

## Legislative Council

Tuesday, 29 November 2011

**THE PRESIDENT (Hon Barry House)** took the chair at 3.00 pm, and read prayers.

### AGENT GENERAL IN LONDON — APPOINTMENT

*Statement by Leader of the House*

**HON NORMAN MOORE (Mining and Pastoral — Leader of the House)** [3.02 pm]: As members will be aware, there has been speculation in recent weeks linking me to the Agent General position in London. It is correct that I initiated a conversation with the Premier some months ago indicating that I would appreciate being considered for the position when it became vacant. Recently, the Premier indicated to me a willingness to recommend to cabinet my appointment to the position, commencing early next year. I wish to advise the house that I have decided not to take up the appointment and will remain in my current role as a government minister.

I have taken this decision for a number of personal reasons, and because I believe I can continue to make a positive contribution to the Parliament and to the government. I am keen to work hard as a minister in the Barnett government and will do all I can to ensure its re-election in 2013.

**Hon ED DERMER:** I presume that is a debatable statement!

**The PRESIDENT:** That is up to you.

Consideration of the statement made an order of the day for the next sitting, on motion by **Hon Ed Dermer**.

### “LOCAL CONTENT REPORT” — TABLING

*Statement by Minister for Commerce*

**HON SIMON O'BRIEN (South Metropolitan — Minister for Commerce)** [3.03 pm]: I am pleased to table in Parliament the state government's second “Local Content Report”, dated November 2011, confirming that more than \$8 billion of publicly announced contracts have been awarded locally from July to mid-November 2011. In many projects, we are achieving 80 to 90 per cent local content. In just one week during November, the state's major iron ore producers awarded more than \$1 billion worth of contracts to WA-based companies. Great local success stories include a 10 000 tonne manufacturing contract from Chevron for Civmec Construction and Engineering Pty Ltd; two contracts totalling 9 500 tonnes for the Ausclad Group of Companies; a \$50 million general services contract to Ertech Pty Ltd for the Gorgon project; and a \$70 million contract to Decmil Australia to design and supply a work camp for the Wheatstone project. This report underlines the buoyant nature of resource development in Western Australia and confirms the state government's commitment to transparency in this area.

I have previously promised to provide Parliament and the people of Western Australia with regular updates on significant developments around the important issue of local industry participation in state-based mineral and energy projects. This report delivers on that promise. The report details developments in the resources industry including Chevron's decision to proceed with the \$29 billion Wheatstone project and announcements by major iron ore project proponents to significantly upgrade production capacity, and how these developments have benefited WA-based companies.

The report also shows that the state government has been extremely active in implementing the initiatives contained in the local industry participation framework announced in July in terms of both liaison with project proponents on local content issues and support to Western Australian-based manufacturing and service companies. There is now a general understanding and acceptance of the priority this government is placing on this issue. I will continue to work with the commonwealth government as it begins to acknowledge the implications of a more competitive local content market.

The November “Local Content Report” covers the release of the Western Australian government's local industry participation framework and its implementation; recent announcements in relation to project initiation and upgrades; trends in local contract awards; commonwealth government initiatives; and a summary of project sourcing reports received under state agreement acts. This document follows the first report presented to Parliament in May 2011.

[See paper 4122.]

Consideration of the statement made an order of the day for the next sitting, on motion by **Hon Ed Dermer**.

## MODULAR FABRICATION STUDY

*Statement by Minister for Commerce*

**HON SIMON O'BRIEN (South Metropolitan — Minister for Commerce)** [3.06 pm]: The Department of Commerce and the Industry Capability Network Western Australia commissioned a study into modular fabrication in the resources sector in mid-2010. The study was initiated because of concerns about reductions in the level of supply by steel fabricators to some resource projects. The study was undertaken by Associate Professor Martin West from the Curtin Business School at Curtin University. Associate Professor West is a recognised expert on supply chain management and regulatory economics. The study found that a primary factor in falling levels of local steel fabrication for resource projects was the increasing use of large modules for offshore energy projects. The study concluded that modular construction is generally cheaper than traditional stick-build methods. A significant number of Asian steel fabrication yards have geared up to produce modules of increasing size and complexity, and enjoy huge economies of scale advantages. Given this, modular construction will dominate the market into the future. Western Australian steel fabricators face serious competitive disadvantages for the supply of modules in terms of price, physical capacity and perceived capability, especially in the context of a strong Australian dollar. The steel fabrication industry acknowledges that pricing in particular represents a large handicap. The report found that costs to fabricate certain modules in Australia could be 40 to 60 per cent higher than in other countries. The study confirms the challenges this changing market presents for local fabricators. This change is of a long-term nature.

Government, project proponents and the fabrication industry now need to work together to identify market areas in which local suppliers have a competitive advantage. Our industry must be innovative. This government will continue to work to support it. An example of this is the industry facilitation and support program which offers dollar-for-dollar financial assistance for small and medium enterprises in the manufacturing and service sectors to innovate and improve competitiveness and productivity, and help them compete for contracts. The information that this study provides, although confronting for some local fabricators, is tabled in the interests of transparency and with the intent of using this information to work with local industry to address these issues and identify new opportunities. I now table the report.

[See paper 4123.]

Consideration of the statement made an order of the day for the next sitting, on motion by **Hon Ed Dermer**.

## AUSTRALIAN TRAINING AWARDS

*Statement by Minister for Training and Workforce Development*

**HON PETER COLLIER (North Metropolitan — Minister for Training and Workforce Development)** [3.09 pm]: I would like to share with the house Western Australia's success in last Friday's Australian Training Awards. I attended the Australian Training Awards event in Brisbane, and can report that Western Australia performed brilliantly, with more winners and runners-up than was the case with any other state or territory. The Australian Training Awards recognise excellence in training on a national scale, with awards presented not just to apprentices and trainees but also to employers, trainers, training organisations and schools. The awards have been running since 1994 and this year's awards saw Western Australia's best ever performance.

Abbey Sergeant, who trained at Great Southern Institute of Technology and is employed by the Shire of Katanning, won the title of Australian Apprentice (Trainee) of the Year. Amanda Smith, from the Margaret River campus of the South West Institute of Technology, won the title of Australian VET Teacher/Trainer of the Year. Abbey and Amanda are both quality people, and when that is combined with the high standards set in the Western Australian training sector, accolades like these will follow. I add that it was not an easy thing for Amanda to be so far from her home last week, with so much happening in Margaret River, but her trip to Brisbane brought her great reward and some much-welcomed good news for that part of the state. Jonté Pike, who trained at Polytechnic West, was runner-up in the Australian Vocational Student of the Year award. Calvin Buckle, who trained at the Industrial Training Institute, is employed by Apprenticeships Australia and is hosted by Rio Tinto Iron Ore, was runner-up in the Aboriginal and Torres Strait Islander Student of the Year award. Benjamin King, who was schooled and trained at the Australian Trades College WA and is employed by Prosser Toyota, was a finalist in the Australian School-based Apprentice of the Year award. Our WA Apprentice of the Year, Ailin Gay, who trained at Polytechnic West and is employed by Kailis Bros in Leederville, was a finalist in the Australian Apprentice of the Year award.

A vibrant and successful training sector requires many different organisations to be involved; not just the training providers but also employers and schools, and I am delighted to report that Western Australian training organisations were also winners at the Australian Training Awards. The awards this year incorporated National Focus awards for outstanding contributions to achieving national vocational and educational training—VET—priorities. The Dardanup Butchering Co won the Australian Apprenticeships—Employer category for its commitment to training large numbers of apprentices. John Forrest Secondary College won the School Pathways

to VET category for its long-running and successful program to enable students to complete secondary education while gaining nationally recognised VET qualifications. I am delighted that these two organisations have enjoyed success at the national level.

The Australian Training Awards were a great reflection of the Western Australian training sector. The awards reflect the world-class standards of the training sector in Western Australia. A trainee, a trainer, an employer and a school all being recognised as Australia's best underlines that the partnership approach used in Western Australia delivers great results. Western Australia has a training sector that is staffed by outstanding, dedicated people, and a state government that is committed to developing a world-class training system. Western Australia's success at the Australian Training Awards proves that our approach to training works, and works well.

Consideration of the statement made an order of the day for the next sitting, on motion by **Hon Ed Dermer**.

### **DISABILITY AWARENESS WEEK**

*Statement by Minister for Disability Services*

**HON HELEN MORTON (East Metropolitan — Minister for Disability Services)** [3.12 pm]: This week the state celebrates Disability Awareness Week. Activities will be taking place that will highlight the challenges and achievements of Western Australian communities. Now in its second year, Disability Awareness Week celebrates the achievements of people with disability, raises community awareness about barriers to equal access and promotes the vision and objectives of the state government's 15-year strategy Count Me In. The focus is on local action, and the week has become a catalyst for positive change and an opportunity to acknowledge and take pride in the contributions that Western Australians with disability make to the community. It provides an opportunity to recognise and share the achievements of individuals, families, carers, organisations, local and state government and communities, and how they are contributing to a better future for people with disability. Display kits promoting Disability Awareness Week and recognising the valuable contribution of people with disability, their families and carers, have been distributed to about 150 organisations across WA. As well, more than 35 events are planned across the state.

The Disability Services Commission is coordinating the week on behalf of the state government. Yesterday there was a seminar on employment and people with disability. This seminar focused on the key issues in the workplace and looked at practical examples of supportive and inclusive working environments. Today I launched an initiative to encourage the housing industry to adopt accessible designs to improve mobility and liveability in the private housing market. This initiative has been developed with leading builders and peak bodies across the building sector. Tomorrow we will hear back from individuals who have been on scholarships to look for innovations in service delivery and supports. As well, there will be the release of the evaluation of the arts and culture project, the Lost Generation Project, which has given voice to people with intellectual disability. A documentary about the project's success will be shown on the Superscreen at Northbridge Piazza. The annual Count Me In Awards will be presented on Thursday. The awards recognise best practice and outstanding achievement, highlighting more welcoming and accessible communities. At that event, the winners of a short film competition about the transition from primary to high school for students with disability will also be announced. Saturday is International Day of People with Disability, and not-for-profit organisation Dreamfit is hosting its inaugural dreamDAY festival, a community event that will promote inclusion and participation for everyone. It is a busy week with many varied activities. I encourage members to support these initiatives and participate in the activities in their area.

Consideration of the statement made an order of the day for the next sitting, on motion by **Hon Ed Dermer**.

### **PAPERS TABLED**

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

### **BILLS**

*Notice of Motion to Introduce*

1. Business Names (Commonwealth Powers) Bill 2011.

Notice of motion given by **Hon Simon O'Brien (Minister for Commerce)**.

2. Gas Services Information Bill 2011.

Notice of motion given by **Hon Peter Collier (Minister for Energy)**.

3. Adoption Amendment Bill 2011.

Notice of motion given by **Hon Peter Collier (Minister for Energy)** on behalf of Hon Robyn McSweeney (Minister for Child Protection).

**METROPOLITAN REGION SCHEME AMENDMENT 1203/41 — PERTH WATERFRONT —  
DISALLOWANCE**

*Notice of Motion*

Notice of motion given by **Hon Ken Travers**.

**“PLANNING FOR CHILDREN IN CARE” — MINISTER FOR CHILD PROTECTION —  
EXPLANATION**

*Notice of Motion*

**Hon Sue Ellery** gave notice that at the next sitting of the house she would move —

That this house notes the findings of “Planning for children in care: An Ombudsman’s own motion investigation into the administration of the care planning provisions of the *Children and Community Services Act 2004*”, including widespread noncompliance with the act, and calls on the Minister for Child Protection to explain the discrepancy between that report and answers provided to the house.

**NEIL WINZER**

*Notice of Motion*

**Hon Max Trenorden** gave notice that at the next sitting of the house he would move —

That the Legislative Council calls on the Public Sector Commissioner to —

- (a) conclude expeditiously the reinstatement of Mr Neil Winzer to the Western Australian public sector; and
- (b) apply to Mr Neil Winzer the rules of natural justice required when dealing with state public servants.

**RESIDENTIAL TENANCIES AMENDMENT BILL 2011**

*Report*

Report of committee adopted.

**CRIMINAL APPEALS AMENDMENT (DOUBLE JEOPARDY) BILL 2011**

*Second Reading*

Resumed from 10 November.

Question put and passed.

Bill read a second time.

*Committee*

The Deputy Chairman of Committees (Hon Brian Ellis) in the chair; Hon Donna Faragher (Parliamentary Secretary) in charge of the bill.

**Clause 1: Short title —**

**Hon DONNA FARAGHER:** Before we begin consideration of the bill, I advise the committee that, as members are aware, Hon Michael Mischin, who has been handling this bill, is away on urgent parliamentary business so I will be handling the bill on behalf of the government. Whilst I do not intend to reflect on the second reading debate, I did note when looking at the *Hansard* that Hon Michael Mischin was concluding his remarks; in fact, he had come to the final recommendation of the Standing Committee on Uniform Legislation and Statutes Review’s report, which related to a review. I foreshadow that the government will be accepting that recommendation. However, the government does have a preference as to where a review clause is placed. We will come to that in due course, but for the benefit of members, as Hon Michael Mischin had almost concluded his remarks, it was important for the record to show the government’s position on that final recommendation.

**Clause put and passed.**

**Clauses 2 and 3 put and passed.**

**Clause 4: Part 5A inserted —**

**Hon DONNA FARAGHER:** I move —

Page 15, line 25 — To delete “person,” and insert —  
officer,

Essentially, this amendment arises as a result of the committee’s report. It was an error and should have stated “officer” to be consistent. We are moving the amendment to reflect that.

**Amendment put and passed.**

**The DEPUTY CHAIRMAN (Hon Brian Ellis):** I note that there is a committee recommendation, amendment 1/4. Does anyone wish to move that?

**Hon ADELE FARINA:** In view of the fact that the parliamentary secretary has foreshadowed that the government intends to move a similar amendment but to be positioned elsewhere in the report, I do not intend to move the committee recommendation.

**Clause, as amended, put and passed.**

**Clauses 5 to 11 put and passed.**

**New clause 5A —**

**Hon DONNA FARAGHER:** I move —

Page 17, after line 22 — To insert —

**5A. Section 52 inserted**

After section 51 insert:

**52. Double jeopardy amendments to be reviewed**

- (1) The Minister must carry out a review of the operation of the amendments made to this Act and *The Criminal Code* by the *Criminal Appeals Amendment (Double Jeopardy) Act 2011* as soon as practicable after the expiration of 5 years after the date on which the amendments come into operation.
- (2) The Minister must prepare a report based on the review and, as soon as practicable after the report is prepared and in any event not more than 18 months after the expiry of the period referred to in subsection (1), cause it to be laid before each House of Parliament.

As I foreshadowed at clause 1, the government accepts the committee's recommendation. This will provide for a review of the operation of the amendments to be made at the end of five years after the date on which the amendments come into operation.

**New clause put and passed.**

**Title put and passed.**

**Bill reported, with amendments.**

**COMMERCIAL ARBITRATION BILL 2011**

*Second Reading*

Resumed from 22 September.

**HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [3.31 pm]:** I rise to indicate that the opposition will support the Commercial Arbitration Bill 2011.

The bill before us repeals the Commercial Arbitration Act 1985 and replaces it with a new regime for the resolution of domestic commercial disputes. It arises from a Standing Committee of Attorneys-General agreement to give effect to the international agreements reached through the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration. The policy intent is to provide certainty to commerce that effectively wherever they conduct their business, the method by which disputes are resolved is consistent. The view is that by Australia doing that at a national level for international commercial disputes and with each state jurisdiction within Australia doing the same for domestic disputes, we become an even safer and more attractive place to do business.

The bill provides for impartial arbitration by tribunals without undue delay or expense. The scope is domestic disputes, which are defined as those in which the parties have their place of commerce in Australia and have agreed to use the process. It requires the parties to enter an arbitration agreement in writing—although there is a fairly liberal interpretation of what constitutes a written agreement—to submit to the arbitration process. The tribunal that hears the arbitration is deemed competent to make a determination.

The Commercial Arbitration Bill that is before the Western Australian Parliament differs from the SCAG model in that at several clauses—namely, clauses 11, 13, 14 and 16—there is a proposed subsection 3A, 5A or 10A, which goes to a matter that has been before the courts since the first model was drafted. The Standing Committee on Uniform Legislation and Statutes Review's sixty-seventh report sets out the background to that on page 14. Essentially, there was a High Court decision last year in *Kirk v Industrial Court of New South Wales* that held

that we cannot legislate to exclude a court's ability to review matters. The clauses that have been added to the Western Australian bill make clear that the power to do a judicial review is not limited.

The opposition supports the bill. Using the arbitration process is much less onerous on the parties, they are not constrained by things like court waiting lists and there will be lower costs. The outcome of the arbitration can be declared confidential. Therefore, once the dispute is resolved, that of itself can be useful for disputes that are about sensitive commercial matters or technical matters and operations that if revealed will have commercial consequences, unintended, perhaps, beyond the two parties involved in the dispute.

I note that the Standing Committee on Uniform Legislation and Statutes Review's report raises a couple of queries and asks for the government's explanation, on one item in particular; however, generally, I indicate that we support the bill.

**HON LYNN MacLAREN (South Metropolitan)** [3.35 pm]: The Greens support the Commercial Arbitration Bill 2011.

**HON SIMON O'BRIEN (South Metropolitan — Minister for Finance)** [3.35 pm] — in reply: I thank honourable members for their brevity, as well as their support for the Commercial Arbitration Bill 2011. I do not know whether I will be able to emulate the former whilst pursuing the latter, but I will give it a go.

The contribution of members was sufficiently positive that it does not give a great deal of scope for a second reading response, except to acknowledge that the synopsis given by Hon Sue Ellery is accurate that, in effect, the commercial arbitration system was enshrined in a 1985 act as regards Western Australia. The Standing Committee of Attorneys-General considers this and other matters. It identified a couple of years ago a system that was in use for the settling of international commercial disputes that had been provided by the United Nations Commission on International Trade Law—a group called UNCITRAL. That model law was investigated by SCAG to possibly form the basis for a model law in Australia to replace the model law that already existed. We have had uniform legislation on this matter in Australia at least since 1985, but here was a proposal to exchange the model law as it currently exists and is shared across jurisdictions with a model law that is taken from the international domain. The advantage of that is obvious in that the same rules would basically apply regardless of whether a business was prosecuting a dispute in the domestic scene or with another party from another country.

The honourable member also pointed out quite accurately that because of its nature, the bill was referred to the Standing Committee on Uniform Legislation and Statutes Review, which tabled its sixty-seventh report, which was on the bill, and which I have here. The report picks up on a number of matters for discussion. I think those involved in helping draft the report found it a stimulating intellectual exercise and I am sure that the members of the committee did as well. I certainly appreciated the provision of the report. The committee, of course, made some recommendations. I know that Hon Sue Ellery has been absolutely on the edge of her seat, ever since the report was tabled on 8 November, waiting to hear the government response to these recommendations, so I will not make her wait any longer. Recommendation 1 states —

**The Committee recommends that the Parliamentary Secretary representing the Attorney General provide clarification as to what may constitute "exceptional circumstances" in clause 17D when an arbitral tribunal modifies, suspends or terminates an interim measure it has granted.**

In the absence of the parliamentary secretary on urgent parliamentary business—indeed, he is; on behalf of all of us, he is representing us as a Parliament in another forum as a Commonwealth Parliamentary Association representative—I have been given the management of this bill on behalf of the government, so I will respond on his behalf, and I will do so in these terms: the term "exceptional circumstances" is used in many statutes. However, it is very rarely defined. There are examples of laws in which the term is used, including the Adoption Act 1994, the Criminal Procedure Act 2004 and the Inspector of Custodial Services Act 2003, to name but a few. It appears, though, that the only law in which any attempt is made to explain what exceptional circumstances might be is the Western Australian Family Court Act 1997, in section 85A relating to parenting orders. Subsection (2) states —

The court may, in exceptional circumstances, include in a parenting order a provision that the parenting order, or a specified provision of the parenting order, may only be varied by a subsequent order of the court (and not by a parenting plan).

Subsection (3) states —

Without limiting subsection (2), exceptional circumstances for the purposes of that subsection include the following —

It then gives a couple of circumstances. The use of the word "include" in subsection (3) indicates that the term cannot be defined in detail. Of necessity, an exceptional circumstance is one that is unique and unlikely to arise more than once. Therefore, it is pointless to clarify what an exceptional circumstance might be or to attempt to

define it. However, a court will be able to identify an exceptional circumstance in the rare case in which it arises. In summary, therefore, an exceptional circumstance is one that is unique or rare and unlikely to occur very often.

The committee also produced a second recommendation, called recommendation 2, which I thought was logical. It states —

**The Committee recommends that the Parliamentary Secretary representing the Attorney General explain whether it is the intent that the word “copy” in clause 35(2) is intended to be read as meaning a certified or notarised copy. If so, to explain why this is not expressly provided for in the Bill.**

Clause 35(2) provides for the recognition and enforcement of awards made in other states or territories. A party relying on an award must supply the original award or a copy of the award if it wishes to enforce the award in another jurisdiction. Clearly, the best evidence is the original award, and this is the primary requirement of the court. However, it is open to a party seeking to enforce an award to supply the court with a copy. Whether the copy is acceptable will then be for the court to determine, depending on its own rules and requirements. It is noted that section 9 of the commonwealth International Arbitration Act 1974 provides that a person seeking to enforce an international arbitration is required to provide to the court both the duly authenticated original award or a duly certified copy, and the original arbitration agreement under which the award was made. The authentication is separately stated to be that required to the satisfaction of the court. Therefore, in effect, the standard required is that which the court sets according to its own requirements. A higher standard is often required in international matters to ensure that the genuine document is provided for enforcement. It is not proposed to change clause 35(2) to refer to a certified or notarised copy of an award as this is a matter that will have to be satisfied to the standards set by the relevant court.

