(b) The Western Australian Police advise that 42 people have died on WA roads connected to police pursuits. Six deaths occurred in 2008/2009, consisting of five drivers of pursued vehicle and one passenger in a pursued vehicle; three in 2009/2010, consisting of one driver of a pursued vehicle, one passenger in a pursued vehicle, and one passenger in a bystander vehicle; four in 2010/2011, consisting of three drivers of pursued vehicles, and one passenger in a pursued vehicle; five in 2011/2012, consisting of three drivers of pursued vehicles, one passenger in a pursued vehicle, and one driver of a bystander vehicle; five in 2012/2013, consisting of one driver of a pursued vehicle, one passenger of a pursued vehicle, two drivers of bystander vehicles, and one passenger of a bystander vehicle; two in 2013/2014, both drivers of pursued vehicles; two in 2014/2015, also both drivers of pursued vehicles; five in 2015/2016, consisting of two drivers of pursued vehicles and three passengers of pursued vehicles; eight in 2015/2016, consisting of four drivers of pursued vehicles, two passengers of pursued vehicles, two passengers of bystander vehicles; and a further two in the 2017/2018 year to date, both drivers of pursued vehicles.

(c) I note the Member's comment with respect to direction to a website and advise that more information than ever is publically available through online resources. If the Member wants up to date statistics, both the WA Police Force website and the Road Safety Commission website are excellent sources of information. The Road Safety Commission website provides information on the present and past road toll, across the State and by region, as well as the *Preliminary Fatal and Critical Injuries on WA Roads* Reports for each year, and *Reported Road Crashes in Western Australia* for each year. In addition, world class research, directed and funded by the Road Safety Commission, is published on the website. The expert information and research on the website contributes to saving the lives of many Western Australians on our roads each year.

The WA Police Force advises that the annual fatalities and critical injuries on Western Australian roads, 2008 to 2017 and 2018 year-to-date are as follows:

Year	**Fatalities**	**Serious Injuries**
2008	205	349
2009	191	366
2010	193	290
2011	179	244
2012	182	200
2013	161	192
2014	182	248
2015	161	171
2016	195	234
2017	161	156
2018	82	92

POLICE — REGIONAL ENFORCEMENT UNIT

1592. Hon Martin Aldridge to the minister representing the Minister for Police:

I refer to the answer to question on notice No. 1197, in relation to the Western Australia Police Regional Enforcement Unit (REU), and I ask:

(a) what is the total cost of each REU marked Toyota Kluger station wagon deployed;

(b) how many sworn officers and administrative staff does the REU employ currently and proposed to employ from February 2019;

(c) has the REU conducted any operations or been deployed for any purpose outside of regional Western Australia as defined by the *Regional Development Commissions Act 1993*; and

(d) have regional police stations lost any allocation of overtime or other policing resources as a result of the establishment of the REU?

Hon Stephen Dawson replied:

The Western Australian Police Force advise the following:

(a) For 2017–18 until 31 August 2018, $37 612; $33 885; $40 013; $16 147; $17 851 and $15, 793. Note that the WA Police Force advise that payments under the leasing contracts are released as vehicles are delivered; the vehicles were leased from different starting dates and that lease costs include the payment for petrol usage, costs associated with kilometres travelled and other variances including unplanned repairs.

(b) 11 sworn officers with an additional 14 sworn officers to be deployed in February 2019.

(c) No.

(d) No.

TOURISM — ROTTNEST ISLAND

1593. Hon Robin Chapple to the minister representing the Minister for Aboriginal Affairs:

In 1994, the Rottnest Island Deaths Group Aboriginal Corporation (RIDGAC) held a Statewide Meeting of Aboriginal Lore/Law People on Wadjemup/Rottnest Island who made culturally appropriate decisions regarding the future protection and preservation of the Island's Aboriginal Sacred issues. From this Statewide Meeting RIDGAC was appointed to be the only recognized Custodians who were to handle all Aboriginal issues on Wadjemup. RIDGAC initiated an initial investigation by Ground Penetrating Radar (GPR) with Rottnest Island Authority (RIA), which discovered the first Sacred Men's Burial Ground. RIDGAC then requested the removal of the Allison Cabins and more GPR to take place, which resulted in the discovery of more Ancestors' Burials. RIDGAC has since then been requesting for more GPR to be carried out into the Rottnest Resort/Golf Course. Since RIA and its agents continually publicise that they will consult with Stakeholders and that they want reconciliation, I ask:

(a) why has further GPR been denied in that area;

(b) as there is evidence of another burial ground on the southern side of the Quod in the Settlement Area, will more GPR be undertaken at both the southern end of the Quod and into the golf course and other areas before anything is done as recognition of Burial Sites;

(c) if no to (b), why not;

(d) RIDGAC Director, Iva Hayward-Jackson objected to the pathway around the known burial ground and has been allegedly threatened by the officer in charge, Graham Bond, and ordered to report to Mr Bond every time he goes to Rottnest Island with the consent of the current CEO, Michelle Reynolds. Why has progress by RIDGAC been hampered by the police and RIA;

(e) why was the introduction of the Rottnest Reference Group, founded by former RIA CEO, Paolo Amarati, used for the cultural duties regarding the Sacred Burial Grounds instead of RIDGAC;

(f) all attempts by RIDGAC to be primary consultants on Aboriginal issues on Wadjemup have been ignored by the RIA. Instead, two culturally inappropriate groups have been installed by RIA, which have given only a (sometime) cursory nod to RIDGAC, treating the organisation as an outsider. Is this a direct contravention of the directions given by the statewide representatives of their Ancestors who suffered and died on Wadjemup;

(g) if no to (f), why not;

(h) initially, RIDGAC was advised by the newly appointed CEO, Michelle Reynolds, that she agreed to a full and proper consultation process with RIDGAC grass roots Law Men and others from communities throughout Western Australia. Has RIDGAC been adequately supported, notified and funded to be able to attend the meetings;

(i) if yes to (h), how;

(j) if no to (h), why not;

(k) when is RIA planning to fully and properly consult with RIDGAC and the grassroots initiated Law Men and their families according to Aboriginal law and culture;

(l) is RIA planning to include all statewide Elders/Law Men in this consultation;

(m) what funds have been put aside by RIA and/or its agencies for full and proper consultations with RIDGAC and their grass roots communities and Law Men throughout Western Australia;

(n) is the Government aware that the consultative process, as outlined by RIA for the September meeting, is highly culturally inappropriate and in direct conflict with the directions given by Senior Law Men and their families in 1994, and is also in direct conflict with the Law People and their families today who are the direct descendants of the Ancestors who suffered and died;

(o) if no to (n), why not;

(p) in terms of the answer to (n), is the Government willing to rectify this situation;

(q) when will RIDGAC be funded in order to return to the Law Men and Elders and their communities throughout the State of Western Australia (and beyond), to again arrange consultation process and accommodation that was guaranteed by the CEO of RIA for meetings on Wadjemup with RIA in good faith;

(r) when will the Minister for Aboriginal Affairs meet with RIDGAC Board of Directors in order to provide further funding and facilities so that full and proper consultation in good faith can take place with the Cultural Law People who have Ancestors who suffered and died on Wadjemup;

(s) is the Minister aware that the processes being employed by RIA and/or its agents regarding Aboriginal heritage is in breach of Aboriginal Lore/Law, Customs and Traditions regarding Sacred Burial Grounds;

(t) in terms of the answer to (s), what does the Minister plan to do to rectify the problem;

(u) early in 2017, a meeting was arranged with the Minister of Tourism where nothing came of RIDGAC's culturally appropriate plans. All attempts since the election of the McGowan Government to meet with the Minister for Aboriginal Affairs so that an appropriate meeting could take place regarding proper treatment of Wadjemup Sacred Sites, have been denied. I ask:

  (i) why was RIDGAC asked to meet with the Minister for Tourism instead of Minister for Aboriginal Affairs;

  (ii) why have all attempts to meet with the Minister for Aboriginal Affairs been denied;

  (iii) will the Minister for Aboriginal Affairs meet with RIDGAC;

  (iv) if yes to (u)(iii), when; and

  (v) if no to (u)(iii), why not;

(v) is the Minister aware that it is culturally inappropriate for this burial ground to be developed as a tourist attraction;