Recommendation 3 was for the bill to be amended. In effect, at page 61 there is a typographical error. The figure “14(4)” should have been “14(3)”. We agreed. We can move an amendment in committee to do that, although I have obtained the Clerk’s advice that this having been noted in the committee report and it also being accepted by me now on behalf of the government as in fact a typo, it can be done as a Clerk’s amendment or a drafting amendment, without the need for a supplementary notice paper for that.

I have only just received some other minor amendments that are now contemplated, and these have been circulated on a supplementary notice paper; that is, supplementary notice paper 205, issue 1. The amendments in that are probably best explained in a Committee of the Whole. With the support of the house, I look forward to proceeding to that forthwith.

Question put and passed.

Bill read a second time.

#### *Committee*

The Deputy Chairman of Committees (Hon Ken Travers) in the chair; Hon Simon O’Brien (Minister for Finance) in charge of the bill.

**Clauses 1 to 10 put and passed.**

**Clause 11: Appointment of arbitrators (cf. Model Law Art 11) —**

**Hon SIMON O’BRIEN:** I move —

Page 13, lines 11 to 16 — To delete the lines and insert —

- (5) A decision within the limits of the Court’s authority on a matter entrusted by subsection (3) or (4) to the Court is final.

In her remarks during the second reading debate, Hon Sue Ellery observed, among other things, that the committee in its report had raised a question, which appeared in six places in identically worded terms. This was addressed using the example of clause 11(5A), as discussed by the committee in its report from paragraph 7.32 onwards. The response of the government to this question is contained in the amendment that we are dealing with now and in the following half-dozen or so amendments that we propose to move. The proposed amendments will make this bill consistent with all the other jurisdictions and deal with the initial drafting considerations that concerned the drafters of our bill. The matters that were canvassed by the committee in its report have been considered, and further advice has been obtained. We believe that the way ahead that we have proposed, not only here but in a number of other clauses, is the appropriate response; and, indeed, we have borrowed it from the other jurisdictions. We are looking at replacing a uniform law with another uniform model law, because in that way it will be consistent when our businesses have to engage in international arbitration, for which we need to have a uniform law. For all those reasons, I think this is the right way to go, and I seek support for this amendment and the others that will follow.

**Hon ADELE FARINA:** I do not know that the minister actually explained to members the reason for the change in wording and how the amendments that he proposes to move will fix the problem. It is not clear to me from the wording of this amendment whether a Supreme Court decision will be final or whether there will be a right of appeal to the High Court. The proposed amendment reads —

A decision within the limits of the Court's authority on a matter entrusted by subsection (3) or (4) to the Court is final.

That is great. But it does not actually say anything. It does not provide a huge amount of guidance to anyone who needs to implement this piece of legislation. I therefore ask for some clarification of why the government is proposing this change and how this will resolve the constitutional uncertainty.

**Hon SIMON O'BRIEN:** I draw some comfort from the fact that the gentleman advising me is the same person, I think, who advised the committee, so we should have some consistency here.

**The DEPUTY CHAIRMAN (Hon Ken Travers):** Minister, I am sure you are not supposed to bring your advisers into the debate.

**Hon SIMON O'BRIEN:** I am just saying that the sources of information are consistent.

The committee saw fit to raise this matter and observed in its report that the clauses that I am seeking to replace were absent from both the model bill and a New South Wales enactment. I understand that the alternative wording is in fact consistent with all the other wording. The difference between the two is pretty subtle, and to some it might even seem obscure, but it is a matter that the committee has seen fit to comment on, and obviously it is a matter that the drafters of this bill saw as important to include. It flows from the Kirk decision in New South Wales, as explained in the report. The committee reminds us that on that occasion —

It was held by the whole Court that:

*State legislation which would take from a State Supreme Court power to grant relief for jurisdictional error on the part of inferior courts and tribunals is beyond State legislative power.*

Quite clearly, the amendment that I am proposing includes the important words “within the limits of the court's authority”. That makes sure that any final decision can be adjudged to be final and not appellable only if it is made within the limits of the court's authority. The New South Wales act, to which both the committee and I have referred, contains this provision in identical terms. That is the reason for it. I do not know whether it has been of any great benefit to depart from the model bill in order to go through this exercise because what we have ended up with is what I am proposing, which is to put those words back into the model bill, but that is the question that the committee raised and we are restoring the bill to the way it was. I hope that is satisfactory to members and that we do not tread uncomfortably or unproductively on any judicial toes by way of this construction. Because we are going back to the model bill that everyone has adopted, I think that should do the trick.

**Hon ADELE FARINA:** I think it is important to put on the record that the Standing Committee on Uniform Legislation and Statutes Review in no way expressed dissatisfaction with the provisions in the Commercial Arbitration Bill 2011 as they currently stand. The committee simply provided comment on the provisions because it is a matter of constitutional significance that members of this chamber ought to be made aware of when considering the bill. That is all we have done. We then said it was possible that the efforts being made to address that constitutional issue, with the provisions as they are currently drafted, may not be successful and that we will not know that until the court makes a judgement. We understand there are a number of cases pending before the courts. The committee did not make a recommendation on this point at all and did not express any dissatisfaction with the provisions as they are currently drafted. In fact, the committee believes that it is a credit to Western Australia that it tried to look at provisions to address the issue rather than just accept what had been adopted in the model bill. I am at a loss to understand why these amendments have come forward now. For the minister to say that it is in response to the committee is just inaccurate, because the committee made no recommendation and expressed no dissatisfaction with the existing provisions. We noted that this was an effort to deal with constitutional issues and that until the courts make a judgement, we will not know whether or not it has been dealt with satisfactorily. The committee in no way expressed any dissatisfaction with the provisions in the bill.

**Hon SIMON O'BRIEN:** I hope I have not indicated that the committee did anything other than to raise this matter for discussion as a point of interest. As I acknowledged in my second reading response, there is an interesting intellectual side to some of the matters that are discussed in the report, if one is involved in those matters. What I can tell members is that, as Hon Adele Farina surmises, this was an attempt in the bill to deal with an identified legal question. At length, and as a result of the inquiries of the committee, advice was sought from the State Solicitor's Office to the effect that we needed to remove the offending clauses and replace them

with what we have proposed. That advice came through only yesterday, which is why the amendments on the supplementary notice paper have arrived so late. It is a valid point for the committee members to raise. If we go down the path of amending the bill along the lines that have been proposed—I do intend to go along that path—we will never know what might have happened if the originally drafted clause had been tested in the High Court. Whether or not members will lose much sleep over that I do not know, but that is the way we are proposing to head. However, we do it on the basis of advice, which in turn was sought on the basis of the point raised through the committee.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 12 put and passed.**

**Clause 13: Challenge procedure (cf. Model Law Art 13) —**

**Hon SIMON O'BRIEN:** I move —

Page 15, lines 17 to 21 — To delete the lines and insert —

- (5) A decision of the Court under subsection (4) that is within the limits of the authority of the Court is final.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 14: Failure or impossibility to act (cf. Model Law Art 14) —**

**Hon SIMON O'BRIEN:** I move -

Page 16, lines 9 to 13 — To delete the lines and insert —

- (3) A decision of the Court under subsection (2) that is within the limits of the authority of the Court is final.

Again, this amendment is the same as the last two amendments, in effect. The only difference is that it sits in a slightly different way in the structure of the clause.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 15 put and passed.**

**Clause 16: Competence of arbitral tribunal to rule on its jurisdiction (cf. Model Law Art 16) —**

**Hon SIMON O'BRIEN:** I move —

Page 18, lines 4 to 8 — To delete the lines and insert —

- (10) A decision of the Court under subsection (9) that is within the limits of the authority of the Court is final.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 17 to 27G put and passed.**

**Clause 27H: The Court may prohibit disclosure of confidential information in certain circumstances —**

**Hon SIMON O'BRIEN:** I move —

Page 40, lines 9 to 13 — To delete the lines and insert —

- (5) An order of the Court under this section that is made within the limits of the authority of the Court is final.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 27I: The Court may allow disclosure of confidential information in certain circumstances —**

**Hon SIMON O'BRIEN:** I move —

Page 41, lines 9 to 13 — To delete the lines and insert —

- (4) An order of the Court under this section that is made within the limits of the authority of the Court is final.

This amendment is in identical terms to the previous amendments; the theme is the same.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 27J to 44 put and passed.**

**Clause 45: Acts amended —**

**Hon SIMON O'BRIEN:** I move —

Page 61, the Table item 14 the 1st row — To delete “14(4),” and insert —

14(3),

This is an amendment picked out by the Standing Committee on Uniform Legislation and Statutes Review, which I acknowledged in my report and responded to. It could have been done as a Clerk's amendment, but we thought, as we are going into committee, we would do it ourselves. The amendment relates to a provision of the Petroleum Act 1936; a statute with which many of us are familiar. It is proposed that references to the sections indicated within the Arbitration Act 1895 be deleted and replaced with the words “Commercial Arbitration Act 2011” which is, of course, what we hope this bill will be in the very near future. That replaces a provision in an act from the century before last, when we were a young colony. It is not something we get to do very often, but we are doing it now.

**The DEPUTY CHAIRMAN (Hon Ken Travers):** While we seem to have the will of the house, shall we put the motion, minister?

**Hon SIMON O'BRIEN:** Are you scared, Mr Deputy Chairman, that I might talk them out of it if I proceed any longer?

**The DEPUTY CHAIRMAN:** It is your call, minister!

**Hon SIMON O'BRIEN:** I will give it a rest!

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Title put and passed.**

**Bill reported, with amendments.**

### **LOCAL GOVERNMENT AMENDMENT (REGIONAL SUBSIDIARIES) BILL 2010**

#### *Committee*

The Deputy Chairman of Committees (Hon Ken Travers) in the chair; Hon Max Trenorden in charge of the bill.

**The DEPUTY CHAIRMAN:** Members, if I can just explain: there seems to be some confusion around the chamber. The Local Government Amendment (Regional Subsidiaries) Bill 2010 was second-read prior to being referred to the Standing Committee on Legislation for its consideration and report. The report has now been tabled. In light of matters in that report, it is my intention to show some leniency with the debate on clause 1, the short title of the bill, to allow members to canvass the issues. That is probably the easiest way to proceed. I can see the confusion around the chamber. The bill was second-read before referral to committee. I intend to allow some leniency during the short title debate.

**Clause 1: Short title —**

**Hon NORMAN MOORE:** The government has looked at the report provided by the Standing Committee on Legislation. Recommendation 1 states —

**The Committee recommends that prior to the Bill progressing further, the matters outlined below be addressed by the Hon Max Trenorden MLC, whether the Bill should: ...**

There are then a stack of issues about what the bill provides for that the committee believes need further clarity. I do not intend to read out all those issues because they may come up in general discussion on the various matters raised by the committee. However, as you quite rightly point out, Mr Deputy Chairman, the bill has passed the second reading stage. This stage is a little unusual in the sense that the committee's report is a fairly general response to the fundamentals of the bill, as opposed to a report that deals with the bill clause by clause, which we would usually get in a report that is instigated following a second reading decision. It would therefore be helpful from the government's point of view if Hon Max Trenorden could respond to the chamber on the matters raised by the committee. That would then make it a bit easier for us to understand where he wants us to go with this legislation. The bill has been fairly thoroughly scrutinised by the committee, and it raised a number of issues on which the chamber is entitled to hear Hon Max Trenorden's response. We therefore look forward to that before we perhaps make some comment on the particular issues raised by the committee.

**The DEPUTY CHAIRMAN:** Members, if it is the will of the chamber, I will give the call to Hon Max Trenorden in light of those comments and give him the opportunity to make any opening remarks he would like to make.

**Hon MAX TRENORDEN:** Thank you, Mr Deputy Chairman. The bill is a very simple bill. It makes a minimal number of amendments to the Local Government Act. It actually removes certain parts of sections 3.61 and 3.66 of the act and some obstacles that allow local governments to act in the manner in which the subsidiary model requires them to act. There seems to be some confusion about this bill, even in the committee's report. I need to say that this is a subsidiary model of local government. It sits under local government in that every part of the Local Government Act applies to this model—every bit. I think there was some confusion about it because the Western Australian Local Government Association refers in its submission to the committee—not every member will have a copy of it—to the light load that the bill will impose on local government. Some members of this place have interpreted that as meaning that some of the reporting and accountability requirements will be removed from local government. That is just not true. The subsidiary model is as much compliant with the Local Government Act as are the councils that will be created by it. I am happy to speak in this place about the committee's recommendations. It is interesting to note that the recommendations on page 43 of the report are in fact supportive of the bill and include some comments about whether the bill should pass in its current form. I will be debating today that the bill does not require amendments, and that all the concerns on pages 43 and 44 of the report are covered by the intent of the bill. Again, a document was submitted to the committee by WALGA that contained nine recommendations for the report—not to my bill—about the act. I will just run through a few of these recommendations. I do not know how much time you are going to give me, Mr Deputy Chairman, but I think it will help.

**The DEPUTY CHAIRMAN:** As Hon Max Trenorden is the mover of the bill, he has unlimited time.

**Hon MAX TRENORDEN:** I believe it will help the chamber if I do this.

It has been put to me that this bill is very much like the Cat Bill, which was passed by this place not long ago. The bill has very little power; it draws all its power from local government itself. These subsidiary models do not have any power of their own; their power is all drawn from the two or more councils that are formulating a model. I will go through the recommendations put to the committee by WALGA. The first recommendation is that regulations regarding the model should be minimal—that is my argument—with the majority of the regulatory and government requirements contained in individual regional subsidiary charters. What we have here, members, is a subsidiary model that is run as an incorporated body with a legal charter, and the subsidiary model cannot do anything at all that is not in the charter. If two or more councils wish to function together, they meet, decide on that function and draw up a legal charter. That charter describes all matters relating back to those councils—for example, whether a council can operate as an enterprise and go out and create debt or any of those sorts of issues. That is because all the things done under the charter are the responsibility of the formulating councils.

WALGA's second recommendation is that a thorough community consultation process be required to be undertaken prior to the establishment of a regional subsidiary. That is also in the report's recommendations. Personally, I do not think that is necessary, because if a council does not do that, it will be in a fair bit of trouble. Local governments, like state governments and federal governments, have strong processes now to make sure that they consult widely. It would be a very unwise council that did not consult. Even if it did not consult, there is a requirement in the act for it to advertise. Section 3.61 of the Local Government Act states that any of these matters under the act must be advertised in the *Government Gazette*, which is also one of the other issues. Councils, therefore, have to let the public know before enacting any one of these subsidiary models. Also the charter would go to the minister and the councils cannot start operating until the minister approves the charter.

WALGA's third recommendation is that the regulations under this act require 11 matters to be regulated. The reality of this place is that this is a private member's bill. The regulations and other matters to do with this bill are in the province of this chamber, and not in my province. I do not have the numbers in the chamber at my back—again, because this is a private member's bill. All members of this place, therefore, can decide what those regulations should be. However, I will be debating as best I can that my bill requires no amendment, as it is a very minimalist bill. If members read the bill itself and see the parts that will be deleted and the parts that will be added to the Local Government Act, they will see that the bill is extremely minimal. The legislation does require regulations, and the third recommendation from WALGA lists 11 matters that should be regulated. I will flip through them. They are the purpose of the subsidiary; the constitution of the board management, the method of appointment of board members, details regarding terms of office and details regarding the proceedings of the board and the management of meetings; the power, functions and duties of the subsidiary; the nature and scope of activities that will be undertaken; staffing issues, funding arrangements and financial management arrangements; reporting obligations; dispute resolution; addition and withdrawal of members of the subsidiary; the extent to which constituent local governments are liable in the event of insolvency—which was canvassed in some of the questions that the committee put to me and to others; the manner in which the property of a

subsidiary will be distributed if it is wound up; and any other matter determined by the constituent local governments. It was submitted that that should be an amendment to the bill.

WALGA's fourth recommendation is that a flexible government structure should allow independent directors to be appointed and the board of management to be adopted for the model. Recommendation 5 is that the majority of requirements regarding the appointment of board members and proceedings of the board meetings be contained in the regional subsidiaries charter rather than regulations. That is a very important point. WALGA, which I think most members in the chamber would recognise as the pre-eminent body in local government in the state, is saying in relation to my bill that the important proceedings of the model should be in the charter so each charter is very descriptive of what the subsidiary does. Recommendation 6 is that regional subsidiaries be bodies corporate, with the ability to hold property and employ staff. Recommendation 7 is that regulations require that a regional subsidiary charter be reviewed every four years. That was another question that was brought forward.

**Committee interrupted, pursuant to temporary orders.**

[Continued on page 9926.]

### QUESTIONS WITHOUT NOTICE

#### MARGARET RIVER BUSHFIRES — FIRE PLANNING DOCUMENTS

**1081. Hon SUE ELLERY to the minister representing the Minister for Environment:**

I refer to the Margaret River bushfires.

- (1) Will the minister table —
  - (a) the master burn plan;
  - (b) the prescribed fire plan; and
  - (c) the burn prescription for the prescribed burns lit since 6 September 2011 in the Margaret River area, including Ellenbrook and Prevelly?
- (2) If no to (1), why not?
- (3) What role do Department of Environment and Conservation district managers have in drawing up, checking, monitoring and implementing burn prescriptions?
- (4) Will the minister table the following documents —
  - (a) "Fire Operations Guideline 79 Prescribed Fire Plan";
  - (b) "Prescribed Fire Manual";
  - (c) "Master Burn Plan Manual";
  - (d) "Fire Management Guideline 04, April 2007";
  - (e) "Fire Risk and Resources Model 2007"; and
  - (f) "Fire Operations Guidelines"?
- (5) If no to (4), why not?
- (6) For each of the documents in (4) —
  - (a) who wrote them;
  - (b) when were they written;
  - (c) has the minister seen them;
  - (d) has the minister reviewed them; and
  - (e) has the minister endorsed them?

**Hon HELEN MORTON replied:**

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

- (1), (2), (4)–(6) Given current staff commitments to the management of bushfires in the south west, the Department of Environment and Conservation was not able to provide this extensive set of documents for tabling today. DEC will collate the documents for tabling at a later date, together with the answers to questions (5) and (6).
- (3) A district manager is responsible for leadership and supervision of staff in the district who prepare prescribed fire plans, and for approving such plans, which must subsequently be approved by the regional manager and then a senior officer in DEC's fire management services branch. State level

approval is required on each day that work is proposed to be undertaken on a prescribed burn. This approval considers weather conditions, whole-of-state priorities, resource availability and smoke management.

MARGARET RIVER BUSHFIRES — PRESCRIBED BURNING PROGRAM

**1082. Hon SUE ELLERY to the minister representing the Minister for Environment:**

The fire is out, and those papers should be sitting at the top of the pile on each of the respective ministers' desks.

**The PRESIDENT:** That is a comment; this is a question.

**Hon SUE ELLERY:** I refer to DEC's prescribed burning program.

- (1) How many prescribed burns are currently underway, where are they and are any of them out of control?
- (2) How many more prescribed burns are planned between now and 31 December 2011?
- (3) Where and when are those burns planned to take place?
- (4) How many prescribed burns have become uncontained since 1 January 2011, and where were they?
- (5) What direction has the minister given to the Department of Environment and Conservation about its 2010–11 prescribed burning program?

**Hon HELEN MORTON replied:**

I thank the member for some notice of the question.

- (1) Fifty burns that have been commenced since 1 July 2011 have not yet been completed.
- (2)–(3) The commencement of any additional prescribed burns during the remainder of this year will depend on weather and fuel conditions and other circumstances. Any such burns are most likely to occur in the Department of Environment and Conservation's Warren region, which is the most southerly of DEC's three south west regions, where drying of fuel is less advanced. Given current conditions and the commitment of DEC's fire management resources, no further prescribed burns will be commenced without the explicit approval of DEC's director of regional services.
- (4) DEC's records show that there have been seven escapes from DEC prescribed burns from 1 January 2011 until today. One was in DEC's Swan region and three in each of its south west and Warren regions.
- (5) The minister has given support to DEC's prescribed burning program.

SYNERGY — STREET LIGHTING COSTS

**1083. Hon KATE DOUST to the Minister for Energy:**

- (1) Can the minister confirm that most Western Australian local governments will be asked to pay Synergy thousands of dollars for street lighting costs going back to 2009; and, if so, for what reason were these charges not billed at the time?
- (2) Will the minister table a list of local governments affected and the amounts they will be asked to pay?
- (3) When did the minister become aware of this issue, and did the minister sign off on Synergy's plan to recoup these amounts from councils?
- (4) Given the significant impact this will have on many local communities, will the minister direct Synergy to write off these amounts in full; and, if not, why not?
- (5) Will Synergy's new billing system be able to do its job properly at any time during this term of government?