(w) will the Minister be willing to fully and properly consult with the recognised Custodians in good faith so that any decisions will be culturally appropriate;

(x) if yes to (w), who does the Minister recognise as the Custodians of Wadjemup;

(y) is the Minister aware that real reconciliation cannot take place until Wadjemup is properly developed as a place of suffering and death of the Ancestors, and sites designated by the Ancestors' descendants are treated with dignity, respect and understanding;

(z) is the Government going to address the fact that the RIA, by now holding their structured meeting in September 2018, have interfered with the cultural process that was set up for RIDGAC Law Men and grass roots communities to be there in September and have their voices heard, and that the RIA and its agencies have embarrassed the First Nations Peoples by disrupting a culturally appropriate process that was going to plan;

(aa) if no to (z), why not;

(bb) if yes to (z), how;

(cc) will the Government address the problem that the first trips to organise stakeholders to attend a culturally appropriate meeting on Wadjemup in September was funded by RIDGAC and donations, and acknowledge that without funding or power to revisit, the culturally inappropriate process outlined by RIA Board cannot be corrected;

(dd) if no to (cc), why not;

(ee) if yes to (cc), how;

(ff) regarding the cultural services by companies appointed by the Department of Premier and Cabinet, the CEO of RIA and their appointed Reference Group, to advise on plans for the Ancestor's remains:

(i) was approval for their services sought from RIDGAC;

(ii) is it appropriate that these companies are able to advise on plans for the Ancestral remains, which overrides the grass roots Cultural People throughout the State who have a direct connection to the Ancestors;

(iii) is the Minister aware that according to Law Men and Elders, the existing burial site works by Indigenous Economic Solutions may have desecrated the site;

(iv) regarding (ff)(iii), will the Minister investigate if this is true or not;

(v) is the Minister aware that RIDGAC has been policed by the RIA and Rottnest police so as to not interfere with RIA's plans for the Ancestors' Remains; and

(vi) regarding (ff)(v), is this an appropriate course of action given RIDGAC was appointed to be the only recognised Custodians who were to handle all Aboriginal issues on Wadjemup;

(gg) is it appropriate for the Minister for Tourism and his department to be in charge of the extremely important and sensitive Aboriginal Sacred Burial Sites and other issues to do with Wadjemup/Rottnest Island; and

(hh) how is the Minister for Aboriginal Affairs ensuring RIA and the Department for Tourism are not mismanaging and/or misinterpreting Aboriginal Sacred Burial Sites and other issues to do with Wadjemup/Rottnest Island?

Hon Stephen Dawson replied:

(a)–(q) Refer to the Minister for Tourism.

(r) The Minister is being kept advised about consultations with Aboriginal community interests throughout Western Australia that are currently taking place under the broad responsibility of the Rottnest Island Authority.

(s) The Rottnest Island Authority have complied with their obligations under the Aboriginal Heritage Act.

(t) Not applicable.

(u) (i) The Minister for Tourism is the Minister responsible for the Rottnest Island Authority.

(ii) The Minister is fully aware that the RIA is being advised by the Wadjemup Aboriginal Reference Group which is guiding RIA's engagement with an Aboriginal community interest's engagement process.

(iii) See (r).

(iv) Not applicable.

(v) Not applicable.

(v) The Minister does not consider the work-taking place at the burial ground as related to a tourist attraction.

(w) See (r).

(x) Not applicable.

(y) The Minister has confidence in the current engagement and investigative process will lead to recommendations for appropriate memorials to acknowledge the suffering that took place on Rottnest Island. It is the minister's hope that Wadjemup could play an important place in the story of the State's reconciliation.

(z)–(hh) Refer to Minister for Tourism.

ARALUEN BOTANIC PARK — FUNDING

1595. Hon Martin Aldridge to the minister representing the Minister for Planning:

I refer to Legislative Council question on notice No. 1412, in relation to Araluen Botanic Park Foundation, and I ask:

(a) will the Minister please table the funding proposal mentioned in part (f) of the above mentioned question;

(b) has the draft ten year lease agreement mentioned in part (g) of the above mentioned question been executed; and

(c) if yes to (b), on what date was it executed and will the Minister please table a copy?