**Hon PETER COLLIER replied:**

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

- (1) No. Synergy is allowed by law to recover charges only for the past 12 months. Delays were the result of Synergy billing and data issues following the implementation of its SAP system.
- (2) No, as discussions between Synergy and the affected local government authorities concerning this matter have yet to conclude.
- (3) My office was initially advised of this issue on 22 September 2011, with an official briefing provided to me by Synergy on 2 November 2011, once the nature of the issue was better understood. No final plan as to Synergy's suggested course of action has been presented to me.

- (4) No, Synergy cannot write off all the backdated charges as Synergy itself has been charged for the energy used by the streetlights. If Synergy did not pass on the charges, it would mean that other customers would be cross-subsidising the street lighting costs of a few select councils. Synergy is working with the Western Australian Local Government Association to establish an acceptable process with which to recover moneys for electricity consumed by the streetlights in question.
- (5) Synergy is working hard to stabilise its billing system, which was approved by the former Labor government, and notes 99 per cent of bills are sent on time and accurately, based on meter data received from Western Power.

**MARGARET RIVER BUSHFIRES — MR BRAD COMMINS**

**1084. Hon SALLY TALBOT to the minister representing the Minister for Environment:**

I refer to the Margaret River bushfires.

- (1) When was Mr Brad Commins reinstated in the Department of Environment and Conservation?
- (2) When did the minister first become aware that Mr Commins had been reinstated?
- (3) When did the minister first become aware that Hon Donna Faragher had raised concerns about the reinstatement of Mr Commins?
- (4) What was the nature of those concerns?
- (5) Who was made aware of those concerns?
- (6) What positions has Mr Commins held for what periods since being reinstated in DEC?
- (7) Has the minister read the DEC-commissioned consultant's report that found the coroner's verdict about responsibility for the Boorabbin fire was wrong?
- (8) Will the minister table that report?
- (9) If no to (8), why not?

**Hon HELEN MORTON replied:**

I thank the member for some notice of this question.

- (1) Please refer to the media statement released by the Director General of the Department of Environment and Conservation on 16 September 2010, which is available on the department's website.
- (2) Advice on this matter was included as part of an initial briefing package that was provided to the minister by the department upon his commencement as Minister for Environment in mid-December 2010.
- (3) On 28 November 2011.
- (4) The minister understands that the minister at the time queried the appointment but it was the decision of the director general.
- (5) The minister was advised that the Director General of the Department of Environment and Conservation was advised by the then minister at the time.
- (6) The minister was advised that Mr Commins was operations manager in DEC's Blackwood District and was appointed to the position of acting district manager for the Blackwood District on 26 February 2011.
- (7) No.
- (8)–(9) Disciplinary investigation reports prepared for employing authorities are confidential reports that contain personal information about employees and ordinarily are not tabled or released publicly.

**TELETHON SPEECH AND HEARING CENTRE — EAR DISEASE TREATMENT IN PRISONS**

**1085. Hon GIZ WATSON to the minister representing the Minister for Corrective Services:**

I refer to page 38 of last year's annual report of the Telethon Speech and Hearing centre, which stated that arising out of the discovery that 45 per cent of 104 Aboriginal women at Bandyup Women's Prison did not pass a hearing screening process, the centre had been able to initiate talks with the Department of Corrective Services about the provision of a clinical pathway for middle ear disease in incarcerated populations, and that it was anticipated that this would develop further in 2011. What progress has been made to date?

**Hon SIMON O'BRIEN replied:**

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

The Telethon Speech and Hearing centre is one of the specialists in the field who are in discussion with the Department of Corrective Services for the provision of a clinical pathway for middle ear disease. The planning meetings are ongoing.

## PERTH RAIL NETWORK — ANTISOCIAL BEHAVIOUR STATISTICS

**1086. Hon KEN TRAVERS to the minister representing the Minister for Transport:**

I refer to the paper tabled in answer to question on notice 2782.

- (1) Will the minister table the statistics for the same categories and stations for each line for 2010–11?
- (2) If no to (1), why not?
- (3) Will the minister table the statistics the PTA has for the same categories and stations for each line and for each completed month of 2011–12?
- (4) If no to (3), why not?

**Hon SIMON O'BRIEN replied:**

I thank the honourable member for notice of the question. As previously determined by the member, a question involving such detail is more appropriately sought on notice. I therefore request that the member place this question on notice.

**Hon Ken Travers** interjected.

**Hon SIMON O'BRIEN:** That is experience.

**The PRESIDENT:** Order! There have been two supplementary questions and two supplementary answers to that, which we do not permit.

## WORKPLACE DEATH — MIDLAND

**1087. Hon JON FORD to the Minister for Commerce:**

I refer to the reported tragic death of a 53-year-old mechanic who bled to death as a result of a work-related injury and whose body lay undiscovered at a Midland industrial auctioneer business for more than two days.

- (1) Does the minister intend to strengthen any legislation or regulation to ensure that employees working in potentially dangerous activities can do so only in the company of others?
- (2) If no to (1), why not?

**Hon SIMON O'BRIEN replied:**

Firstly, every death by accident, including death in the workplace, is an absolute tragedy, and I was appalled by the circumstances of this matter. I was also saddened that we have had half a dozen deaths in the workplace just in the course of November. The six deaths have all been different, in quite different locations and quite different occupations. A four-year-old girl was killed on a farm; there was the 53-year-old chap who was just mentioned as part of this question. Another fellow, a bystander as it happens, in his 70s, was killed by a piece of heavy equipment. One death is too many, and I just want to record my sadness on the spate of deaths that have occurred.

- (1)–(2) WorkSafe is investigating the specific case that the member mentioned. I was particularly concerned to note the raw circumstances of the case that have been publicly reported; that is, that this fellow injured himself—cut himself—in a workshop with a piece of equipment on a Friday afternoon when he was on his own and nobody knew anything about it until Monday when they turned up for work and discovered his body there. It saddens me that no-one was asking questions about why this fellow did not go home; perhaps he did not have family here in town at the time, but I think that in itself is tragic. It gives rise to the question that the member raises. I will wait for advice from WorkSafe investigators about this incident, but I do not imagine that we will suddenly change the law to prohibit people working on their own. That is my immediate reaction to that. So, the nature of my response is to say, no, I have not formed a view to recommend such a change to cabinet; I await the WorkSafe investigators' report.

## WATER FOREVER PLAN

**1088. Hon ALISON XAMON to the minister representing the Minister for Water:**

I refer to the minister's announcement of \$500 million over 10 years for the "Water Forever—Whatever the weather" plan.

- (1) Which, if any, projects that appear in the 2011–12 budget and out years have been included as part of this plan?
- (2) What is the budget for those projects identified in (1)?
- (3) What is the source of the remainder of the \$500 million announced by the minister?

**Hon HELEN MORTON replied:**

I thank the member for some notice of the question.

- (1) Completion of the groundwater replenishment trial and delivery of the first stage expansion; and delivery of additional confined aquifer bores.
- (2) The current budget estimate for the projects identified in (1) is \$147 million.
- (3) It is identified in the Water Corporation's 10-year capital investment program.

CARLY ELLIOTT — DEATH

**1089. Hon LJILJANNA RAVLICH to the Minister for Mental Health:**

I refer to the death from probable suicide of 20-year-old Carly Elliott on 7 April 2011 at her home. I have been asked by Carly's parents, who I understand have also been in contact with the minister's office, to raise this matter.

- (1) During the months of Carly's interaction with Fremantle Hospital and the Alma Street Centre, how many face-to-face hours did Carly actually have with professional medical staff?
- (2) Who saw her and for what therapeutic purpose?
- (3) Can the minister confirm that over the six months that Carly was known to Fremantle Hospital and the Alma Street Centre in regard to her suicidal intentions, she was at no stage given a full mental health assessment or a full suicide risk assessment; and, if so, why not?

**Hon HELEN MORTON replied:**

- (1)–(3) I would like, first of all, to make a comment about the tragic death of Carly and just indicate that I offer my sympathy to the parents. Whilst I heard the member state that she has permission to raise this matter with me, unfortunately I do not have anything to demonstrate that. Certainly, it has not been confirmed to me by the family. I can, however, confirm that I have received correspondence from Carly's mother requesting a meeting to discuss these matters around her daughter's very tragic death and in relation to the two reviews I have already announced. My office has been in contact to organise the meeting and I can absolutely assure the member that this matter will be taken very seriously and picked up as a matter of priority. I have to say, however, that in that contact with my office, the mother made the comment that she had subsequently had further information come to light about Carly's contact and admission at Alma Street Centre. Also, the mother appeared in the conversation to have been incredibly worried about her daughter's illness and death, and the tragedy of that death being discussed in this place in this way, and thought somehow that that had resulted from her contact with my office. I just wanted to make absolutely clear to Carly's mother that at no time did any of the information that she provided to my office become public knowledge, so it is really quite disconcerting to me that this has occurred in this way. I say again that the contact with my office has been to assure the mother that this matter is being taken very seriously and that the issues she has raised with me are being treated as a priority.

MARGARET RIVER BUSHFIRES

**1090. Hon MATT BENSON-LIDHOLM to the minister representing the Minister for Environment:**

I refer to the Margaret River bushfires.

- (1) What was the fire risk indicator level in the Shire of Augusta–Margaret River on each of the following days last week: Sunday, 20 November; Monday, 21 November; Tuesday, 22 November; and Wednesday, 23 November 2011?
- (2) What weather forecast information was made available to the managers of the Margaret River prescribed burns on Saturday, 19 November; Sunday, 20 November; Monday, 21 November; and Tuesday, 22 November 2011; what fire risk assessments were carried out by the Department of Environment and Conservation as a result of the weather forecasts; and were any additional resources allocated to the burn management as a result of the weather forecasts?
- (3) What spot fires were lit on Sunday, 20 November, and Monday, 21 November 2011?

**Hon HELEN MORTON replied:**

I thank the member for some notice of the question.

- (1)–(3) These matters will be examined in an independent investigation foreshadowed by the Premier.

## NINGA MIA COMMUNITY — DIALYSIS PATIENTS

**1091. Hon ROBIN CHAPPLE to the Minister for Indigenous Affairs:**

I refer to the four Aboriginal dialysis patients currently sleeping under tarps and tents and in cars on the outskirts of the Ninga Mia community, five kilometres from Kalgoorlie, which was also reported in the *Kalgoorlie Miner* of 25 November 2011.

- (1) Has the department been approached to provide assistance to these patients, to provide rubbish bins or any other assistance?
- (2) What assistance will the department now provide in the short term?
- (3) What are the current plans for development of housing at the Ninga Mia community on Aboriginal Lands Trust property?

**Hon PETER COLLIER replied:**

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

- (1) Yes, the Department of Indigenous Affairs—DIA—through a joint initiative with the City of Kalgoorlie–Boulder, the Goldfields Indigenous Housing Organisation and the Aboriginal medical service, Bega, have arranged through the City of Kalgoorlie–Boulder for delivery of a mini skip bin to be taken to the area on a regular basis; a general clean-up of the area, commencing this week; and a clean-up of the residential properties.
- (2) DIA works alongside agencies and organisations responsible for service delivery—the Department of Housing, the Department for Child Protection and the Goldfields Indigenous Housing Organisation—with regard to housing and homelessness issues. DIA regularly monitors campers at Ninga Mia and, in discussions with campers, it has been indicated that they would like to remain camping and do not want to locate to Kalgoorlie as they are visiting.
- (3) In relation to housing development, DIA is aware that the Department of Housing is considering new housing and refurbishments within the Goldfields region under the National Partnership Agreement on Remote Indigenous Housing within the 2014–16 budget period. Ninga Mia is one of the communities being considered.

## MAIN ROADS — TRAFFIC ACCIDENT DATABASE

**1092. Hon ED DERMER to the minister representing the Minister for Transport:**

Some notice has been given of the question.

Throughout Western Australia, for each of the calendar years 2008, 2009 and 2010 —

- (1) How many traffic accidents have occurred in which a motor vehicle turning with a green light or arrow on an intersection controlled by traffic lights has collided with a pedestrian or pedestrians?
- (2) How many, if any, such collisions have resulted in people receiving hospital attention?
- (3) How many, if any, such collisions have resulted in a fatality or fatalities?

**Hon SIMON O'BRIEN replied:**

I thank the honourable member for some notice of this question. The Minister for Transport has asked me to give the house this response —

- (1)–(3) The data stored in the Main Roads crash database is unable to determine whether a motor vehicle was turning with a green light or arrow.

## SCHOOLS — SHIRE OF MUNDARING — BUSHFIRE PREPAREDNESS

**1093. Hon LINDA SAVAGE to the minister representing the Minister for Education:**

I refer to the report on ABC online news dated 16 November 2011, “Schools in the hills raise concerns over fire risk”.

- (1) Can the minister advise by what date all government schools in the Shire of Mundaring will have had their air-conditioning systems replaced or modified?
- (2) If air-conditioning systems or air conditioners have not yet been modified or replaced, can the minister provide an assurance that fire action plans are in place that address the risk of embers being drawn into air conditioners and advise who in particular is responsible for advising the schools to invoke their action plans?
- (3) Can the minister confirm that the Department of Education has inspected and is satisfied that there are appropriate “safe haven areas” at all government schools in the Shire of Mundaring?

**Hon PETER COLLIER replied:**

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

- (1) Not all schools in the Shire of Mundaring are on the Bushfire Zone Register. However, all schools listed on the Bushfire Zone Register will have their evaporative air-cooling units replaced or modified. This work will be completed during 2012.
- (2) Only evaporative air-cooling units require modification or replacement. The “Principal’s Guide to Bushfire” provides the detailed processes that schools must implement to prepare their schools for the bushfire season and the action they should take if alerted to a bushfire in their vicinity. The guide directs schools to turn off evaporative air coolers as soon as they receive a bushfire alert or become aware of any bushfire risk. The principal is responsible for invoking the school’s site-specific emergency management plan.
- (3) As part of the emergency and critical incident management policy, schools are required to identify on-site and off-site safe evacuation points. In the event of bushfire warnings, the safety of students and staff is the department’s first priority. This includes the pre-emptive closure of schools, as recently occurred in Margaret River and Denmark in the case of actual bushfire, and in the Wheatbelt in the case of a catastrophic fire danger rating forecast for the following day.

## NINGA MIA COMMUNITY

**1094. Hon LYNN MacLAREN to the minister representing the Minister for Housing:**

- (1) Will the Aboriginal community of Ninga Mia, five kilometres outside Kalgoorlie, benefit from the National Partnership Agreement on Remote Indigenous Housing before 2012–13?
- (2) Is the minister aware of the demolition in May 2011 of a series of makeshift derelict structures just outside the Ninga Mia community, known as “Silver City”?
- (3) Can the minister confirm that following the demolition of these structures, housing was intended to be built at the Ninga Mia community, in addition to the Kalgoorlie short-stay facility?
- (4) When will more housing be built at the Ninga Mia community?
- (5) What steps is the Department of Housing taking to provide appropriate housing options for the dialysis patients currently living in the camps outside Ninga Mia?

**Hon SIMON O’BRIEN replied:**

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

- (1) No.
- (2) Yes. The demolition was undertaken by the Department of Indigenous Affairs.
- (3) No.
- (4) Construction at Ninga Mia will be considered under the 2014–16 National Partnership Agreement on Remote Indigenous Housing competitive bid process.
- (5) Applications can be made for permanent public housing. Short-term accommodation is provided by Trilby Cooper Hostel, which is run by Aboriginal Hostels Ltd.

## EDUCATION ASSISTANTS — QUALIFICATIONS

**1095. Hon HELEN BULLOCK to the minister representing the Minister for Education:**

- (1) Can the minister advise how many education assistants have relevant formal qualifications; and, if not, why not?
- (2) Does the Department of Education have a program to ensure that all education assistants in WA schools become formally qualified; and, if not, why not?
- (3) If yes to (2), what are the details and what is the time line by which all education assistants will be required to hold a formal qualification?

**Hon PETER COLLIER replied:**

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

- (1) No. Currently, there is no requirement for education assistants to have formal qualifications. Those education assistants who have qualifications may advise the department, but there is no requirement for them to do so.
- (2)–(3) As part of the national quality standard for early childhood education and care, education assistants working in kindergarten classes will require a qualification. It is proposed that this will take effect from

January 2014. In addition, the Institute for Professional Learning will be offering a new qualification for all education assistants in 2012.

#### DISABILITY SERVICES — OUTSOURCING

**1096. Hon SUE ELLERY to the Minister for Disability Services:**

I note the minister's statement today on Disability Awareness Week. I refer to the 40 Disability Services Commission community social trainers and supervisors, who one month before Christmas have been advised that their jobs will be abolished as of 27 January 2012 to enable a disability sector organisation to provide the same service.

- (1) What will be the process for choosing the new provider?
- (2) Is there a preference for a for-profit or not-for-profit provider to provide the service?
- (3) Is the minister concerned at all at the disruption that a change in service provider will cause to families and clients with a disability?

**Hon HELEN MORTON replied:**

(1)–(3) I thank the member for the question. As the member would be aware, over many years the work of social trainers has been declining as more contemporary service organisations have been involved in establishing the disability service organisations in the community. As a result of that, it has been indicated that the remaining small number of social trainers will be moving into more of the residential care services. So, none of them will lose their jobs, I might add. There is no suggestion that any of them will lose their jobs. They will be moving more into the residential care facilities and services that are being provided, while the individuals living in the community are given the opportunity to go through a personalised services programming process that will enable them to both identify the new approaches to the life services that they are looking for, and to determine who those service providers might be. There is a whole range of service providers in the community that these people can choose from in that process. That is the process by which that will take place. It will involve the individuals and their families. I want to assure anybody who is concerned about the social trainers currently employed by the Disability Services Commission that there is absolutely no suggestion that any of these people will not be given ongoing work. But their work will not be in the current way that they are providing services to individuals in the community.

The second thing is around the profit and not-for-profit areas. I believe that by far the majority of those services will be provided by the not-for-profit sector. But I cannot give a total guarantee that there is no for-profit disability service organisation out there that will not be the organisation of choice by an individual who wants to go with that particular organisation.

#### MENTAL HEALTH REVIEW — ADMISSION AND DISCHARGE PRACTICES

**1097. Hon ALISON XAMON to the Minister for Mental Health:**

I refer to the ministerial statement given by the minister last Thursday, announcing a review into discharge practices.

- (1) Will the minister be making the outcomes of this review public?
- (2) If so, when is it anticipated that this will occur?
- (3) If the review will not be made public, why not?

**Hon HELEN MORTON replied:**

(1)–(3) I thank the member for the question, again, and the opportunity to talk a bit about this review. The issue of the review is that it will be undertaken, as I said before, by an independent reviewer and investigation team that will be contracted, and that report will be provided jointly to the Mental Health Commission and the Department of Health, and they in turn will provide it to me. In terms of the report being made public, the issue that I have is that if the report that I receive does not contain personalised information about individuals—that is, the sort of information that needs to be sensitised in some way so that it does not provide personal details to the public—I will be very happy to make it public. However, I do feel that we need to consider the interests of individual people who might be really wanting and willing to provide very personal, very sensitive and very upsetting information to that review team. So, depending on the way that is recorded and documented and fed back to me, that will make the difference to me in terms of how much of the report is made public and how much needs to be looked at in terms of the sensitivities of those individuals. So in some respects I am waiting to see the outcome of the report before I can make a full consideration about that. My overall objective is to make as much of that report public as possible.

## ENERGY REPORTS — RELEASE PLANS

**1098. Hon KATE DOUST to the Minister for Energy:**

I refer to the many reports sitting somewhere in the minister's office but still not in the public domain.

- (1) For what reason has the gas tariff review final report been in the minister's office for 135 days, and has still not been made public?
- (2) Why has the report into a commercial feed-in tariff, which was a key election promise, been sitting in the minister's office for 477 days, and has still not been made public?
- (3) For what reason has the tariff and concession framework report been languishing in the minister's office since August with no release date in sight?
- (4) Why is the government still to release Treasury's review into electricity tariffs, completed before the May budget?
- (5) Is it not the case that the government's strategic energy initiative, Energy2031, which was at first Energy2030, is in danger, due to lack of action by this government, of becoming Energy2032; that is if it is ever released at all?

**Hon PETER COLLIER replied:**

I thank the honourable member for this question. I think she might have had a lemon for lunch—the tone of this discussion is appalling.

- (1) The Office of Energy and the Department of Finance are working with Alinta on a negotiated tariff reset for 2012, which the honourable member should know. Government will consider the recommendations of the report as part of this process.
- (2) I have asked the Office of Energy to develop potential options, based on the findings of its report to me, to establish a renewable energy buyback scheme for small businesses. The report into a commercial feed-in tariff will be considered together with the recommendations on the renewable energy buyback scheme.
- (3) The recommendations of the tariff and concession framework review will be considered as part of the 2012–13 state budget process.
- (4) As per my response to question without notice 904 on 20 October 2011, no review was completed. Tariff modelling conducted for state budget purposes is an annual adjustment process. Advice provided to government as part of this process is subject to cabinet confidentiality. In July 2010, the government requested the Economic Regulation Authority to undertake a comprehensive review of the efficient cost-reflective level of each regulated electricity tariff. This process is currently under way.
- (5) The issues being addressed by the strategic energy initiative, Energy2031, are complex, broad ranging and of critical importance to the state. This has required extensive consultation and careful consideration of information gathered throughout the process to ensure we have a robust energy policy plan for Western Australia.

## MARGARET RIVER BUSHFIRES — PRESCRIBED BURNS

**1099. Hon SALLY TALBOT to the minister representing the Minister for Environment:**

I refer to the Margaret River bushfires.

- (1) Was there any involvement of, or liaison with, the Fire and Emergency Services Authority in relation to the prescribed burns responsible for the fires at any time between 6 September and the time the fires became uncontrolled last week?
- (2) What communication was there between the Department of Environment and Conservation and the Fire and Emergency Services Authority about the Margaret River situation on Sunday, Monday and Tuesday of last week?
- (3) Where was the first state emergency coordination group meeting held; and who was the incident controller at that time?

**Hon HELEN MORTON replied:**

I thank the member for some notice of the question.

- (1)–(2) Given current staff commitments to the management of bushfires in the south west, DEC is not able to provide details at this time. These matters will be examined in the independent investigation foreshadowed by the Premier.

- (3) The first State Emergency Coordination Group meeting was held at the state coordination centre in Leederville at 13.30 hours on 23 November. DEC's Mr Peter Keppel was the level 3 incident controller at that time.

STANDING COMMITTEE OF ATTORNEYS-GENERAL — JUDICIAL COMPLAINTS HANDLING

**1100. Hon GIZ WATSON to the parliamentary secretary representing the Attorney General:**

I refer to the answer given on 21 September 2010 to part (3) of my question on notice 2721, which indicated that the Standing Committee of Attorneys-General was likely to be in receipt in 2011 of a report and recommendation from its working group on judicial complaints handling. Will the minister please provide full details of the progress SCAG has made since 21 September 2010 on establishing a formal system for dealing with complaints made against judicial officers?

**Hon DONNA FARAGHER replied:**

On behalf of the parliamentary secretary representing the Attorney General, I provide the following response. At the Standing Committee of Attorneys-General meeting on 4 and 5 March 2011, held in Wellington, New Zealand, ministers agreed to consider establishing mechanisms for judicial complaints handling in their jurisdiction, noting that some jurisdictions already have mechanisms in place; and agreed to remove this item from the SCAG agenda.

In terms of Western Australia's consideration of a system for handling complaints against judicial officers, the Attorney General referred the matter to the Law Reform Commission in June 2011 with the following terms of reference —

The Law Reform Commission of Western Australia is to examine and report upon whether, and if so in what manner, the principles, practices and procedures pertaining to complaints or allegations of misbehaviour or incapacity against State judicial officers in Western Australia require reform and the responses to any such conduct, and in particular giving close consideration to:

- (i) the need to protect and preserve the independence and impartiality of State courts from the executive and legislative branches of government;
- (ii) the benefits of establishing a system for dealing with such complaints and allegations that is efficient, accessible, transparent and accountable;
- (iii) the need to ensure that any system for dealing with such complaints and allegations is suited to the conditions in Western Australia, having regards to the number of serving State judicial officers and the number of complaints or allegations warranting investigation that may be expected to arise;
- (iv) the need to develop standardised and consistent procedures when dealing with such complaints, thus reducing the potential for allegations of bias to be made in relation to procedures which are developed after the complaint or allegation is made; and
- (v) the recent establishment of judicial complaints systems in other jurisdictions both nationally and internationally.

The commission was also asked to report upon the adequacy of, and on any desirable changes to, the existing principles, practices and procedures in relation thereto.

RAILCARS — BUSINESS CASE FOR A AND B-SERIES MAINTENANCE

**1101. Hon KEN TRAVERS to the minister representing the Minister for Transport:**

I refer to question on notice 4466.

- (1) Has the minister tabled a notice under section 82 of the Financial Management Act 2006 in respect to the information that he did not provide?
- (2) If no to (1), why not?

**Hon SIMON O'BRIEN replied:**

I thank the honourable member for some notice of this question. The Minister for Transport is currently seeking advice on this matter.

**BURSWOOD STADIUM — COSTS**

*Question on Notice 4856 — Answer Advice*

**HON NORMAN MOORE (Mining and Pastoral — Leader of the House)** [5.12 pm]: Pursuant to standing order 138(d), I wish to inform the house that answer to question on notice 4856, asked by Hon Ken Travers on 20 October 2011 to the Leader of the House representing the Premier, will be provided on Thursday, 1 December 2011.

**QUESTIONS ON NOTICE 4859, 4898, 4904, 4886, 4874, 4890, 4891, 4958 AND 4960***Papers Tabled*

Papers relating to questions on notice were tabled by **Hon Simon O'Brien (Minister for Finance)** and **Hon Helen Morton (Minister for Mental Health)**.

**STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES***Twenty-third Report — "Reference from the House — Evidence and Public Interest Disclosure Legislation Amendment Bill 2011" — Tabling*

**THE PRESIDENT (Hon Barry House):** I am directed to present the twenty-third report of the Standing Committee on Procedure and Privileges in relation to the "Reference from the House — Evidence and Public Interest Disclosure Legislation Amendment Bill 2011".

*Motion*

On motion without notice by **Hon Matt Benson-Lidholm**, resolved —

That the report do lie upon the table and be printed.

[See paper 4133.]

**LOCAL GOVERNMENT AMENDMENT (REGIONAL SUBSIDIARIES) BILL 2010***Committee*

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon Brian Ellis) in the chair; Hon Max Trenorden in charge of the bill.

**Clause 1: Short title —**

Committee was interrupted after the clause had been partly considered.

**Hon MAX TRENORDEN:** Recommendation 8 by the Western Australian Local Government Association is that regional subsidiaries be required by regulations to adopt a strategic plan, a business plan and an annual budget, and recommendation 9 is that WALGA and the local government sector be involved in the development of regulations regarding regional subsidiaries through their appropriate consultative mechanisms.

I will refer to the Western Australian Local Government Association's submission to the committee because I believe that it makes a very important point that I would like people to take note of. WALGA states—

... the Australian Centre of Excellence for Local Government (ACELG) contends that regional subsidiaries may be overregulated.

A report written by Mr Neil Douglas makes the same point—that ACELG believes that the South Australian act is probably overregulated. The most important point of this bill that I am asking members to pass is that it is a very simple bill that takes away none of the compliance or accountability that is required of local government, and it puts activities into a charter.

**The DEPUTY CHAIRMAN:** Order members! There are a number of conversations going on around the chamber. I am finding it difficult to hear the honourable member and possibly Hansard is too. Perhaps we could have a bit more order.

**Hon MAX TRENORDEN:** The charter is the fundamental part of my bill because it provides the power that enables the model to operate simply. In quite a few places in the WALGA submission and the Douglas report it is clearly stated that an overwhelming number of regional councils support my bill—the larger city local governments may wish to deal with different matters because they talk about bigger functions and larger slices of money—and they do so because of its simplicity. It does not take away any governance or compliance issues; it allows local government to decide to place in the charter a range of functions that will drive that entity—the charter—remembering that the entity must be reviewed every four years. The minister has the last say. If the minister does not approve the charter, the entity does not start. There is a major mechanism here whereby the minister of the day has the final say. As I have already pointed out, the Western Australian Local Government Association recommended, and I also recommend, 11 regulations, which were clearly set out in its submission to the committee. Although the committee's intentions are well intended, they put compliance issues onto councils. We are trying to make the function as simple as possible to allow local governments to get on with the practice—whatever is described in the charter—and make it as simple as possible. The benefit that incorporated status delivers is one amendment that the lower house may consider, but if a member wants to move a motion here, I would consider it. All the other recommendations, in my view, are explainable.

I am taking some time now but I hope to save the chamber a bit of time. I will go through each dot point quickly as we may want to debate these points. On page 43 of the Standing Committee on Legislation's eighteenth report, the first point is —

- state that a regional subsidiary is established as corporate body under the LGA;

I agree with that. It is fundamental. The second dot point states —

- state that an application for approval to establish a regional subsidiary must be accompanied by a charter that is to address the matters specified in the SA Act;

If the group says that the South Australian act is probably a little over-regulated, I would argue that that is not necessary. In my argument, it is a given. I agree with the next three dot points about gazettal, but they are also covered by section 3.61(4) of the act, which states —

If the Minister approves the application the Minister is to declare, by notice in the Gazette, that the regional local government is established —

There is already a gazettal process in place in the Local Government Act. The sixth dot point states —

- state that a regional subsidiary may perform functions, including functions under Acts other than the LGA;

The Local Government Act already describes all that. There is no need to put that into this group of regulations because the Local Government Act applies. Whatever applies to the Local Government Act applies to this model. The next dot point states —

- state that a regional subsidiary's board may comprise non-local government members;

That is a part of the charter. Part of the attractiveness of the model that I propose is that we can bring experts on to a board that looks after, say, water, health issues, and waste issues; when that expertise may not be in the two or more councils involved, but we can pull those people in and put them on the board. That is in the charter. The next dot point states —

- impose either SA Act duty of care and honesty provisions or LGA integrity provisions ...

All those issues are already very clearly spelt out in the Local Government Act. The next dot point is about the relationship between councils. That is what a charter is about. The charter will describe exactly what that relationship is. It is a legal document. That interface cannot be broken; it is a legal requirement. The tenth dot point states —

- provide direction on the intended approach to commercial undertakings;

Again, the charter will describe whether a particular model has commercial undertakings. If it is not in the charter, it cannot be done. If it is, it is described. I argue it is not necessary. The next dot point states —

- address the extent to which, if any, a regional subsidiary may hold an interest in another corporation;

That is what the charter does. The charter describes that interest. If that interest is not in the charter, it cannot exist. The next dot point refers to liability provisions. The liability provisions are in the Local Government Act. All things, as I keep saying, that the Local Government Act requires, this model requires. The thirteenth point states —

- apply appropriate LGA provisions conferring powers and duties on local government employees to a regional subsidiary's employees;

Again, it is in the Local Government Act. If there are any particular issues that should be addressed, then it should be in the charter. There is no reason that cannot be done efficiently. In my view it does not require amendments. The committee's next dot point states —

- require the regulations to provide criteria for Ministerial approval to establish a regional subsidiary;

I agree that it requires ministerial approval. That should be one of the regulations. It is one of the 11 that WALGA suggest. Responsibility for liabilities: again, that will be described in the charter. If there are any liabilities, the charter will clearly spell out the responsibility. As other people said during the hearings, it might be one large council in association with a very small one. For example, in Mr Deputy Chairman's (Hon Brian Ellis) part of the world and mine it might be shared services. Some very small councils totally delegate shared services to large metropolitan councils. There may be liability involved in that issue, but that liability may be different or equal proportions; therefore, it would be spelt out in the charter.

Powers to delegate: a subsidiary council does not have powers to delegate. A subsidiary model is just that; it does not have any powers to delegate. If we wanted it to have power, it would have to be spelt out in the charter. The second last dot point states —

- clarify when a matter is to be prescribed and when it may be "*provided for*" in the regulations; and

That is also a matter for regulations in the charter. I do not think there is any particular value in trying to put it into this bill. The last dot point states —

- provide direction on consequential amendments to other legislation.

That is in the Local Government Act. I will not pick on the members of the committee because I value committee work as well, but I have been looking at this bill for over two years. I travelled to Queensland once and South Australia twice. I have taken a lot of advice on this bill from a raft of people. Clearly, the group of people who have the highest interest in this, WALGA, is very supportive of my bill. It has recommended no regulations other than the 11 specified. WALGA made the point that over-prescription of this model may actually damage it, because most of the councils that will use this model are the smaller councils. The large councils, as Hon Sally Talbot and I often talk about, will not want to use this model. They will want to use the existing model because it gives them a better framework for their outcomes. As said at the hearing, they are unlikely to do this. On the other hand, as Hon Sally Talbot asked me in the committee hearing, those councils with an interest in the Swan River may want to do this because, Hon Sally Talbot, it can be described in the charter exactly what we want to do with the Swan River Trust, for example, or whatever it may be that surrounds the Swan River.

I hope I have covered all the issues. I want to emphasise these points: I believe it is dangerous to over-regulate this model. I believe there is no question that the regional subsidiaries bill is required to carry out all the functions of the Local Government Act. If members say this needs regulation, they are really saying that the Local Government Act needs those changes in regulations because the Local Government Act applies to this model.

**Hon LJILJANNA RAVLICH:** I would like to make some comments on this bill. First of all, I thank Hon Max Trenorden for bringing the bill into this place. It is an amendment bill and it endeavours at the very least to provide some degree of certainty for smaller councils, although they need not be smaller councils. Given the history in the last three years of local government reforms by the Barnett government, an enormous amount of uncertainty has been created. We have gone from voluntary amalgamation followed by forced amalgamation and back to voluntary amalgamation, with millions of dollars spent on a reform program that delivered nothing. Hon Max Trenorden together with Hon Nigel Hallett undertook to visit Queensland and South Australia to look at what was happening in those jurisdictions and to find out whether we could achieve the same outcomes without going through a formal amalgamation process. Amalgamation was clearly unacceptable to the vast majority of councils. Had it been acceptable, they would have amalgamated.

In September 2008 there were 139 local government authorities; today millions of dollars later, a lot of uncertainty and so on and so forth, there are 139 local government councils. So, basically, the reform program achieved nothing. This bill aims to put into law what good local governments are doing anyway; predominantly in regional areas although it is not restricted to regional areas. I say “regional areas” because resources are likely to be fewer on the ground in regional areas. Local government authorities in the Wheatbelt, for example, are predominantly fairly small, have a fairly small rating base and need to find ways in which they can cooperatively work together to share resources and do those things that local government authorities do to provide better amenity for their ratepayers. This bill, essentially, is the vehicle by which that can be achieved. Hon Max Trenorden, therefore, should be congratulated for bringing this fairly simple bill into this place. This bill is not a particularly complex bill. The major changes are in clause 4, which introduces a couple of new definitions. Those definitions are for “regional local government”, which means a regional local government established under section 3.61 of the principal act; and a “regional subsidiary”, which has the meaning given in section 3.69(1) of the Local Government Act and is one of the new provisions of the subsidiary bill. Quite clearly, the bill enables two or more local governments to enter into an arrangement to perform a function jointly and they may, with the minister’s approval, form a subsidiary body to perform certain functions. Local government authorities right throughout the state are doing that already, but this legislation is good legislation because it codifies in law certain arrangements and provides a bit more of a legal structure for them. I am not talking about codifying the act itself, but about using the act as a vehicle by which regulations can be made for the areas that a subsidiary can engage in, how resources might be shared between councils and which projects two or more councils can come together to achieve. Certainly, some high-cost projects—for example, converting waste to energy—are too high-cost projects for any one small regional council. However, through some sort of an arrangement using a regional subsidiary structure, such as is proposed in the bill, a regional subsidiary of two, three or six councils—whichever number—can put in place a very solid legal framework upon which they can come together and have confidence that they have such a framework for moving forward to achieve these sorts of projects and ultimately good outcomes for their ratepayers.

There is nothing in this bill to be scared of. I, too, have had a look at the recommendations of the Standing Committee on Legislation. Although the committee made some good recommendations, it was very interesting to me to hear from the member who moved this bill that he had been in contact with the Western Australian Local Government Association and that its view was one that he shared; that is, the provisions already contained

in his Local Government Amendment (Regional Subsidiaries) Bill 2010 are such that there is no need to throw out the contents of the bill and replace them with the changes recommended by the Standing Committee on Legislation. Hon Max Trenorden gave us a very good explanation that, because of the existing provisions in the act, those changes recommended by the committee are not needed. Also, of course, this whole bill will sit under the framework of the act, and the regulations will do the job of the amendments that have been proposed in recommendation 1 of the Standing Committee on Legislation's eighteenth report into the Local Government Amendment (Regional Subsidiaries) Bill 2010.

I therefore do not think anybody has anything to fear from this bill. I think it is very good legislation and certainly the Australian Labor Party will be supporting it.

**Hon MAX TRENORDEN:** I appreciate the support from the Australian Labor Party and the words of Hon Ljiljanna Ravlich. I will make just a couple of points.

Amalgamations are an issue out there in the regions. One of the reasons I support this bill is that when two or more councils form a legal entity, they will actually do what the minister and the Premier have been pushing for, and within a very short period there will be fewer than the 70 entities that the Premier was chasing. They will be not only amalgamations, but also legal entities. The federal and state governments do not want to deal with 140 councils. When these entities get together, the state and federal governments will deal with legal entities. Therefore, sending local government cheques, receiving applications for programs and all those sorts of things will be very achievable. As Hon Ljiljanna Ravlich said in her speech, the bill amalgamates the effort that local governments make and it amalgamates the intellectual property they have, but it does not physically amalgamate buildings and the like. I therefore think it is a better model than the model currently available. However, in saying that, I have to say that it is a tool; it is just another model. My bill does not remove any other option that exists in the Local Government Act. Those options remain in the Local Government Act. This bill just adds one extra tool for local government to use. It is important to point out that the other models stand outside of local government; they form entities that stand away from local government. They have their own financial responsibilities, their own elected individuals and all the compliance issues that go with that, except for a couple of smaller ones, such as partnerships and so forth. In general, the models that are being used put a far greater burden on local government than my model.

During the committee process I was asked why my bill refers to "two or more local governments". I was asked why one council could not perform the same function. It could, but the fundamental reason relates to section 3.61(1) of the act, the first part of which states "Two or more local governments". I have just amended the bill and I have left that section in it. I am benign as to whether one council should be able to form a regional subsidiary or not. I am not quite sure why a council would do that but someone can probably tell me why. Nevertheless, I am happy with the bill as it is.

**Hon LJILJANNA RAVLICH:** I want to add a couple of comments. I wish to point to one of the benefits of this legislation, which is unlike what the Minister for Local Government was trying to achieve; that is, to basically force councils to love each other and to come together as one. In doing so, they would each have to give up part of their assets, change boundaries and get rid of the social fabric of their community because, as we know, in small country towns a lot of it is about heritage, the importance of family and the culture et cetera. The amalgamation program started off as an economic model. Individual councils were going to be amalgamated into seven or eight huge local government authorities. Clearly, that was not acceptable. People simply did not accept that model because it is much more complex than that. It is about economic and environmental sustainability. It is also about social sustainability. We cannot overlook those important factors, the importance of our historical regional communities and towns and the importance of family histories that have added to the fibre of those communities over decades.

The minister was trying to force councils to come together involuntarily. We now have a situation in which councils are not being forced to come together. They will come together voluntarily because there is a mutual economic, social and environmental benefit for the community. Just as they come together, they also have the capacity, if it is of their own choosing, to go their separate ways if the arrangements do not work. It will be much easier for them to go their separate ways if the regional subsidiary model does not suit them. It will be much easier for them to walk away from a local government regional subsidiary framework than it will be from a full blown amalgamation, as was proposed by the Barnett government. That is a real benefit of this model and that is why we are happy to support it.

**Hon DONNA FARAGHER:** I was a member of the Standing Committee on Legislation that looked into this bill. I thank Hon Max Trenorden for his comments on the recommendation that was made. I seek your guidance, Mr Deputy Chairman. I know that we are on the short title and a bit of licence was given to Hon Max Trenorden with respect to this debate. Given that we have not had the opportunity to debate the committee report, it may be appropriate to go through some of the general elements of it. It is fair to say that we received a number of submissions. We also undertook hearings. Everyone in the committee would agree that they were very

beneficial. I am not reflecting on the deliberations of the committee but when this bill was introduced in this house, as a member of Parliament I was somewhat confused about how this model was different from a regional council. In my electorate of the East Metropolitan Region, we have the East Metropolitan Regional Council. It is important for this house to understand the policy behind this bill and how this model differs from those models that are currently in place. I think Hon Max Trenorden mentioned in his opening remarks that this is an extra model, or words to that effect, to those that are already available. I would agree, through the submissions and the like, that it is an extra one. I can certainly see that there is general support for the concept that is outlined in this bill. Recognising that there is that general support, one of the issues that is enunciated in this committee report is that by its very nature of being a minimalist bill, to which Hon Max Trenorden has referred, that can give rise to uncertainty. I refer to page 18 of the report, which goes through a number of aspects that the committee had to consider. Paragraph 4.1 states —

To ascertain the purpose of the Bill and provide the summary of the envisaged regional subsidiary arrangement in Part 2 of this report, the Committee had to have reference not only to the Second Reading Speech, but to the Second Reading Debate and information provided to this inquiry.

Paragraph 4.2 states —

While the Department stated the Bill “*fundamentally*” gave effect to the policy of the Bill as set out in the Second Reading Speech, it submitted that the Bill be amended to include a number of areas in the SA Act model “*so that on reading the act you at least get a sense of essentially what is being proposed, what are the core elements of this proposed entity within the act itself*”.

Paragraph 4.3 states —

Uncertainty as to what is intended by the Bill is raised in local government submissions to the Committee.

Indeed, that is canvassed more fully later in the report. I take note of the issues that have been raised by Hon Max Trenorden that perhaps the bill is okay as it stands. As we all know—this is always the challenge—when someone reads legislation, they read a second reading speech and they read a policy of a particular government, and that is open to interpretation. From my point of view, the challenge is always with respect to a minimalist approach. We obviously have not got to clause 8 of the bill and where it says that “Regulations may” regulate, not “will”. When we put words such as “may” in legislation, at the end of the day—I appreciate that Hon Max Trenorden has acknowledged this—it is a decision of the minister. Perhaps that will be fine but not saying “will” gives rise to uncertainty. The question then leads us to ask, acknowledging that this is a private member’s bill, whether the intent of the legislation and the policy behind the bill as proposed by Hon Max Trenorden will be delivered if this bill is put into practice. That is the fundamental issue that arises and that is why the recommendation, which is at page 43 of the report, is quite extensive. Even if there are not amendments as such, at least through the very debate in this place, Hon Max Trenorden can put on the record what the stated position is. If there is not that background information as such, that policy is not clear, if I can put it that way.