Hon Stephen Dawson replied:

(a)–(c) The funding proposal forms part of a deliberative process in relation to the negotiations of the ten-year lease agreement which is currently underway.

REGISTRAR OF ABORIGINAL SITES — SHIRE OF BROOME

1597. Hon Robin Chapple to the minister representing the Minister for Aboriginal Affairs:

(1) Has the Shire of Broome, the Kimberley Land Council, the Kimberley Institute, a Registered Native Title Body Corporate or associated organisation, or any Academic institution or informant made a request to the Registrar of Aboriginal Sites for Restricted Heritage Place Information from within any heritage places located in the Shire of Broome Local Government Authority (LGA) between 2010 to present?

(2) If yes to any of the above, for each circumstance please provide details for the following:

(a) the name of the group, body, institution, organisation or informant that requested the information;

(b) why the information was requested;

(c) were the registered knowledge holders informed of the request;

(d) did the registered knowledge holders give consent for the provision of the information being requested; and

(e) if no to and or (d), why not?

(3) Since 2010 to the present, has the Registrar of Aboriginal Sites or government heritage staff provided Restricted Heritage Place Information about heritage places located in the Shire of Broome LGA to any of the groups, bodies, institutions or organisations listed in (1)?

(4) If yes to the above, for each circumstance, please provide details for the following:

(a) the name of the group, body, institution, organisation or informant that the information was provided to;

(b) the nature of the information provided;

(c) the basis on which the information was provided; and

(d) the heritage place or places that the information relates to?

Hon Stephen Dawson replied:

(1)–(4) Information of this nature does not exist in a format that allows for a ready response to these questions, and providing the answers would involve investigation of individual departmental records from 2010 to 2018. Due to the volume of work this would require, it is not considered a reasonable or appropriate use of government resources to provide this information.

TREASURY AND FINANCE — MOTOR VEHICLE PERSONAL INJURY SCHEME PREMIUMS

1599. Hon Robin Chapple to the minister representing the Treasurer; Minister for Finance; Energy; Aboriginal Affairs:

As the Treasurer and Minister for Finance, please clarify the following information regarding the Government's charges for motor vehicle personal injury scheme premiums:

(a) in the last two to three years has the Insurance Commission of WA (ICWA) paid the Government over a billion dollars in dividends;

(b) if no to (a), how much has been paid;

(c) is ICWA now headed by the former Joe Hockey chief of staff Rod Whithear, and was he appointed to ICWA by Christian Porter;

(d) soon after appointment, did Rod Whithear change the ICWA legislation to enable the Government to be paid dividends from the motor vehicle personal injury scheme funds;

(e) if yes to (d), how was this done;

(f) does ICWA have over 150 percent financial solvency;

(g) regarding the answer to (f), is this with substantial prudential margins which a State Government insurer is not required to have;

(h) unlike private insurers, does ICWA need to be a part of Australian Securities and Investments Commission (ASIC) and Australian Prudential Regulation Authority (APRA);

(i) does the Government or public policy holders hold the risk for ICWA or the motor vehicle personal injury scheme, and who is entitled to the dividends;

(j) does the Government only administer the scheme;

(k) how does the pricing for the scheme in Western Australia compare to other States, that is, is it more or less affordable;

(l) how does Western Australia's motor vehicle personal injury schemes compare with other States in terms of being up to date with current social needs;

(m) should the Western Australian scheme, that dates back to the 1940s and is a fault based common law litigious scheme, be updated to better serve the needs of the Western Australian people;

(n) does ICWA have a risky investment portfolio which would not be approved by APRA for private insurers;

(o) are substantial government monies in the hands of overseas investment managers, and is this cause for serious concern;

(p) does section 8 within the functions and powers of the *Insurance Commission of Western Australia Act 1986* restrict ICWA to only having sufficient funds to meet liabilities;

(q) as ICWA is a compulsory government monopoly and as section 8 of the *Insurance Commission of Western Australia Act 1986* is a control to stop ICWA from collecting excessive premiums from motorist, is ICWA acting unlawfully and outside of its legislative powers by collecting excessive premiums from the public;

(r) if no to (q), please clarify why;

(s) is ICWA acting unlawfully and outside of its legislative powers by giving investment income to the Government instead of benefiting public policy holders; and

(t) if no to (s), please clarify why?