**Hon Ljiljanna Ravlich:** Well, you wouldn’t have to have a bill if the local government sector wasn’t in such a mess after three and a half years, quite frankly. I mean, this is more than we’ve seen from the government since you got elected.

**The DEPUTY CHAIRMAN (Hon Brian Ellis):** Order! The member on her feet has the call.

**Hon DONNA FARAGHER:** I am not really quite sure what the purpose of that interjection was, except to say that these comments are coming out from Hon Ljiljanna Ravlich. I like to think that Hon Max Trenorden would agree with me that all I am simply trying to say is that by virtue of having to go through the second reading speech and various other elements —

**Hon Max Trenorden:** I agree.

**Hon DONNA FARAGHER:** Hon Max Trenorden actually agrees with me—I hope Hon Ljiljanna Ravlich notes that—that because this is a private member’s bill, should this bill pass both houses of Parliament, for the policy behind the private member’s bill to be implemented, it would be best if the bill’s intention is clear. Part of the issue is the minimalist approach that was taken. I understand the reasons behind that and certainly the evidence in *Hansard* from the committee report elucidates that more. I understand that the Minister for Local Government has indicated that should this house pass the bill, consultation will take place with Hon Max Trenorden on some of the key areas that perhaps need to be provided in more detail. That would be looked at over the new year and in the other place. Obviously, we do not refer to debates in that place, but that is my understanding. I think that is an appropriate way to go. The committee highlighted at paragraph 6.14 of the report, on page 43, that —

Notwithstanding the general support for the regional subsidiary concept identified through submissions and evidence provided to the Committee, the Committee has identified a number of issues that warrant attention. The Committee considers that the non-descriptive nature of the Bill creates uncertainty as to

whether its practical effect will be that intended by Hon Max Trenorden MLC and limits Parliament's ability to ensure that regulations made under the Bill implement his intentions.

As a member of that committee—I do not reflect on the views of other members—that is something I see as an important issue. Clearly, Hon Max Trenorden has a view of how this will operate and it is important that should this bill progress through all elements of this Parliament that that policy intention is clear as we go forward. As I say, I understand that the Minister for Local Government is quite agreeable to sitting with Hon Max Trenorden over the summer break to look at that should the bill pass this house. I think that that is a good way to go. I just add those comments as part of the debate on the short title of the bill.

**Hon MAX TRENORDEN:** I have just a few comments. Of the points made by a committee member who contributed to the report, I agree with a lot of the things that she says. I agreed for the bill to go to the Standing Committee on Legislation partly for that reason. If we think about the progress of a bill in this house, it goes through a very formal process of community consultation, a ministerial office, cabinet, a caucus or party room involvement, publication and then into the house. However, this is a private member's bill and I do not have a lot like that. Also, I agree with Hon Donna Faragher that if this bill was written by an agency, it may look very different, but it has been written by a backbencher. But I put it back to Hon Donna Faragher, if it gives her some comfort, that I have substantial support from the Western Australian Local Government Association. I agree that the intent of the bill is not clear; I could not agree with the member more. But I am happy to talk to the minister in the break, if these good people in the chamber are prepared to pass the bill today, and speak to these matters because I understand where the member's concern comes from. I know my bill because I have been dealing with it for two years. The five members of the committee got the difficult task of understanding it in a few weeks.

Also, I have to say, and it is of no criticism whatsoever, but some of the councils that responded to the committee inquiry did not understand my bill. It is not —

**Hon Donna Faragher:** That's part of the issue because everyone needs to be clear as to what the policy intent is, so I agree with you.

**Hon MAX TRENORDEN:** I have no criticism of them; they just pick up what they can, read it and come to a conclusion. I did the best I could to get on my bicycle and get around the state, but it is very difficult to go around to 144 councils. I went out widely and I spoke to a lot of people, but a couple of those reports have just made some assumptions that are not the intent. But, again, a few of the things that Hon Donna Faragher said are true. I looked at our bible, Erskine May's *Parliamentary Practice*, and I have been in debates over the years over this question of "shall" or "may". I have heard the debate and when I read Erskine May it is not clear in *Parliamentary Practice* at all; Erskine May actually agrees with the member, but I have been in debates in the other place about what "may" actually means. However, I put it to the member that it does not really matter a lot because I am a private member bringing in a private member's bill. The government's will is going to prevail. The people in this house and those people in the other place will prevail, so I am not concerned about that issue of "may" or "shall", even though I agree with the context that the member put up because it gives an ambiguity to the debate. But in the end, this is the government's will if it passes it and I have one vote. I have an opportunity to try to persuade members and I have one vote. I want to make that point.

The intent, I agree, is not clear for a lot of the people. I did, in fact, brief a number of metropolitan local government areas, which, after some hours of discussion, were actually quite impressed by it. They did not think it applied to them as metropolitan councils and they did not apply their minds to it and thought that it was a matter for regional councils because when they went to WALGA meetings all the emotion was coming from regional councils.

I find it hard to argue with Hon Donna Faragher. She is right; I have written a minimalist bill that has very little description in it. I have done that because of the resources I have, but I feel a large degree of comfort because WALGA has backed me. To get the backing of WALGA, obviously, the majority of WALGA members have to come to that position. That is where I get my comfort from.

**Hon ROBIN CHAPPLE:** The Greens have already put on the record that we will support the Local Government Amendment (Regional Subsidiaries) Bill 2010. Having said that, I think it is important to not belittle in any way, shape or form the Standing Committee on Legislation's efforts in its eighteenth report. The committee system in this place works especially efficiently and well in dealing with legislation; it has had a long history of going through legislation that has been put before this house. The committee system and its clerks, I believe, do a significantly important job. I think it is important to fall back on the point raised in paragraph 4.4 of the report —

... it is hard to be confident that the regulations will establish Hon Max Trenorden MLC's intended model.

I suppose this is where my experience with delegated legislation comes into play. This is a bill that will rely solely on regulation. That causes me a great deal of concern because one of the issues with attendant legislation,

or delegated legislation, in the commonwealth system is that there needs to be a minimum of regulation; the principal act needs to contain most of what is intended and regulations should merely amend the intention of the act.

*Sitting suspended from 6.00 to 7.30 pm*

**Hon ROBIN CHAPPLE:** Although I will go on and talk about the clauses of the bill and what it does, the point I was making before the break was about the principle of the Westminster system, which is accepted in Parliaments around the world, that regulation should be kept to a minimum, and that, in essence, most of what is done in a principal act is to enshrine the very things we need to talk about in that act and allow the regulations to finesse the principal act. Although the Greens (WA) support this bill and also what the Western Australian Local Government Association and indeed the local councils have been saying, I am concerned that we will leave too much to the regulatory regime. In that regard, although WALGA has put forward a series of very good recommendations of what should be in the regulations, there is nothing that says that the Minister for Local Government will or will not establish any of these regulations. The bill gives quite a broad scope to any minister in the future to establish any regulations they particularly want arising from the principle of this bill. I tend to support the Standing Committee on Legislation's view that it will be far more preferable to enshrine certain aspects of this bill in the principal legislation to make clear guidelines for the minister of the day as to what those regulations should or should not be. It almost comes to the point at which a minister who wanted to defeat the purpose of this bill could do so by, in essence, establishing regulations that minimise its intent.

I take my hat off to Hon Max Trenorden for bringing this bill before the chamber; it is a position that local governments support. As an ex-local government member in the Pilbara, I am fully aware of what the Pilbara Regional Council does and its need to have some fiscal structure, which is what this bill does: it will provide that administrative role. As Hon Ljiljanna Ravlich has also mentioned, it inhibits the process that the state government has gone through in voluntary, supposedly forced and then voluntary amalgamation again. Although I am being critical, I am being critical in the sense of the way that we should be doing business in a legislative arena within this state. I hope that when this bill goes down to the other place—there has already been some dialogue between Hon Max Trenorden and the government—the government will move some amendments that tend to reflect a clearer establishment of the regulatory regime that might fall under this bill. I want to put that firmly on the record.

The Standing Committee on Legislation raised a number of points, including ministerial approval for the regional subsidiaries charter. Again, we do not know what that regional subsidiaries charter may or may not be. Quite clearly, a model, which has to be accepted, has been looked at, but it is the ministerial approval of that regional subsidiaries charter that may or may not, depending on the ministerial direction, have an effect on that subsidiary charter. If we have a good minister and it is all supported and all is well ahead, he can deal with it through that process. But if we have a minister who is not supportive of the regime, there can be a few spokes in the wheel in the process. The legislation committee also raised the corporate status of a regional subsidiary and how that might operate, and the degree of subordination of the corporate regional subsidiary was also addressed by the committee. The committee raised some very salient points that I hope the National Party and the government will take into the other place and look at in some depth to provide greater clarity not only of the legislative regime, but also to the local government sector. I am well aware of what WALGA has said, and I think Hon Max Trenorden earlier mentioned the WALGA submission. I have a copy of that here and I have been studying it with quite a bit of interest. Also, certain local governments had input into the committee process and also raised concerns.

It is really important that in all of this one of the fundamentals behind Hon Max Trenorden's bill has been to empower local government, which is something that the Greens hold very dear. Members may or may not be aware that in the federal arena at the moment we are moving to bring local government in as the third tier of constitutionalised government in Western Australia. So, the essence of local government as being closest to the people and being more reflective of community desires and community direction is something that we hold very dear.

I commend Hon Max Trenorden for bringing this bill before the chamber. The Greens support the principles and we will support the passage of this bill, but we have some concerns that, unless it is made a little tighter in a legislative regime, we could, by default, have a wayward government—no-one is suggesting we ever would—that might use the regulatory regime to have a negative impact on the intent of Hon Max Trenorden.

**Hon MAX TRENORDEN:** I thank Hon Robin Chapple for his words. I apologise profusely if I have given anyone any indication that I do not respect the Legislative Council committee process. I would be very uncomfortable if there was any thought that I was not a major supporter of the committee process. I do not want to be making that point; nevertheless, as I said, the Standing Committee on Legislation had only a few weeks to look at a very non-prescriptive bill to try to come up with an opinion. That is not an easy job. I do not have a problem with that.

I will get back to the point that Hon Robin Chapple raised. The Local Government Act is two inches thick, and my amendments relate to section 3.60 on page 77. It is no more or less prescriptive than the passages currently in the act; that is my argument. I understand the member's argument. To talk to the member's argument for a moment, I will quote from the Western Australian Local Government Association's submission to the Standing Committee on Legislation—

The Australian Centre of Excellence for Local Government argues that the South Australian legislation may be overly prescriptive which may act as a disincentive for Local Governments to establish regional subsidiaries. Consequently, Western Australia should adopt a lighter regulatory regime which avoids becoming overly prescriptive and leaves the bulk of the regulatory and governance requirements of regional subsidiaries to the individual regional subsidiary charters.

The argument is that the charters should contain most of the functions, as Hon Robin Chapple stated; he is aware of that. In its submission WALGA states that—I will not spend the time to track down the passage because members can look at it if they so desire—it believes that we should do it by regulation because it is much easier to amend regulation than it is to amend an act. Hon Robin Chapple's argument has been around for as long as politicians and Parliaments have been here and that argument will continue. I am not having a shot at the member's argument; it is a valid argument. However, WALGA says that it is better in regulations because regulations are easier to change.

If members look at the Hansard transcript of my appearance before the committee, they will see that I made a mistake and said that I wanted some different action for the minister because of the points raised by Hon Robin Chapple. But after thinking about it and being, I would argue, a pretty traditional member of Parliament, the minister is the minister. On reflection I thought that I should just look at the current situation and make a guess about what the current minister would do. This is a piece of legislation and it will live for some time; good ministers and not-as-competent ministers will come and go.

**Hon Robin Chapple:** We should be careful where we go with that one!

**Hon MAX TRENORDEN:** But that is the way it is. It also then motivated members and all those sorts of issues. In my second reading speech I said that I did not want the minister to have that power, but by the time I got to the committee and the committee pulled me up on this, I had changed my view on that. I still stand by the fact that having the minister approve the charter is the right way to go because he is the minister for all the people of Western Australia and all the local governments of Western Australia. That is quite important.

If this were not a private member's bill, it could be a clause in the Local Government Amendment Bill 2011 in the other house. It is that simple. It would not be astray in that bill but it just so happens that this bill has not been put together by the Department of Local Government or the minister; it has been put together by a backbencher. That is the nature of private members' bills. I thank Hon Robin Chapple for his support and the support of the Greens. I presume I have the support of most members and I thank them for that.

**Clause put and passed.**

**Clauses 2 to 8 put and passed.**

**Title put and passed.**

*Report*

Bill reported, without amendment, and the report adopted.

Leave granted to proceed forthwith to third reading.

*Third Reading*

Bill read a third time, on motion by **Hon Max Trenorden**, and transmitted to the Assembly.

**LEGAL DEPOSIT BILL 2011**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Helen Morton (Minister for Mental Health)**, read a first time.

*Second Reading*

**HON HELEN MORTON (East Metropolitan — Minister for Mental Health)** [7.44 pm]: I move —

That the bill be now read a second time.

Legal deposit laws have been in force for nearly 500 years, initially in France, to enable countries or states to collect, record and make available the published cultural and intellectual heritage of that jurisdiction. It is a statutory provision that obliges publishers to deposit copies of their publications with a recognised central

institution. In Australia this is primarily the National Library of Australia or state libraries. Those libraries that receive material under legal deposit legislation have a reciprocal obligation to collect, store, preserve and provide access to those materials for future generations.

Western Australia is currently the only state within Australia that does not have legal deposit legislation. Legal deposit provisions were included in the Copyright Act 1895 and the Newspaper Libel and Registration Act 1884. However, those laws were repealed in 1994 and 2005 respectively. Fortunately, many Western Australian publishers of print material have maintained the spirit of legal deposit following the repeal of these acts, and have continued to provide copies of their publications to the State Library of Western Australia.

The benefit to Western Australia from this legislation is that it will capture and provide access to the published record of the state's economic, social, creative, scientific and educational activities. It will provide almost comprehensive coverage of these materials, and these collections will form the basis for much of the historical research in this state for decades, if not centuries, to come. Thorough and total records are required to build a complete and accurate picture of the past. Notwithstanding the gap in legal deposit legislation, the State Library has extensive print collections from the state and local governments, commercial and non-government organisations, and publishers of all descriptions. However, the traditional legal deposit model did not extend to non-print publications such as music, film and multimedia material. This limitation leaves gaps in the recording of Western Australia's social, political and economic history. This legislation recognises that the documentary history of this state comes in more than just the printed form.

The world is now embracing powerful new information technologies, which are dramatically changing what it means to "publish" a work. This is particularly evident, for instance, with government information. For most government agencies the internet is now the primary means of communicating information to the public. Most agency or department information, from reports and media releases to guidelines and standards, is posted on government websites, often in place of publication in the printed form. Government invests significantly in creating and publishing these works. Legal deposit ensures this investment is captured and carried forward, securing it for future historians and researchers. Beyond the government sphere, even less is being produced in printed form. We are entering the age of the e-book. Estimates of the rate of change to digital publishing vary, but conservative estimates indicate that by 2020, only 25 per cent of all titles worldwide will be published in print form alone, with 75 per cent being available only digitally, or in both digital and print form. It is critically important to capture digital information in order to record the state's history and culture.

The definition of materials to be deposited under this bill is deliberately very broad to ensure that any document related to the heritage of Western Australia will be collected, regardless of length, format and medium. It will continue to cover the print materials included in previous legislation such as books, newspapers, magazines, directories, newsletters, maps, brochures and sheet music. As I have already mentioned, this bill broadens the definition of a publication to include information recorded on other media such as music and video cassettes, compact discs, CD-ROMs and DVDs. These definitions have been framed broadly to account for future technological developments. Most states in Australia and the commonwealth have legal deposit legislation covering these formats.

The final part of the definition is "information on a website". This is a very broad definition and may cover a separate document such as a report, an e-book, music or video online, or a part of or a complete website that relates to Western Australia. With the globalisation of information, Western Australian information may be held on a server anywhere in the world, but the definition of a WA internet document ties the document to a person resident in the state or a company whose primary place of business is in this state and who controls the content on the website.

There may be concerns that the definition of "documents" in the bill is too broad and may attract surplus material of little value or relevance. However, to prescribe exemptions to the bill will decrease the possibility of gaining a full and relevant collection. Items deposited under legal deposit will be subject to the State Library's collection development policy and there will be provisions in regulations for the state librarian to exempt particular persons or a class of persons from this definition so that for some types of materials only a sample is collected, as is already the case with some print materials.

Within Australia, this legislation provides a benchmark, with only the Northern Territory having legal deposit legislation for internet documents. In other jurisdictions, however, such as New Zealand and the United Kingdom, as well as many countries in Europe, this is now the norm for legal deposit, as countries seek to ensure that their future cultural heritage is collected and preserved.

Collecting documents from the internet within Australia does present challenges, not least because of the requirements of the commonwealth Copyright Act 1968. Due to restrictions on copying documents imposed by the federal copyright legislation, WA internet documents are treated in the same manner as other public documents, with the onus on the publisher for supplying the document or information about the document. Once

the State Library of Western Australia has been notified of a Western Australian internet document, it will be assessed against the library's collection development policy to determine whether the online information is required. If the item meets the selection criteria, the publisher will then supply a copy to the library or give permission for the item to be copied from the internet. The State Library has considerable experience in this area, having worked for many years to preserve Western Australia's websites and internet documents as part of the National Library of Australia's PANDORA initiative. This bill will increase those powers and extend the range of documents collected.

The intention of this bill is to ensure a comprehensive state collection of heritage items. It is not intended to be punitive, and deposit will be encouraged rather than a penalty imposed. This legislation for legal deposit is designed to encourage compliance rather than to pursue offenders. Penalties or civil action would be undertaken only if extensive negotiations failed for significant items.

Although the bill has been developed to give overarching powers, much of the detail will be included in the accompanying regulations. These will be developed in a cooperative and consensual approach with the industries impacted. Publishers already deposit material with the National Library of Australia, and processes for the deposit of public documents are well developed Australia-wide. Processes for the deposit of internet documents have been developed in New Zealand and the United Kingdom and this state can learn from their experience. These include issues of access, storage, deposit of documents at regular intervals, protecting commercial interests and others. Legal deposit legislation is in place in Canada, France, the United Kingdom, New Zealand, Spain, Sweden and the United States of America. Most countries rely on a legal instrument of some sort to ensure the comprehensiveness of their heritage collections. The United Nations Educational, Scientific and Cultural Organization has noted that a well-organised legal deposit scheme is an essential element of any national public policy of freedom of expression and access to information. The reintroduction and expansion of legal deposit legislation in this state will be welcomed by historians, researchers, librarians and all those who use and value our documentary cultural heritage. I commend this bill to the house.

Debate adjourned, pursuant to standing orders.

### **LOCAL GOVERNMENT AMENDMENT BILL 2011**

#### *Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Robyn McSweeney (Minister for Child Protection)**, read a first time.

#### *Second Reading*

**HON ROBYN McSWEENEY (South West — Minister for Child Protection)** [7.57 pm]: I move —

That the bill be now read a second time.

I am pleased to introduce the Local Government Amendment Bill 2011. The bill comprises four parts and includes amendments to the Local Government Act 1995, as well as consequential amendments to the Salaries and Allowances Act 1975 and the Rates and Charges (Rebates and Deferments) Act 1992. This bill is a consequence of the major reform agenda for Western Australia's local government sector that the Minister for Local Government initiated in February 2009, with the aim of building a local government sector with the capacity to operate at best-practice levels and deliver optimal services to metropolitan and regional Western Australian communities into the future.

The amendments contained within the bill are aimed at strengthening the ability of local governments to deliver services to their communities and at addressing significant governance and public administration issues. The key amendments provide for a new disqualification provision for council members so that they cease to hold office when elected to Parliament or when convicted of a major crime; extend the Salaries and Allowances Tribunal's existing power to provide recommendations on the levels of local government chief executive officer salaries and remuneration so that these become binding determinations with which local governments must comply; the inclusion of a new power for the Salaries and Allowances Tribunal to set the levels of fees and allowances paid to council members; the addition of a new head of power to enable regulations to be made to regulate the types of investments in which local governments may invest their money; and the inclusion of a new power to enable the minister to suspend a council for up to six months and/or require members of a council to undertake remedial action if a council becomes dysfunctional.

There has been extensive consultation with state government agencies, local government and other key stakeholders in identifying key areas of reform. Consultation undertaken on the principles for the amendments contained within the bill has occurred through the Western Australian Local Government Association and feedback was obtained from its members. Both WALGA and the WA division of Local Government Managers Australia have expressed in-principle support for the majority of the proposed changes. WALGA assisted the

Department of Local Government in undertaking three months of consultation with the local government sector on various reform priority proposals. I took that into consideration in developing these amendments.

The Salaries and Allowances Tribunal has also assisted in developing the proposals in the bill relevant to its functions. Consultation on the proposed regulation of local government investments has also been undertaken with the community banking sector. Further consultation will be undertaken to inform the development of those regulations. The bill also includes further provisions requested by the Minister for Energy and WALGA to clarify the ability of local governments to impose service charges for underground power and to provide relevant rebates for pensioners. Some minor drafting improvements to the Local Government Act 1995 have also been included in the bill.

Strengthening the legislation under which local governments operate is critical to achieving good governance. The government recently brought into operation new laws to require all local governments to develop integrated 10-year strategic plans. This will further build the capacity of local governments to be responsive to their communities.

I commend the bill to the house.

Debate adjourned, pursuant to standing orders.

### **BUSINESS OF THE HOUSE**

#### *Motion*

**HON NORMAN MOORE (Mining and Pastoral — Leader of the House)** [8.01 pm] — without notice: I move —

That members' statements be now taken.

By way of explanation I will indicate what I intend to happen between now and the end of tomorrow evening. It is hoped that we can deal with the new standing orders tomorrow. I understand that at least one party has yet to finalise the list of standing orders that it wants to debate. My intention is that, subject to agreement, a motion will be moved that would basically seek to adopt en bloc all those standing orders that are agreed to by all the parties. The motion would then say "with the exception of" and then list those standing orders that there is reason to debate, whether it is because a party does not agree or because it wants to debate the issue. We can then deal first with all of those standing orders that are supported, and then deal with the ones over which there is any contention. We can work our way through it that way. I think that is a better way than starting at clause 1 tomorrow and finishing up at clause 179 some time in three weeks' time, which is what is likely to happen.

What I propose is that the four leaders now have a quick meeting to decide which of the standing orders need to be debated separately from the in globo motion that I propose to move tomorrow. If we take members' statements now, the house will then adjourn to enable any parties that want to have further conversations about the standing orders to do that before tomorrow. If members could provide me, between now and tomorrow afternoon, with a list of any standing orders that they determine require further debate in the house, I will add them to the list.

I also indicate that other parties have agreed that tomorrow we will finish off the motion that is currently being debated, which I think has another 55 minutes to go, and that we will not include committee reports and ministerial statements tomorrow. Mind you, we have almost finished all the reports anyway, which I might add is a major achievement. That is the intention. Tomorrow I seek to deal with the standing orders, and hopefully, before we rise on Thursday we will have a new set of standing orders. I ask members to be cooperative in that sense, because if we can finalise those this week for introduction when the house resumes next year, I think we will be off on a good footing in respect to our new standing orders.

Question put and passed.

### **MARGARET RIVER BUSHFIRES — MINISTERIAL RESPONSIBILITY**

#### *Statement*

**HON SALLY TALBOT (South West)** [8.04 pm]: Since the bushfires in Margaret River during the middle of last week we have seen from the government the most extreme abandonment of any vestige of ministerial responsibility. It is that that I want to address tonight. I want to try to go through the information that we managed to extract from the government today just so that it is on the record. It has been very hard to extract that information. The one thing that has become increasingly clear since last Wednesday night is that the one thing the government is desperate to do is to find a scapegoat, to find somebody else somewhere to blame for the disaster that befell the area of Margaret River.

What we had today, both in this chamber and the other place, was the most pitiful defence of the indefensible. We had today, one would have to say, the setting of a new standard of government accountability, although I am

reluctant to use the word “accountability”, because what we have seen is another way for government to duck accountability. This is the new formula that has been established by the Barnett Liberal–National government: a catastrophe occurs; an inquiry is set up; and then all questions are avoided in both houses in this Parliament on the basis that an inquiry is about to be set up. We do not even know when this inquiry is going to start or what the terms of reference will be or who is going to carry it out, yet all day today, in both houses of this Parliament, the government has refused to answer our questions on the basis that, “We’re having an inquiry. You’ll find all that out in good time.” This is simply not good enough. What I want to do tonight is to go through some of the information that I think we heard today for the first time, because there are two or three things that we have finally managed to drag out of the government about the sorry, sad sequence of events over recent months.

The first thing that we found is that, of the prescribed burns that have been lit since the middle of this year, 50 are still burning. A similar question was asked in the other place, and no answer was forthcoming. Fortunately by 4.30 pm, somebody—I suspect not the Minister for Environment—decided that it might be sensible to provide the answer to that question, particularly in light of the weather forecast that was produced by the ABC, which is where I saw it, and I am sure it is available from other media outlets. It says that the weather later this week is going to be similar to the weather that prevailed last week when the department was still dropping incendiaries in the Margaret River area. When I was down in the region at the weekend one person said to me, “I’m an elderly woman. I like playing golf. I decided on Sunday that I would not be playing golf on Wednesday because it was too hot and too windy.” She said to me, “If I could make that decision on Sunday, how come DEC was still dropping fire on Monday afternoon?” We know now that 50 prescribed burns have been started by DEC but not completed. Sadly, and rather puzzlingly, we have also found out that the government does not actually know how many more prescribed burns are planned for the rest of this year. I asked the minister, through his representative in the house, how many more prescribed burns are planned between now and 31 December 2011. This is the answer that I got back —

The commencement of any additional prescribed burns during the remainder of this year will depend on weather and fuel conditions and other circumstances.

I was actually asking—this goes to the heart of the problem—what prescribed burns are planned, not what the government is going to do. We all know that whether a prescribed burn goes ahead depends on things such as weather and fuel conditions. I was asking the government what it had planned between now and the end of the year. A similar question arose in the other place and, exactly as happened in this place, no answer was forthcoming. We know that there are plans, because that is clearly part of the process that the minister is supposed to be presiding over. But the government cannot tell us what further prescribed burns are planned between now and the end of the year.

We were told gradually over the weekend, as the government allowed a bit more information to dribble out, that the previous Minister for Environment, Hon Donna Faragher, queried the appointment of a certain individual, who has since stepped down from his position, who had an adverse finding from the Boorabbin fire inquest. We also found out today that the incoming minister, Hon Bill Marmion, received the information about that person as part of his induction into the portfolio—as part of his introductory briefing. What we did not know until today—until we prised the information out of the government—was that that person had actually been promoted under the current minister’s watch. The current minister said during a radio interview earlier this week that he knew that this person had been reinstated. Let me make it absolutely clear: I am on no witch-hunt for anyone to shift the blame to. The only witch-hunt going on over this issue is being conducted by the government, which is absolutely desperate to find a scapegoat. It is absolutely desperate to find someone to hang out to dry to save its own skin, exactly as the government did with the Fire and Emergency Services Authority of Western Australia and Jo Harrison-Ward. We are seeing exactly the same tactics unfold here.

Earlier this week, the minister said during a radio interview that he knew that this particular individual had been reinstated but—wait for it—that he did not know that that person had any responsibility for fire management. What an absolute disgrace for the minister to say that! It is one bit of further evidence that this minister does not have a clue what it means to be a minister. Not only does he not understand his portfolio, but also I have never, since I have been following politics, heard a minister admit that they did not understand their portfolio, yet that is what this minister did, as reported in one of the weekend newspapers. Further proof that he does not understand his portfolio is that he said that he had no idea that a district manager had anything to do with fire management or fire plans, yet this afternoon what we dragged out of the government is that there is a job description for a district manager, because the information that was supplied to us states —

A district manager is responsible for leadership and supervision of staff in the district who prepare prescribed fire plans, and for approving such plans, ...

Yet the minister said on the radio the other day that he did not know he had anything to do with fire. What an astonishing world the minister must find the place when he comes across this information!

Gradually, during the course of the day, we have dragged further information out of the government. But three things are totally clear and have been clear for some days now. The first is that we have a minister who does not understand his portfolio and who does not understand what it means to be a minister. The second thing is that we have a minister who does not even have the grace to apologise because his department lit the fire that destroyed 40 homes. If a person had a two-year-old child who apologised like the minister did the other day, they would be very upset and would at least give that child time out. That is exactly what this minister deserves to cop after this incident. The third and most serious thing is that this minister and this government are systematically destroying confidence in the prescribed burning system in Western Australia.

### **FLY IN, FLY OUT WORKERS — IMPACT ON FAMILIES**

#### *Statement*

**HON ALISON XAMON (East Metropolitan)** [8.14 pm]: I rise tonight because I want to talk about the important issue of fly in, fly out workers and their families. I am compelled to do this because there has been an increasing level of public chatter about the nature of FIFO work and how it impacts on families. Members will know that I feel very strongly about the need to respect and support different forms of families. I believe very strongly that a broad range of family arrangements is positive for society and that there is no one right way to bring up children. Parenting is not easy. We know that children will grow and flourish across a diversity of home situations. But, unfortunately, certain segments of our community do not accept this, and some types of families have been, and continue to be, the subject of vilification. It is something that I am no stranger to, having been a young single parent. Increasingly, I hear similar adverse judgements about families who are living under FIFO arrangements. I am concerned about the level of negative characterisation of families who choose to or need to live a FIFO lifestyle. Criticism has been coming from all sides. I have heard it from politicians, but also from the media, policy makers, community groups and individuals.

I am not here to talk about the complexities of the FIFO arrangement. The purpose of my statement tonight is not to go into the pros and cons of FIFO, such as the role of mining companies, regional infrastructure and life above the twenty-sixth parallel. The fact of the matter is that at this point tens of thousands of Western Australians live a FIFO lifestyle. How we talk about FIFO has a direct impact on their lives and their place within our community. Around 50 000 WA workers are FIFO or DIDO—that is, drive in, drive out—and that constitutes 50 per cent of workers in the resource sector. This number is set to increase quite significantly in the future. There is a great diversity of FIFO situations. There is no such thing as a generic FIFO. Rosters can be for even times, such as seven days on and seven days off or two weeks away and two weeks home. Increasingly, we are seeing nine days on and five days off and eight days on and six days off. There are, of course, the more problematic extended rosters commonly found in construction, which can take people away from their homes for months at a time. Often it is the father who works away, but there are many mothers, grandparents, siblings and adult children who come and go from families as a result of these arrangements.

There are legitimate reasons why families choose not to relocate to the site of work. Some mine sites are very isolated; they are hundreds of kilometres from the nearest town. Other workers fly out to oil and gas platforms under quite different employment and living conditions from those of land-based miners. Some fly to mines overseas and others drive to the mine and drive home again for weekends. It is obviously wrong to suggest that there is some generic arrangement. Importantly, though, research on FIFO families does not demonstrate that they have greater mental health or parenting risks than any other family. It does, however, show that they have unique challenges. We know that the FIFO arrangement does not work for some families. On the other hand, we know that the FIFO arrangement works incredibly successfully for many families and has been incredibly important to the health of those families. Many things will influence how these families cope. For FIFO families, it can obviously include the characteristics of the family itself, as well as employment conditions, including rosters, and the sorts of facilities and communication options that are available on-site. Community support and attitudes also have a very big impact on these families. Employers also have an important role to play. I urge employers to take into account the impact on families when they determine what sort of roster arrangement they look at, particularly for parents. Access to appropriate support is also crucial. In addition to the important roles played by community health nurses and other professionals, increasingly there is some fantastic tailored support available and also some new WA-based groups such as FIFO Families, which offers some great grassroots, peer and expert support.

But as a community we also have some responsibility and a role to play in how FIFO families cope with parenting and everyday life, because community attitudes and levels of support, as well as community understanding, are absolutely crucial. I hear of women in my electorate who have been made to feel unwelcome at their local playgroups because their husbands are engaged in FIFO arrangements. They get accused of not caring about their families; they get accused of caring more about money than their children. Those sorts of comments are absolutely appalling and absolutely untrue. I want people to think about the sorts of effects that those comments have on other people. Those sorts of comments and those sorts of attitudes are absolutely unacceptable. We are predicating our social fabric around the nine-to-five, five-day working week, but more

than 50 per cent of us—parliamentarians included—do not fit into this model and certainly my family does not. What time is it now? Non-standard working hours and rosters can be a challenge, but I point out that they can also present a fabulous range of opportunities. For FIFO families, the benefits of blocks of time at home can also benefit communities. For example, I recently saw a comment in a WA newspaper claiming that FIFO arrangements are robbing local volunteer fire brigades of people. I would also like to see reflected in the commentary that in some cases at least, the opposite is true. I know of one local volunteer fire brigade in my electorate whose FIFO members are particularly valued, because when they are home on break they are available to fight fires during the week at a time when it can be more difficult to get volunteers who are otherwise engaged in nine-to-five work hours. FIFO dads are also more likely to have a regular presence at school and that is precisely because of the nature of their working arrangements. Therefore, to characterise FIFO families only in negative terms is at best unhelpful, and at worst I think can be deeply alienating and really offensive; it is also wrong. This negative stereotyping only serves to further isolate these families. Let us remember also that for some families a FIFO lifestyle is their only opportunity to get ahead financially. Apparently, more than 36 000 WA households were unable to pay power bills this year and we know that economic strain is a significant contributor to family breakdown. Therefore, I think it is ironic that on the one hand we are going on about economic strain and burden on many WA families while on the other hand we are contributing to rhetoric that condemns those families who choose FIFO arrangements.

In August this year, the House of Representatives Standing Committee on Regional Australia launched an inquiry into the experience of fly in, fly out and drive in, drive out workers in regional Australia. I welcome this; there is not enough data and too much commentary is based on really unhelpful anecdotes and prejudices. I look forward to the findings of the inquiry, but in the meantime I finish by saying that we need to be very conscious of our role as members of Parliament to ensure that we stop using FIFO families as political footballs and that we be very careful about the language we use when we talk about FIFO families without any thought of the impact that our words can have on these families. Whatever other political imperatives there are around the issue, these families are an important part of our community; they do their best to be good parents—like the rest of us hopefully do—and to meet the significant costs of raising children. They deserve to be valued and supported, because we will see even more of them going into the future, not fewer.

#### **COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL 2011**

##### *Assembly's Message*

Message from the Assembly received and read notifying that it had agreed to the amendment made by the Council.

*House adjourned at 8.24 pm*

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**QUESTIONS ON NOTICE**

Questions and answers are as supplied to Hansard.

**FREMANTLE PORT AUTHORITY — WIND FARM PROPOSAL**

4840. Hon Lynn MacLaren to the Minister for Finance representing the Minister for Transport

With regard to the Fremantle Port Authority's decision to reject the proposal by the Fremantle Wind Farm Consortium to construct a commercial wind farm at Rous Head harbour —

- (1) Please table the terms of reference for the report commissioned by the Fremantle Port Authority.
- (2) Please table the full report.
- (3) Please give detailed reasons for rejecting the proposal.
- (4) Please explain the scientific, commercial and sustainability rationale for rejecting the proposal.

Hon SIMON O'BRIEN replied:

The Fremantle Port Authority advises:

- (1)–(4) Fremantle Ports' Board decided that it was not in the best interests of its business to support a wind farm development in the port.

**MOTOR VEHICLES — THIRD PARTY INSURANCE CLAIMS**

4859. Hon Ken Travers to the Minister for Finance representing the Treasurer

For each of the following financial years 2007–08, 2008–09, 2009–10 and 2010–11 —

- (1) How many claims were made under the *Motor Vehicle (Third Party Insurance) Act 1943* and what was the total value?
- (2) How many of the claims were for vehicles that were unlicensed?
- (3) How many claims were paid out and what was the total value?
- (4) How many claims paid out were for unlicensed vehicles and what was the value?
- (5) How many claims did the Commission seek to recoup the payout from a driver or other person and what was the value?
- (6) How many of the claims the Commission sought to recoup were because the vehicle was unlicensed, and what was the value?

Hon SIMON O'BRIEN replied:

- (1)–(6) [See paper 4125.]

**HARDSHIP UTILITY GRANT SCHEME — PAYMENTS**

4860. Hon Sue Ellery to the Minister for Child Protection

For each of the utilities Synergy, Horizon, Water Corporation and Alinta in regards to the Hardship Utilities Grant Scheme (HUGS) for July 2011 —

- (a) what was the number of approved grants;
- (b) what was the total grant amount; and
- (c) what was the average amount paid?

Hon ROBYN McSWEENEY replied:

(a)

Utility	Number of Approved Grants
Alinta Gas	224
Horizon	112
Synergy	873
Water Corporation	56

(b)

Utility	Total Grant Amount
Alinta Gas	\$60,187
Horizon	\$66,822
Synergy	\$348,094
Water Corporation	\$20,095

(c)

Utility	Average Grant — Amount Paid
Alinta Gas	\$269
Horizon	\$597
Synergy	\$399
Water Corporation	\$359

## HARDSHIP UTILITY GRANT SCHEME — PAYMENTS

4861. Hon Sue Ellery to the Minister for Child Protection

For each of the utilities Synergy, Horizon, Water Corporation and Alinta in regards to the Hardship Utilities Grant Scheme (HUGS) for August 2011 —

- (a) what was the number of approved grants;
- (b) what was the total grant amount; and
- (c) what was the average amount paid?

Hon ROBYN McSWEENEY replied:

(a)

Utility	Number of Approved Grants
Alinta Gas	238
Horizon	67
Synergy	898
Water Corporation	69

(b)

Utility	Total Grant Amount
Alinta Gas	\$65,044
Horizon	\$37,988
Synergy	\$347,739
Water Corporation	\$28,734

(c)

Utility	Average Grant — Amount Paid
Alinta Gas	\$273
Horizon	\$567
Synergy	\$387
Water Corporation	\$416

## PERTH CITY LINK PROJECT — BUSINESS CASE

4865. Hon Ken Travers to the Minister for Mental Health representing the Minister for Planning

- (1) Was a business case undertaken on the Perth City Link Project prior to a decision being taken to proceed with this project?
- (2) Will the Minister table this business case?
- (3) If no to (2), why not?
- (4) Over what timeframe is it expected that government land holdings in the project area will be sold?
- (5) Did the business case estimate the number and land area of land sales that would be expected over each of the next 10 years?
- (6) If yes to (5), what are the details?
- (7) How much is estimated to be recouped from land sales from this project?
- (8) What was the estimated population growth for Perth that was used in preparing the business case?
- (9) If no estimated population growth was used, what growth figures were used in the business case?

Hon HELEN MORTON replied:

- (1) Yes, a business case was undertaken on the Perth City Link project prior to a decision being taken to proceed with this project.
- (2) No, the Minister will not table this business case.

- (3) The business case can be requested under Freedom of Information.
- (4) It is expected that the land will be sold over the next fifteen years, based on the business case.
- (5) Yes, the business case did estimate the number and land area of land sales that would be expected over each of the next ten years.
- (6) The business case estimated that approximately three hectares of land would be sold down in multiple stages over the next ten years.
- (7) The estimated recouped value can be requested under Freedom of Information.
- (8) The estimated population growth for Perth that was used in preparing the business case was 1.5 to 2.4 per cent per annum.
- (9) Not applicable.

#### RIVERSIDE PROJECT, EAST PERTH — BUSINESS CASE

4866. Hon Ken Travers to the Minister for Mental Health representing the Minister for Planning

- (1) Was a business case undertaken on the Riverside Project in East Perth prior to a decision being taken to proceed with this project?
- (2) Will the Minister table this business case?
- (3) If no to (2), why not?
- (4) Over what timeframe is it expected that government land holdings in the project area will be sold?
- (5) Did the business case estimate the number and land area of land sales that would be expected over each of the next 10 years?
- (6) If yes to (5), what are the details?
- (7) How much is estimated to be recouped from land sales from this project
- (8) What was the estimated population growth for Perth that was used in preparing the business case?
- (9) If no estimated population growth was used, what growth figures were used in the business case?

Hon HELEN MORTON replied:

- (1) Yes, a business case was undertaken on the Riverside project in East Perth prior to a decision being taken to proceed with the project.
- (2) No, the Minister will not table this business case.
- (3) The business case can be requested under Freedom of Information.
- (4) Excluding land already sold, it is anticipated that land will be sold over the next eight years, based on the business case.
- (5) Yes, the business case did estimate the number and land area of land sales that would be expected over each of the next ten years.
- (6) The business case estimated that approximately five hectares of land would be sold down in multiple stages over the next ten years.
- (7) The estimated value can be requested under Freedom of Information.
- (8) The estimated population growth for Perth that was used in preparing the business case was 1.5 to 2.4 per cent per annum.
- (9) Not applicable.

#### MID WEST — REGIONAL ROAD NETWORK PLAN

4867. Hon Ken Travers to the Minister for Finance representing the Minister for Transport

- (1) Is there a regional road network plan for the Mid–West Region?
- (2) If yes to (1), what are the major projects in this plan?
- (3) What time frame does the plan cover?
- (4) Will the minister table this plan?
- (5) If no to (4), why not?

Hon SIMON O'BRIEN replied:

Main Roads WA advises:

- (1) Yes
- (2) Construction on North West Coastal Highway and Brand Highway including alignment and widening.
- (3) 2009/10 to 2018/19.
- (4) No
- (5) The 'plan' is an internal regional working document that is fluid by nature and if taken out of context could give a misleading impression.

#### GERALDTON–MOUNT MAGNET ROAD — WORKS

4868. Hon Ken Travers to the Minister for Finance representing the Minister for Transport

- (1) What work has been undertaken in the last three years on the Geraldton–Mount Magnet Road?
- (2) Is any work proposed on this road over the next five years?
- (3) If yes to (2), what work and what is the estimated cost?

Hon SIMON O'BRIEN replied:

Main Roads WA advises:

- (1) Maintenance and rehabilitation works, widening the seal, and construction of a new high standard alignment.
- (2) Yes
- (3) \$3.344 m is allocated in the current year (2011/12) for finalising contractual requirements of the realignment between Geraldton and its airport, and pavement works between Geraldton and Mt Magnet. Funding of further works beyond 2011/12 is subject to future budgetary processes.