Hon Stephen Dawson replied:

(a) No.

(b) From 1 July 2015 to 30 June 2018, the Insurance Commission paid $398 million in dividends to the Consolidated Account of Government. Dividends have been paid from investment returns.

(c) The Chief Executive of the Insurance Commission is Mr Rod Whithear. Mr Whithear was appointed by the Governor in Executive Council on the recommendation of the then Cabinet.

(d) No.

(e) Not applicable.

(f) No.

(g) A risk margin is applied to estimated outstanding claims liabilities to reflect the inherent uncertainty in the estimation of insurance liabilities.

The Insurance Commission complies with accounting standard AASB 1023 – General Insurance Contracts. The Standard requires outstanding claims liabilities to be measured as "the central estimate of the present value of the expected future payments for claims incurred with an additional risk margin to allow for the inherent uncertainty in the central estimate".

(h) No.

(i) Neither. The Insurance Commission is an independent Government Trading Enterprise. Section 28 and 29 of the *Insurance Commission of Western Australia Act 1986* set out the Insurance Commission's obligations to pay dividends to the State Government.

(j) No.

(k) The price of motor injury insurance is lower than equivalent insurance in most other states and territories. The price of motor injury insurance for a family vehicle in Western Australia at 1 July 2018 was $431, compared to $521 in Victoria, $522 in South Australia, $552 in the Northern Territory, $574 in New South Wales and $588 in the Australian Capital Territory.

(l) The majority of motor injury insurance schemes around Australia are statutory schemes based on common-law. As of July 2016, all states and territories have no-fault catastrophic injury insurance in place. Western Australia's schemes compare favourably with other equivalent schemes in terms of compensation paid and affordability of the insurance cover paid by motorists.

(m) The *Motor Vehicle (Third Party Insurance) Act 1943* was last amended in 2016 when the *Motor Vehicle (Catastrophic Injuries) Act 2016* was passed. The Catastrophic Injuries Support scheme provides lifetime treatment, care and support to people catastrophically injured in motor vehicle crashes where no other party is at fault.

(n) No.

(o) Around 20% of Insurance Commission investment funds are invested in international equities. Other investments are made in global property and European infrastructure funds. The Insurance Commission maintains a diversified investment portfolio. Some exposure to the 98% of investment assets outside Australia is necessary to achieve that diversification.

(p) No. Section 8 of the *Insurance Commission of Western Australia Act 1986* requires the Insurance Commission to perform its functions and exercise its powers in an efficient and economic manner.

Section 8 also requires the Insurance Commission to use its best endeavours to ensure that its revenue is sufficient to meet its expenditure.

(q) No.

(r) The Insurance Commission aims to set insurance premium rates to ensure sufficient revenue is available to meet claims costs and scheme running expenses.

Motor injury insurance premium revenue has not met the cost of claims and scheme management in 15 of the past 20 years.

Western Australian motorists pay one of the most affordable motor injury insurance premium rates in Australia.

(s) No.

(t) Section 28 and 29 of the *Insurance Commission of Western Australia Act 1986* set out the Insurance Commission's legislative obligations to pay dividends to the State Government.

Dividends have been paid from investment returns.

The Insurance Commission is unable to set premium rates on the basis of prior year investment returns.

Western Australian motorists pay one of the most affordable motor injury insurance premium rates in Australia.

COMMERCE AND INDUSTRIAL RELATIONS — IGA — FITZROY CROSSING

1600. Hon Robin Chapple to the minister representing the Minister for Commerce and Industrial Relations:

(1) Is the Minister aware that there have been witnesses of incidences of workers at the IGA in Fitzroy Crossing being racially vilified by management on a daily basis?

(2) If no to (1), will the Minister investigate given that those on work visas may be unaware of their rights and ability to lodge complaints?

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

Hon Alannah MacTiernan replied:

(1) No.

(2) No.

(3) The Minister does not have the authority to undertake investigations. However, I urge the Member to bring the issue to the attention of relevant authorities because racism should not be tolerated in any workplace.