#### MULLEWA ROAD — WORKS

4869. Hon Ken Travers to the Minister for Finance representing the Minister for Transport

- (1) What work has been undertaken in the last three years on the Mullewa Road between Mullewa and Perenjori?
- (2) Is any work proposed on this road over the next five years?
- (3) If yes to (2), what work and what is the estimated cost?

Hon SIMON O'BRIEN replied:

Main Roads WA advises:

- (1) Widening seal improvement and curve realignment works and routine maintenance.
- (2) Yes
- (3) \$0.866 m is allocated in the current year (2011/12) for seal widening improvements and pre-construction towards future improvement works. Funding of a further \$2 m in 2012/13 has been announced by the Minister for Transport. Funding of further works in and beyond 2011/12 is subject to future budgetary processes.

#### BRAND HIGHWAY — WORKS

4870. Hon Ken Travers to the Minister for Finance representing the Minister for Transport

- (1) What work has been undertaken in the last three years on the Brand Highway?
- (2) Is any work proposed on this road over the next five years?
- (3) If yes to (2), what work and what is the estimated cost?

Hon SIMON O'BRIEN replied:

Main Roads WA advises:

- (1) Seal widening, lining, extra lane, rest area and intersection improvement.
- (2) Yes
- (3) \$1.413 m is allocated in the current year (2011/12) for intersection improvement works at Cataby and Gingin and for sealing two rest areas and pre-construction works for construction of a new bridge. Funding of further works beyond 2011/12 is subject to future budgetary processes.

## MID WEST — UPGRADE WORKS

4871. Hon Ken Travers to the Minister for Finance representing the Minister for Transport  
What upgrade works are proposed for the Mid–West region over the next four years?

Hon SIMON O’BRIEN replied:

Main Roads WA advises:

Project priorities are assessed on an annual basis and are subject to change from year to year.

Approved capital improvement works for the Mid West Region include design realignments, seal widening and shoulder improvements, pre-construction activities, passing lane extensions and realignments.

## MID WEST — INFRASTRUCTURE UPGRADE

4872. Hon Ken Travers to the Minister for Finance representing the Minister for Transport

- (1) Has the State Government identified any infrastructure that will require upgrading to allow mines to proceed in the Mid–West Region?
- (2) If yes to (1), what infrastructure has been identified and what is the timeframe for construction?

Hon SIMON O’BRIEN replied:

Main Roads WA advises:

- (1) Yes
- (2) Some realignment work is needed and timing is dependent on the timing for delivery of the project(s) involved.

## PERTH WATERFRONT PROJECT — TRAFFIC MODELLING

4874. Hon Ken Travers to the Minister for Mental Health representing the Minister for Planning

- (1) Was any traffic modelling undertaken to identify the impacts of the Perth Waterfront Development prior to the decision to proceed with this project being announced?
- (2) Did this modelling consider the impacts on roads outside the immediate vicinity of the Perth Waterfront Project?
- (3) Will the Minister table the modelling?
- (4) If no to (3), why not?
- (5) Will the Minister table a summary of the modelling?
- (6) If no to (5), why not?
- (7) Did the modelling identify any impact for the Graham Farmer Freeway?
- (8) If yes to (7), what is the impact?
- (9) Did the modelling identify any impact on roads entering or exiting the Graham Farmer Freeway?
- (10) If yes to (9), what is the impact?
- (11) Did the modelling identify any impact on roads south of the Swan River?
- (12) If yes to (11), what was the impact?

Hon HELEN MORTON replied:

- (1) Yes
- (2) Yes
- (3) Yes. The key outputs of the traffic modelling are [See paper 4128.] and are also publicly available on Western Australian Planning Commission website — [http://www.planning.wa.gov.au/dop\\_pub\\_pdf/transport\\_fact\\_sheet.pdf](http://www.planning.wa.gov.au/dop_pub_pdf/transport_fact_sheet.pdf).
- (4) Not applicable.
- (5) Refer to answer to Q3.
- (6) Not applicable.
- (7) Yes.
- (8) Modelling was undertaken in 2009 using the Main Roads’ Regional Operations Model and the City of Perth’s SATURN model. Both of these models indicated that for a forecast year of 2031, the Graham

Farmer Freeway would have increased traffic volumes in the AM and PM peak attributed to general traffic growth, planned developments within the Perth CBD (including Perth Waterfront), localised network changes proposed by the City of Perth and wider regional road network changes proposed by Main Roads WA (MRWA). Modelling indicated that by 2031, Graham Farmer Freeway will be at capacity during AM and PM peak. These projections were based on the Tunnel being two lanes in each direction.

- (9) Yes.
- (10) The modelling results showed some increases in forecast traffic volumes on roads around Graham Farmer Freeway, such as Lord Street, East Parade, Plain Street, Roe Street, Sutherland Street and Bulwer Street. However, the projections indicated that these roads were generally to be within capacity during peak periods.
- (11) The outputs from the 2009 modelling exercise did not extend south of the Swan River. However, changes to the road network in this area, and distribution of traffic, would have been accounted for within the MRWA ROM modelling.
- The Department of Transport and the City of Perth are currently leading a strategic transport planning exercise for the Perth CBD which will include updated traffic modelling for the CBD and peripheral road networks.
- (12) Not applicable.

#### PERTH WATERFRONT PROJECT — TRAFFIC MODELLING

4875. Hon Ken Travers to the Minister for Mental Health representing the Minister for Planning
- (1) Has any traffic modelling undertaken to identify the impacts of the Perth Waterfront Development since the decision to proceed with this project being announced?
- (2) Did this modelling consider the impacts on roads outside the immediate vicinity of the Perth Waterfront Project?
- (3) Will the Minister table the modelling?
- (4) If no to (3), why not?
- (5) Will the Minister table a summary of the modelling?
- (6) If no to (5), why not?
- (7) Did the modelling identify any impact for the Graham Farmer Freeway?
- (8) If yes to (7), what is the impact?
- (9) Did the modelling identify any impact on roads entering or exiting the Graham Farmer Freeway?
- (10) If yes to (9), what is the impact?
- (11) Did the modelling identify any impact on roads south of the Swan River?
- (12) If yes to (11), what was the impact?

Hon HELEN MORTON replied:

- (1) Yes.
- (2) Localised modelling has been undertaken on the project area and the immediate vicinity since the decision to proceed. Traffic modelling had previously been conducted on the impacts on peripheral road networks.
- (3) See QON 4874. The key outputs of the trafficking modelling previously undertaken have been tabled.
- (4) Not applicable.
- (5) Refer to Q3.
- (6) Not applicable.
- (7) The modelling undertaken since February 2011 is for localised traffic analysis only.
- (8) Not applicable.
- (9) See Q7.
- (10) Not applicable.
- (11) The modelling undertaken since 2011 is for localised traffic analysis only.
- (12) Not applicable.

## METROPOLITAN REGION SCHEME AMENDMENT 1201/57

4877. Hon Ken Travers to the Minister for Mental Health representing the Minister for Planning

I refer to Metropolitan Region Scheme Amendment No. 1201/57, and ask —

- (1) Why was Lot 51 Flynn Drive not included in the original amendment prior to it being advertised?
- (2) Why was Lot 9000 Flynn Drive not included in the original amendment prior to it being advertised?
- (3) Why was Lot 251 Wanneroo Road not included in the original amendment prior to it being advertised?

Hon HELEN MORTON replied:

- (1)–(3) Metropolitan Region Scheme Amendment 1201/57 was initiated to rezone Lots 1 and 2 Flynn Drive, Carramar. The Amendment request was accompanied by planning justification for the rezoning. No formal amendment request or planning justification was submitted for Lots 51 & 9000 Flynn Drive and Lot 251 Wanneroo Road, Carramar.

Submissions were lodged during advertising of MRS 1201/57, requesting inclusion of Lots 51 & 9000 Flynn Drive and Lot 251 Wanneroo Road in the proposed Amendment. However, a modification to include this additional land would have required further assessment by the Western Australian Planning Commission and Environmental Protection Authority, and the Amendment would need to be readvertised. On this basis, it was communicated to the proponents that any rezoning of the additional lots should be the subject of a separate amendment request.

## WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4886. Hon Ljiljanna Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11 and for the suburb of Mount Lawley —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

- (1)–(4) [See paper 4127.]

- (5) Not applicable. The Department for Child Protection is the agency which receives and approves applications for the Hardship Utility Grant Scheme.

## WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4887. Hon Ljiljanna Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11 and for the suburb of Morley —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

- (1)–(5) Please refer to Legislative Council Question on Notice 4886.

## SHACK SITE COMMUNITIES — WEDGE AND GREY ISLANDS

4888. Hon Sally Talbot to the Minister for Mental Health representing the Minister for Environment

I refer to the shacks at Wedge Island and Grey Island, and ask —

- (1) Since 1 January 2011, what formal or informal consultations, discussions or other communications has the Minister had with —
  - (a) shack owners;

- (b) local government; or
  - (c) other stakeholders?
- (2) In relation to (1), have any of these consultations, discussions or communications involved members of the —
- (a) 500 Club;
  - (b) other political stakeholders;
  - (c) developers; or
  - (d) fundraising bodies?
- (3) Following the release of the 2011 parliamentary inquiry into shack sites in Western Australia, has the Minister commissioned any further investigations into or received any reports about the future of the shacks at these two locations?
- (4) If yes to (3), who is carrying out the investigations or reports, when will the findings be available and will the Minister make the findings public?
- (5) If no to (3), what is the Government doing to undertake the promised examination of the planning, environmental, safety, health and building requirements for the sites and assessment of the shacks current standards?
- (6) How many abandoned or newly-erected shacks have been removed since 30 August 2011?
- (7) Is the Minister aware of any plans by third parties to develop the areas in question?
- (8) How much has the Government collected in 2011 in fees, rents and other charges paid by shack owners?

Hon HELEN MORTON replied:

- (1) (a)–(b) The Minister for Environment had no meetings with shack owners, however staff from his office have met with representatives from the Wedge Island Protection Association and Grey Conservation and Community Association on numerous occasions throughout the year. The Minister met with Dandaragan Shire Council representatives on 24 March 2011. The Minister also responded to correspondence from shack owners and the Shire of Dandaragan.
- (c) Nil
- (2) (a) No
- (b) Grant Woodhams on 24 March 2011
- (c)–(d) No
- (3)–(5) The Department of Environment and Conservation has commenced a review of information held by Government agencies and a process to collate information to address environmental and social factors and ensure adequate planning and consultation, which will inform the further investigations. Further investigations are planned but no studies have been commissioned since the release of the Standing Committee’s report on shack sites.
- (6) Nil
- (7) No
- (8) \$339 092 has been collected by the Department of Environment and Conservation from 1 January 2011 to 8 November 2011.

#### HANCOCK PROSPECTING — MATTERS BEFORE ENVIRONMENTAL BODIES

4889. Hon Sally Talbot to the Minister for Mental Health representing the Minister for Environment

I refer to Hancock Prospecting-related matters currently being considered by the Office of the Environmental Protection Authority, the Environmental Protection Authority, the Department of Environment and Conservation or any other agency within the Minister’s portfolio, and ask —

- (1) How many matters involving approvals, licences, variations of conditions or other requests in relation to Hancock Prospecting are currently being considered by these agencies?
- (2) In relation to (1), for each matter being considered, please provide details of submission date and the substance of the request?
- (3) In relation to (1), are any the decisions appealable?
- (4) If yes to (3), on what grounds?

- (5) What offset requirements have been agreed between the State or Federal Governments and Hancock Prospecting Pty Ltd in 2011?
- (6) Since 1 July 2011 has there been direct contact between Hancock Prospecting and the Minister for Environment or staff or officers in the Minister's office?
- (7) If yes to (6), please provide details of the substance of that contact?

Hon HELEN MORTON replied:

- (1)–(2) The Environmental Protection Authority, the Office of the Environmental Protection Authority and Department of Environment and Conservation are currently assessing the following existing Hancock-related requests.
- i. Change to Ministerial Statement 824 — Roy Hill 1 Iron Ore Mining Stage 1 — section 46 change to condition 9 regarding short range endemic invertebrate species. Date of submission: 7 September 2011.
  - ii. Change to Ministerial Statement 584 — Hope Downs Iron Ore Mine — Section 46 change to condition 7 regarding discharge of water to Weeli Wolli Springs. Date of submission: 17 June 2010.
  - iii. Change to Ministerial Statement 824 — Roy Hill 1 Iron Ore Mining Stage 1 — Section 46 change to conditions regarding surface water diversions. Date of submission: 17 September 2010.
  - iv. Change to Ministerial Statement 829 — Roy Hill 1 Iron Ore Mining Stage 2 — Section 46 change to conditions regarding surface water diversions. Date of submission: 17 September 2010.
  - v. Change to Ministerial Statement 584 — Hope Downs Iron Ore Mine — Section 45C change to proposal regarding mining rate and disturbance footprint. Date of submission: 26 July 2011.
  - vi. Change to Ministerial Statement 584 — Hope Downs Iron Ore Mine — Section 45C change to proposal regarding realignment of infrastructure corridor and redevelopment of groundwater bores. Date of submission: 27 July 2011.
  - vii. Change to Ministerial Statement 584 — Hope Downs Iron Ore Mine — Section 45C change to proposal regarding discharge of water to Weeli Wolli Springs. Date of submission: February 2010.
  - viii. Approval of Weed Monitoring Plan required under Ministerial Statement 847 — Roy Hill Infrastructure Railway. Date of submission: 5 September 2011.
  - ix. Approval of Preliminary Rehabilitation and Closure Plan required under Ministerial Statement 824 — Roy Hill 1 Iron Ore Mining Project Stage 1. Date of submission: 29 September 2011.
  - x. Approval of Preliminary Rehabilitation and Closure Plan required under Ministerial Statement 829 — Roy Hill Iron Ore Mining Project Stage 2. Date of submission: 29 September 2011.
  - xi. Roy Hill Infrastructure Rail — Roy Hill Infrastructure Pty Ltd — Date of licence application: 13 October 2011.
  - xii. Construction Camp 2 — Roy Hill Infrastructure Pty Ltd — Date of licence application: 13 October 2011.
  - xiii. Construction Camp 3 — Roy Hill Infrastructure Pty Ltd — Date of licence application: 13 October 2011.
  - xiv. Construction Camp 1- Roy Hill Infrastructure Pty Ltd — Date of licence application: 17 October 2011.
  - xv. Construction Camp Wastewater treatment plant and landfill — Roy Hill Iron Ore Pty Ltd — Date of licence application: 17 October 2011.
  - xvi. Mankarlyirrakurra Exploration Camp — Roy Hill Iron Ore Pty Ltd — Date of works approval application: 2 September 2011.
  - xvii. Infrastructure Rail — Roy Hill Iron Ore Pty Ltd — Date of works approval application: 9 September 2011
- (3)–(4) Yes, in relation to answer (1)–(2), Section 46, Licenses Applications and Works Approvals are appealable under the Environmental Protection Act 1986.

- (5) No State offset arrangements under Part IV of the Environmental Protection Act (1986) have been determined in 2011.
- (6)–(7) Yes. Two phone conversations between my Senior Policy Advisor and Hancock’s Head of Government Relations regarding discussions over a potential opportunity for the Minister for Environment to attend at a Port Hedland Industry Council and Port Hedland Air and Noise Group meeting.

## DEPARTMENT OF ENVIRONMENT AND CONSERVATION — STAFF STATISTICS

4890. Hon Sally Talbot to the Minister for Mental Health representing the Minister for Environment

I refer to the Department of Environment and Conservation’s staff profile in their Annual Report 2010–11, and ask for the 1,910 full time equivalent staff listed —

- (1) What is the actual number of employees by —
- (a) classification level (including job description and salary ranges);
  - (b) full-time/part-time status;
  - (c) gender; and
  - (d) location?
- (2) What is the employment type based on gender of those employees; for example, but not limited to —
- (a) permanent;
  - (b) fixed-term;
  - (c) part-time; and
  - (d) casual?
- (3) How many employees identify as Aboriginal or Torres Strait Islander and where are these employees based?
- (4) How many employees work in administrative positions in
- (a) the metropolitan area; and
  - (b) regional areas?
- (5) What is the actual total remuneration for senior officers?
- (6) What is the actual total remuneration of other (non-senior officer) staff?

Hon HELEN MORTON replied:

- (1)–(6) [See paper 4129.]

DEPARTMENT OF ENVIRONMENT AND CONSERVATION —  
RESIDENTIAL AND OFFICE ACCOMMODATION

4891. Hon Sally Talbot to the Minister for Mental Health representing the Minister for Environment

I refer to the Department of Environment and Conservation’s Annual Report 2010–11 in relation to property, plant and equipment, and ask —

- (1) How many residential houses or other residential accommodation does the department own?
- (2) How many residential houses or other residential accommodation does the department lease?
- (3) What is the location, size and cost for both owned and leased residential properties?
- (4) How many employees receive housing assistance, (for example, housing allowance payments or rental assistance) and where are these employees based?
- (5) In relation to office accommodation, how many offices does the department own or lease, and where is this office accommodation located?
- (6) What is the location, size and cost for both owned and leased office accommodation?

Hon HELEN MORTON replied:

- (1) 46
- (2) 196, of which 185 are leased from Government Regional Officers Housing (GROH) and 11 are leased from the private sector.
- (3) [See paper 4130.] Table 1 shows location, size and cost. The “Annual Cost” column records base annual rental payments for houses leased from GROH and private owners.
- (4) 11 employees receive housing assistance and are based at Exmouth (2), Kalgoorlie(4), Karratha (1), Kununurra (1), Broome (2) and Denham (1).

- (5) [See paper 4130.] The Department of Environment and Conservation owns or leases 85 offices, as shown in Table 2.
- (6) [See paper 4130.] Table 2 shows location, size and cost. The “Annual Cost” column records base annual rental payments for leased offices excluding variable outgoings.

#### KARARA MINING — WATER USE APPLICATION

4893. Hon Alison Xamon to the Minister for Mental Health representing the Minister for Water

I refer to the answer to my question on notice No. 4610 regarding Karara Mining’s non-renewable licence for 90,000KL, and I ask —

- (1) How much water was used?
- (2) Were there conditions about what the water could be used for?
- (3) How were those conditions to be monitored?
- (4) Were those monitoring activities carried out?

Hon HELEN MORTON replied:

The Minister for Water provides the following response:

- (1) 32 286 kilolitres was abstracted between March and August 2011.
- (2) Yes, for construction activities.
- (3) The use of the water was monitored by meter readings, water levels in bores and water quality.
- (4) Yes.

#### GNANGARA MOUND — METERING PLAN

4894. Hon Alison Xamon to the Minister for Mental Health representing the Minister for Water

I refer to the answer to my question on notice No. 3686 regarding metering on the Gngangara Mound and specifically the answer that further roll out of the program would occur if funds were available, and I ask —

- (1) Has such funding been sought?
- (2) If yes to (1), what sources of funding have been investigated?
- (3) How much money (if any) was promised from each source?
- (4) Is there a timeframe for the further roll-out of the metering plan?
- (5) When is it expected that —
  - (a) 50 percent of licensed users on the Gngangara Mound will be monitored;
  - (b) 75 percent of licensed users on the Gngangara Mound will be monitored; and
  - (c) 100 percent of licensed users on the Gngangara Mound will be monitored?

Hon HELEN MORTON replied:

The Minister for Water provides the following response:

- (1) Yes
- (2) Federal and State funding
- (3) Nil
- (4) No
- (5) (a)–(c) Not applicable.

#### WATER ALLOCATION LICENCES — EXCEEDENCE

4895. Hon Alison Xamon to the Minister for Mental Health representing the Minister for Water

I refer to the answer to my question on notice No. 4381 regarding water conservation and efficiency plans (WCEP) and my question on notice No. 3208, and I ask —

- (1) Will the Minister please specify each water management area that is currently over-allocated and the percentage by which is over-allocated?
- (2) For each water management area specified in (1), how many water allocation licences are current?
- (3) For each water management area specified in (1), how many water allocation licences are for values —
  - (a) less than 500,000kL per year; and

- (b) greater than or equal to 500,000kL per year?
- (4) Please advise how many of the water allocation licences specified in (3)(a) require an operating strategy as part of their licence conditions?
- (5) Please advise how many of the water allocation licences specified in (3)(a) —
- (a) have a WCEP plan as part of their licence conditions; and
- (b) how many have a WCEP on file with the Department of Water?
- (6) Please advise how many of the water allocation licences specified in (3)(b) —
- (a) have a WCEP as part of their licence conditions; and
- (b) how many have a WCEP on file with the Department of Water?
- (7) How many of the WCEPs specified in in (6)(a) are at the advanced level?