NATURAL GAS (CANNING BASIN JOINT VENTURE) AGREEMENT (TERMINATION) BILL 2017 — CONSULTATION

1602. Hon Robin Chapple to the minister representing the Minister for State Development, Jobs and Trade:

Regarding consultation on the termination of the *Natural Gas (Canning Basin Joint Venture) Agreement (Termination) Bill 2017*, I ask:

(a) will the Minister clarify if the Nyikina Mangala, Yungngora, Karajarri Yanja or Yawuru people have been consulted;

(b) if no to (a), why not; and

(c) if yes to (a), how, when and where were they consulted?

Hon Alannah MacTiernan replied:

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

(a)–(c) The *Natural Gas (Canning Basin Joint Venture) Agreement (Termination) Bill 2017* ratified an agreement made on 27 November 2017 (Termination Agreement) that terminates the *Natural Gas (Canning Basin Joint Venture) Agreement 2012* (State Agreement). The parties to the State Agreement and the Termination Agreement are:

the state of Western Australia;

Buru Energy Ltd, Diamond Resources (Fitzroy) Pty Ltd and Diamond Resources (Canning) Pty Ltd, as the joint venturers; and

Mitsubishi Corporation, as the guarantor.

The Nyikina Mangala, Yungngora, Karajarri Yanja or Yawuru people are not parties to the State Agreement or Termination Agreement.

ABORIGINAL HERITAGE ACT — SECTION 16 PERMITS

1603. Hon Robin Chapple to the minister representing the Minister for Aboriginal Affairs:

Section 16 of the *Aboriginal Heritage Act 1972* that enables an application seeking the written authority of the Registrar to remove cultural material from Aboriginal sites and to carry out excavations and laboratory testing of cultural material. The Registrar may only issue a section 16 permit on the advice of the Aboriginal Cultural Material Committee (ACMC). I ask:

(a) will the Minister confirm the long-standing convention of the ACMC is that section 16 applications are considered only when the relevant Aboriginal people are supportive of the application;

(b) on how many occasions has the Registrar issued a written authority under section 16 of the *Aboriginal Heritage Act 1972* to remove cultural material from a site for scientific research where the owners of the heritage, the Aboriginal people themselves, have not provided their consent to it;

(c) does the Minister agree that the section 16 authority should only be granted to a mining company where the Aboriginal owners of the heritage agree to cultural material being removed from their sites for scientific research; and

(d) will the Minister confirm that the advisory body, the ACMC, will advise the Registrar not to issue section 16 authority to remove cultural objects and material from Aboriginal sites in instances where the native title holders do not consent to their heritage sites being excavated or having any cultural material being removed from them?

Hon Stephen Dawson replied:

(a) The role of the Aboriginal Cultural Material Committee (ACMC) is to provide advice to the Registrar of Aboriginal sites and therefore it is appropriate that it considers all section 16 applications.

(b) Information of this nature does not exist in a format that allows for a ready response to this question, and providing the answer would involve investigation of individual departmental records from 1972 to 2018. Due to the volume of work this would require, it is not considered a reasonable or appropriate use of government resources to provide this information. If the member has a question concerning a specific written authority under section 16 of the *Aboriginal Heritage Act 1972*, the Minister will endeavour to provide an answer.

(c)–(d) Pursuant to section 16 of the *Aboriginal Heritage Act 1972*, the Registrar's authorisation is provided on the advice of the ACMC. The Minister does not have a role in the process. There is no requirement in the *Aboriginal Heritage Act 1972* that the Traditional Owners or native title groups consent to a section 16 authorisation; however, generally speaking, the ACMC considers that there should be agreement and support from the Traditional Owners or native title groups.

HEALTH — TICK-BORNE DISEASE — LYME-LIKE ILLNESS

1604. Hon Alison Xamon to the parliamentary secretary representing the Deputy Premier; Minister for Health; Mental Health:

I refer to your previous response to question without notice number No. 776, and I ask:

(a) has progress been made by WA Health towards implementing an evidence-based approach to lyme-like disease and tick-borne illnesses in the Western Australian health system;

(b) if yes to (1), please detail what actions have been taken;

(c) if no to (1), why not; and

(d) is consideration being given to the establishment of a state-wide specialist support service for people with lyme-like illness or tick-borne disease?

Hon Alanna Clohesy replied:

(a)–(b) The Western Australia (WA) Department of Health is committed to a nationally coordinated and consistent approach regarding Debilitating Symptom Complexes Attributed to Ticks (DSCATT).

A representative from the WA Department of Health attended a forum in Melbourne in April 2018 to consider the outcomes of the Australian Government's response to the Senate Community Affairs Reference Committee final report: *Inquiry into the growing evidence of an emerging tick-borne disease that causes a Lyme-like illness for many Australians*. There was general consensus at this forum that further research and better treatment pathways for patients were needed, and that a second forum should be conducted with a broader representation from patient support groups. This second forum was held in Sydney on 27 July 2018. When published, the report from this forum will be used to inform the WA Department of Health approach.

(c) WA is currently awaiting further information to be released in a report from the July DSCATT Patient Forum.

(d) Additional information is needed to inform a decision on establishing a statewide specialist support service for people with debilitating symptom complexes attributed to ticks in WA. It is anticipated that the report on the 27 July 2018 DSCATT Patient Forum will be beneficial in this regard.

PUBLIC SCHOOLS — PSYCHOLOGISTS

1605. Hon Donna Faragher to the Minister for Education and Training:

I refer to school psychologists working in Western Australian public schools, and I ask, for each Education Region, will the Minister provide a breakdown of school psychologists by FTE and headcount as at:

(a) 30 June 2014;

(b) 30 June 2015;

(c) 30 June 2016;

(d) 30 June 2017; and

(e) 30 June 2018?

Hon Sue Ellery replied:

(a)–(e)

	FTE[(1)] (Headcount)[(2)]				
Year	**2014**	**2015**	**2016**	**2017**	**2018**
Goldfields Region	10.9 (13)	10.6 (14)	11.3 (15)	12.3 (16)	12.9 (18)
Kimberley Region	12.6 (14)	13 (15)	13.9 (16)	13.1 (17)	13.7 (18)
Midwest Region	11.3 (13)	10.9 (11)	10.5 (14)	11.9 (15)	12.6 (15)
North Metropolitan Region	105.1 (143)	106.8 (144)	101.2 (130)	95.8 (134)	99.9 (147)
Pilbara Region	10 (12)	10.5 (11)	10.2 (11)	11.6 (14)	13.9 (19)
South Metropolitan Region	99.1 (129)	100.6 (142)	103.2 (132)	103.2 (138)	106 (149)
Southwest Region	29.9 (36)	31.2 (35)	30.7 (37)	30.7 (40)	31.3 (45)
Wheatbelt Region	11.6 (13)	11.7 (13)	11.8 (15)	11.7 (13)	12.1 (18)
Central Office / Statewide Services Centre [(3)]	0.3 (4)	2.4 (13)	17.9 (52)	34.0 (53)	34.4 (60)
Totals	**290.8 (377)**	**297.7 (398)**	**310.7 (422)**	**324.3 (440)**	**336.8 (489)**

(1) FTE levels will fluctuate from pay period to pay period, usually with higher FTE during term time than during vacation periods. FTE figures reflect the financial year average paid FTE to 30 June.

(2) Headcount is based on point in time as at 30 June for each year and includes permanent and fixed-term staff but not casual employees.

(3) Includes staff located in the Schools of Special Education Needs, which was aligned under the North Metropolitan Education Region prior to 2016. Also includes staff located in central office under the School Psychology Service branch.

MINISTER FOR EDUCATION AND TRAINING — SCHOOL OPENING CEREMONIES

1606. Hon Donna Faragher to the Minister for Education and Training:

I refer to opening ceremonies of school projects commissioned by the former Liberal–National Government, and I ask:

(a) since April 2017, will the Minister provide a full list of all opening ceremonies that the Minister or a Member of Parliament representing the Minister has attended which includes:

(i) name of school;

(ii) description of project and cost of works undertaken; and

(iii) date of opening; and

(b) if any of the above opening ceremonies were attended by a Member of Parliament representing the Minister, will the Minister advise which Member/s officiated on her behalf and at what school/s:

(i) if no to (b), why not?

Hon Sue Ellery replied:

(a)–(b) [See tabled paper no 2028.]