Hon HELEN MORTON replied:

The Minister for Water provides the following response:

- (1) Management areas currently over-allocated are as follows:

Management Area	% Over-allocated
Carnarvon Groundwater Area (subarea A)	35%
Gnangara Groundwater Area	28%
Gwelup Groundwater Area	12%
Mirrabooka Groundwater Area	8%
Swan Groundwater Area	18%
Wanneroo Groundwater Area	14%
Collie Groundwater Area	107%

- (2)–(3) This information is available on the Water Register on the Department of Water’s website.
- (4) The number of water licences requiring an operating strategy as part of their licence conditions are as follows:

Management Area	Number of licences
Carnarvon Groundwater Area (subarea A)	0
Gnangara Groundwater Area	0
Gwelup Groundwater Area	1
Mirrabooka Groundwater Area	11
Swan Groundwater Area	17
Wanneroo Groundwater Area	13
Collie Groundwater Area	0

- (5) (a) 20
- (b) 20
- (6) (a) 3
- (b) 3
- (7) 3

#### FORESTS — CLEARING FOR MINING ACTIVITIES

4897. Hon Giz Watson to the Minister for Child Protection representing the Minister for Forestry

I refer to the clearing of forest under clearing permits for mineral and petroleum activities granted by the Department of Minerals and Petroleum and its predecessors, and ask —

- (1) How many hectares of forest have been cleared for mineral and petroleum activities in each of the past five years?
- (2) What quantity of forest products (by product type and species) has been generated as a result of this clearing in each of the past five years?
- (3) Are the permit holders required by law or any condition of the clearing permit to do anything specific with the forest products from mine site clearing?
- (4) If yes to (3), what are the stipulations?
- (5) If no to (3), why not?

- (6) What amount of forest products from mine sites has been sold in each of the five years, from what companies' operations and to which entities?

Hon ROBYN McSWEENEY replied:

- (1) Please refer to Legislative Council question on notice 4647.
- (2) Please refer to Legislative Council question on notice 4647. The Forest Products Commission maintains a system that records all forest products removed and sold from State forest. However, matching production records to specific clearing permits is a complex and time consuming process.
- (3)–(5) These questions should be referred to the Minister for Mines and Petroleum.
- (6) Please refer to Legislative Council question on notice 4647.

#### SOUTH WESTERN HIGHWAY, MANJIMUP — ROAD WORKS

4898. Hon Giz Watson to the Minister for Finance representing the Minister for Transport

Referring to recent road works and roadside clearing on the South Western Highway south of Manjimup towards Walpole, I ask —

- (1) Who initiated the request for the work to be carried out?
- (2) What was the reason for this roadwork?
- (3) What was the cost of this roadwork?
- (4) Was any funding of this road work provided under the Royalties for Regions program?
- (5) What were the design criteria for the recent work?
- (6) Is there a policy on roadside clearing?
- (7) If yes to (6), please provide a copy of this policy?
- (8) How many trees of logging quality were removed during this work?
- (9) Was the timber sold?
- (10) If yes to (9), who to and at what price?
- (11) If no to (9), why not?
- (12) What future road work that involves the straightening and widening of the roads is planned for the Pemberton/Northcliffe and Manjimup Walpole roads?
- (13) What is the anticipated cost and the timeline for these future road works?
- (14) How much of this expenditure will come from the Royalties for Regions program?
- (15) Please provide information regarding road accidents in the past five years accidents on this part of the South Western Highway, per year, regarding —
- (a) the number of fatalities;
  - (b) the number of severe accidents; and
  - (c) the most likely cause of the accidents.

Hon SIMON O'BRIEN replied:

Main Roads WA advises:

- (1) Main Roads WA.
- (2) Improvement to enhance safety.
- (3) \$9 574 166
- (4) No
- (5) Roads, intersections and traffic signs are designed in accordance with AUSTRROADS and Main Roads' Road and Traffic Guidelines.
- (6) Yes
- (7) A copy of the Policy and Clearing Permit CPS 818 is attached. [See paper 4126.]
- (8) Approximately 250 trees.
- (9) Yes. Forest Products Commission (FPC) was engaged to remove and salvage the millable timber.

- (10) Refer to (9) above. Main Roads does not know what price the timber was sold for.
- (11) Not applicable
- (12) Development of upgrading strategies for these roads is yet to be complete.
- (13) Project cost and timeline are still unknown.
- (14) No funds are expected from the Royalties for Regions program.
- (15)
  - (a) One
  - (b) Four
  - (c) All severe crashes involved single vehicles. The most likely causes were inattention, speed or fatigue. More than 50 per cent of all vehicle crashes on this section of highway involve impact with trees.

FOREST MANAGEMENT PLAN 2004–2013 — KARRI OTHER BOLE VOLUME

4902. Hon Giz Watson to the Minister for Child Protection representing the Minister for Forestry

In relation to the 37 percent increase in the allowable cut of karri other bole volume, from 117,000 to 160,000 cubic metres a year, recently approved through an amendment to the *Forest Management Plan 2004–2013*, I ask —

- (1) Has the WA Chip & Pulp Co. Pty Ltd and/or WA Plantation Resources Pty Ltd a contract to buy any of the additional 43,000 cubic metres?
- (2) If yes to (1) —
  - (a) for what period;
  - (b) for what amount;
  - (c) for what price —
    - (i) per tonne; and
    - (ii) per cubic metre?
- (3) Does any other company have a contract to buy any of the additional 43,000 cubic metres?
- (4) If yes to (3) —
  - (a) which company has a contract;
  - (b) for what period;
  - (c) for what amount;
  - (d) for what price —
    - (i) per tonne; and
    - (ii) per cubic metre?
- (5) Has the WA Chip & Pulp Co. Pty Ltd and/or WA Plantation Resources Pty Ltd bought any of the karri other bole volume above 117,000 cubic metres a year logged and sold since 2004?
- (6) If yes to (5) —
  - (a) what amount per year;
  - (b) for what price —
    - (i) per tonne; and
    - (ii) per cubic metre?
- (7) Has any other company bought any of the karri other bole volume above 117,000 cubic metres a year logged and sold since 2004?
- (8) If yes to (7) —
  - (a) which company has bought what amount per year;
  - (b) for what price —
    - (i) per tonne; and
    - (ii) per cubic metre?

Hon ROBYN McSWEENEY replied:

- (1) WA Chip & Pulp Co. Pty Ltd has a production contract with the Forest Products Commission (FPC) that requires FPC to supply log timber intake of 130,000 tonnes (104,838 cubic metres) of karri other bole volume each calendar year. The log timber intake can be varied in any given year upon agreement between the General Manager and the buyer. Amounts additional to 117,000 cubic metres of karri other bole log have been sold under contract variations.
- (2)
  - (a) The Term of the contract with WA Chip & Pulp Co. Pty Ltd is from the start of the current Forest Management Plan to 31 December 2013.
  - (b) The contract requires FPC to supply log timber intake of 130,000 tonnes (104,838 cubic metres) of karri other bole log each calendar year. The log timber intake can be varied in any given year upon agreement between the General Manager and the buyer.
  - (c) Current prices are as follows. All prices include base stumpage, roading, inforest charges and administration.  
 Large chip log (Bark on): \$34.25–\$36.87/tonne; \$42.47–\$45.72/cubic metre (depending on supply region).  
 Small chip log ex thinnings (barkoff): \$34.01/tonne; \$42.17/cubic metre.
- (3) No. Third grade logs are included in the karri other bole volume and have also been sold to customers. However, these third grade logs are selected prior to chip log sales and volumes in excess of 117,000 cubic metres can be attributed to chip log sales via WA Chip & Pulp Co. Pty Ltd.
- (4) Not applicable
- (5) Yes
- (6)
  - (a) The following volumes have been purchased by WA Chip and Pulp that are above 117,000 m<sup>3</sup>/ annum of karri other bole volume.  
 2004: 2817 cubic metres  
 2005: 10 386 cubic metres  
 2006: 28 595 cubic metres  
 2007: 19 373 cubic metres  
 2008: 38 676 cubic metres  
 2009: nil  
 2010: 21 715 cubic metres
  - (b) Gross stumpage prices were as per schedules (posted on FPC website) for each year of sale.
- (7) No. Third grade logs are included in the karri other bole volume and have also been sold to customers. However, these third grade logs are selected prior to chip log sales and volumes in excess of 117,000 cubic metres can be attributed to chip log sales via WA Chip & Pulp Co. Pty Ltd.

#### NATIVE FOREST TIMBERS — EXPORT

4903. Hon Giz Watson to the Minister for Child Protection representing the Minister for Forestry

- (1) In relation to the export of sawn native forest timbers from Western Australia —
  - (a) what quantity of sawn jarrah, karri and marri (please provide figures on a per species basis) was exported from Western Australia in —
    - (i) 2010–2011;
    - (ii) 2009–2010;
    - (iii) 2008–2009;
    - (iv) 2007–2008;
    - (v) 2006–2007; and
    - (vi) 2005–2006?
  - (b) for each of those years —
    - (i) from which port(s) was the timber exported;
    - (ii) who was the owner of the timber at the point of departure from Western Australia;
    - (iii) which ports received the timber (for each port, please provide details of the quantity of each species received, for each year specified); and

- (iv) who was the owner of the timber at the point of arrival overseas (for each owner, please provide details of the quantity of each species received, for each year specified)?
- (2) In relation to the export of whole native forest logs from Western Australia —
  - (a) what quantity of whole native forest logs (please provide figures on a per species basis) was exported from Western Australia in —
    - (i) 2010–2011;
    - (ii) 2009–2010;
    - (iii) 2008–2009;
    - (iv) 2007–2008;
    - (v) 2006–2007; and
    - (vi) 2005–2006?
  - (b) for each of those years —
    - (i) what was the financial value of the logs exported (please provide figures on a per species basis);
    - (ii) from which port(s) were the logs exported (for each port, please provide details of the quantity of each species exported, for each year specified); and
    - (iii) which ports received the timber (for each port, please provide details of the quantity of each species received, for each year specified)?

Hon ROBYN McSWEENEY replied:

- (1) The figures are compiled from sawmill returns provided to the FPC by sawmillers. Both eastern states and overseas sales are recorded together in their reporting information as they are sales outside of Western Australia.
  - (a) (i) 2010–2011: 6062m<sup>3</sup> (jarrah), 4325m<sup>3</sup> (karri), 178m<sup>3</sup> (marri).
  - (ii) 2009–2010: 9575m<sup>3</sup>, 11062m<sup>3</sup>, 394m<sup>3</sup>.
  - (iii) 2008–2009: 12 188m<sup>3</sup>, 11 544m<sup>3</sup>, 156m<sup>3</sup>.
  - (iv) 2007–2008: 19 482m<sup>3</sup>, 12,289m<sup>3</sup>, 291m<sup>3</sup>.
  - (v) 2006–2007: 18 417m<sup>3</sup>, 12 284m<sup>3</sup>, 149m<sup>3</sup>.
  - (vi) 2005–2006: 20 038m<sup>3</sup>, 10 125m<sup>3</sup>, 16m<sup>3</sup>.
  - (b) The FPC does not collect this data.
- (2) (a) The FPC has only data for log exports it has been expressly involved in for research, product, processing and investment attraction trials and does not collect this data from sawmills.
  - (i) 2010–2011: 86.1 tonnes (jarrah), 21.6 tonnes (karri), 21.4 tonnes (marri).
  - (ii) 2009–2010: 38.45 tonnes, nil, 36.98 tonnes.
  - (iii) 2008–2009: nil, nil, nil.
  - (iv) 2007–2008: nil, nil, nil.
  - (v) 2006–2007: nil, nil, nil.
  - (vi) 2005–2006: nil, nil, nil.
  - (b) (i) 2010–2011: \$28 281 (jarrah), \$7171 (karri), \$7105 (marri).  
2009–2010: \$2942, nil, \$2504.
  - (ii) Port of Fremantle — please refer to (2)(a).
  - (iii) 2010–2011: Chennai Port, India: 43.8 tonne (jarrah), 21.6 tonne (karri), 21.4 tonne (marri).  
Kolkata Port, India: 42.3 tonne (jarrah), nil (karri), nil (marri).  
2009–2010: Changshu Port, China: 19.33 tonne (jarrah), 18.48 tonne (marri).  
Leliu Port, China: 19.12 tonne (jarrah), 18.51 tonne (marri).

## BANDYUP WOMEN'S PRISON — PRISONER CONDITIONS

4904. Hon Giz Watson to the Minister for Finance representing the Minister for Corrective Services

I refer to the recently released Report 73 'Report of an Announced Inspection of Bandyup Women's Prison' of the Office of the Inspector of Custodial Services, and I ask —

- (1) How many prisoners are there currently at Bandyup Women's Prison (Bandyup) within each security classification?
- (2) Regarding the Department's response to Recommendation 1 —
  - (a) what is the current population at Bandyup;
  - (b) how many women are currently sleeping on floors;
  - (c) on how many nights over the past 24 months have women slept on floors;
  - (d) are the demountables currently being used; and
  - (e) if no to (2)(d), when will the demountables be in use?
- (3) Regarding the Department's response to Recommendation 2, and the footnote to it —
  - (a) does the Minister and the Department acknowledge that Aboriginal prisoners may need to be treated differently for substantive equality to be achieved;
  - (b) when will the part of the hierarchical system review about barriers to Aboriginal women accessing the more desirable accommodation areas be completed; and
  - (c) will the Minister forward the outcome of this review to the Office of the Inspector of Custodial Services?
- (4) Regarding the Department's response to Recommendation 4, and the footnote to it, will the Minister please provide more meaningful information including but not limited to —
  - (a) how is the assessment of the focus on women prisoners being carried out;
  - (b) what are the terms of reference for the assessment;
  - (c) when will the assessment be completed;
  - (d) has the Minister identified a need for dedicated resources to drive the Department's strategic direction of women's corrective services;
  - (e) if yes to (4)(d), what funding and other resources have you committed to it; and
  - (f) if no to (4)(d), what are the reasons for this?
- (5) Regarding the Department's response to Recommendation 5, and the footnote to it —
  - (a) will you please provide full details regarding the new 'Demand Model' of funding women's custodial management;
  - (b) if no to (5)(a), why not;
  - (c) if the answer to (5)(b) is that the model has not yet been approved by the Department of Treasury —
    - (i) when is the Department of Treasury expected to make its decision; and
    - (ii) if the Department of Treasury approves the model, will the Minister forward full details of the model to the Office of the Inspector for Custodial Services?
- (6) Regarding Recommendation 14's reference to the absence of high need violent offending treatment programs for women, when will the modified Choice, Change and Consequences program, discussed at paragraph 4.29 of the report, be ready for launch?
- (7) Regarding the Department's response to Recommendation 17, and the footnote to it —
  - (a) have the 'licensing issues' preventing use of computers by prisoners been resolved yet;
  - (b) if no to (7)(a) —
    - (i) what is the nature of the licensing issues; and
    - (ii) how long is it expected to take for the licensing issues to be fully resolved,
  - (c) how many computers are currently available for use by prisoners;
  - (d) by how many will this number increase in 2011–12;

- (e) at what times are the computers available for use by prisoners;
  - (f) will the computers be available for personal use, for example social visits via Skype as happens at Hakea and Acacia Prisons; and
  - (g) if no to (7)(f), why not?
- (8) Regarding the Department's response to Recommendation 18, and the footnote to it —
- (a) has the visitor survey been developed;
  - (b) if yes to (8)(a), will the Minister please provide full details regarding the methodology and content of the survey;
  - (c) if no to (8)(a) —
    - (i) will you provide the Office of the Inspector of Custodial Services with full details regarding the methodology and content of the survey when it has been developed;
    - (ii) if no to (8)(c)(i), why not; and
    - (iii) when will the survey commence?
- (9) Regarding the Department's response to Recommendation 20, when is the Department expected to reach a decision on whether to allow day stays for 'significant' children with female prisoners who are their mothers?
- (10) Regarding the Department's response to Recommendation 22 —
- (a) what ways have been identified for providing Bandyup prisoners with their legal entitlements regarding access to legal resources and assistance to research their cases; and
  - (b) when will these changes be implemented?
- (11) Regarding the Department's response to Recommendation 23, and the footnote to it —
- (a) will the Department provide the Office of the Inspector of Custodial Services with documented details of the reviews of October 2010 and July 2011 when they are available; and
  - (b) if no to (11)(a), why not?
- (12) Regarding the Department's response to Recommendation 26 —
- (a) given the footnote to the response, what is the Minister's revised response to that recommendation;
  - (b) on average, how many medical appointments are requested per prisoner at —
    - (i) Bandyup; and
    - (ii) Casuarina Prison,
  - (c) how many FTE medical staff are available for medical appointments at —
    - (i) Bandyup; and
    - (ii) Casuarina Prison?
- (13) Regarding the Department's response to Recommendation 27, and the footnote to it, when do you expect the scheme for linking Aboriginal prisoners with their local Aboriginal Community Health Service upon release to be in full operation?
- (14) Regarding footnote 198 to the Department's response to Recommendation 29 —
- (a) how many Bandyup staff attended cultural safety training in September; and
  - (b) how many more Bandyup staff will attend this training in 2011–12?
- (15) Regarding the Department's response to Recommendation 32 —
- (a) how many Bandyup prisoners have mental health issues;
  - (b) how does this figure compare with the number of people in the wider community who have mental health issues;
  - (c) is the Crisis Care Unit designed for long term occupancy by people who have mental health issues;
  - (d) is the Crisis Care Unit a therapeutic environment for people who have mental health issues; and

- (e) if no to (15)(c) and/or (d), why have no resources been made available to advance Recommendation 32?
- (16) Given the footnote to the Department's response to Recommendation 33, what alternative arrangements are in place for 24 hour mental health advice to be provided when necessary?
- (17) Regarding paragraphs 9.102 and 9.103 of the report which describe an absence of preventive care or health promotion despite its potential to reduce the degree of pathology in the population and enhance wellbeing, and noting also paragraph 6.35 of the report which says that 50 percent of women in prison were directly responsible for care of a child prior to their arrest —
- (a) will the QUIT smoking program described at paragraph 9.103 run at Bandyup again in 2011–12;
- (b) if no to (17)(a), why not; and
- (c) what, if any, other preventive health programs will run at Bandyup in 2011–12?
- (18) Given Bandyup's lack of open space, oval or market garden compared with other maximum security prisons —
- (a) what discussions have taken place regarding expanding Bandyup's 'footprint'; and
- (b) when will decisions about any change to Bandyup's 'footprint' be made?
- (19) Regarding the various responses by the Department which acknowledge the need for staff training (for example responses to Recommendations 9 and 11), how will the Minister address the issue of maintaining Bandyup's services while various staff are attending training?

Hon SIMON O'BRIEN replied:

- (1) As at 16 November 2011, there are 225 prisoners at Bandyup Women's Prison. Of these 9 are maximum, 169 are medium and 47 are minimum security.
- (2) (a) As at 16 November 2011, there are 225 prisoners at Bandyup Women's Prison.
- (b) As at 16 November 2011 there are 10 women sleeping on mattresses on the floor. There are a number of reasons why prisoners may be sleeping on mattresses on the floor at Bandyup, and this not always due to a shortage of beds in the prison. For example, prisoners sleeping on mattresses in a particular unit may be as a result of them not being suitable to be housed in an alternative unit. In order for Bandyup to maintain a hierarchical structure where good behaviour is rewarded, standards of behaviour must be maintained within specific units. If the behaviour of a prisoner falls short of the required standards for that unit yet they are allowed to remain within the accommodation, this places the prison at risk of disorder by lowered behavioural standards.
- Several units within Bandyup are of a self care nature, and not all prisoners are able to care for themselves or have the desire to do so, therefore placing them in self care units presents risks. The same relates to maintaining a separate orientation unit whereby new receptions are housed and allowed to settle into prison life, thus reducing risk of self harm and prisoner disorder. Support systems also mean that some prisoners choose to share cells when facing difficult situations. For example, the death of relatives or other such issues where they feel they need support.
- What needs to be considered is that Bandyup is vastly different to the male estate in that it operates under significant role complexity. It delivers a regime catering for all prisoners all of the time and does not have the dispersal options afforded to the male prisons. As a result, such accommodation does not always align to the number of beds within each unit as being full for operational reasons. Unless the Department was to abandon initiatives like self care and the hierarchical structure and revert to warehousing, the Department would not be able to fill all available beds before reverting to using beds on floors.
- (c) Data is not readily available.
- (d) Yes
- (e) Not applicable.
- (3) (a) Yes
- (b) The review is about the hierarchal system not Aboriginality.
- (c) The Department will make the report available to the Office of the Inspector of Custodial Services (OICS).

- (4) (a) The Department has established a steering committee and working groups which will look at the delivery of services to women. These committees/groups include:
- Female Prisoners Strategic Plan Steering Committee
  - Female Prisoners Strategic Plan — Analysis Working Group
  - Female Prisoners Strategic Plan — Evaluation of other locations Working Party
- (b) The Female Prisoners Strategic Plan project specifically incorporates female adult offenders in custody and will link to other objectives being undertaken within the Department including the Female Offender Policy and Framework. A cross divisional steering committee has been developed to ensure accurate information and data is applied to the Female Prisoners Strategic Plan project.
- This information will be coordinated by the project manager who will develop the eventual Female Prisoners Strategic Plan. The development of the Female Prisoners Strategic Plan will ensure a custodial focused State Plan is developed to provide the platform to support capital works business cases to drive the Department's strategic direction of women's corrective services.
- (c) First quarter, 2012.
- (d) Yes. The Department has established a steering committee with cross representation focused on these issues.
- (e) Funded within the Departmental budget and resources as outlined in (4)(d).
- (f) Not applicable.
- (5) (a) No
- (b) The demand model is currently being developed in line with Treasury.
- (c) (i) It is not known when the Department of Treasury will make its decision.  
(ii) The Department will make it available to OICS.
- (6) The roll-out of the amended Choice, Change and Consequences program is expected to commence in quarter one, 2012/13.
- (7) (a) Yes
- (b) (i)–(ii) Not applicable
- (c) 22 computers are currently available for use by prisoners. (20 computers are available for education and two computers are available in the library for legal use only.)
- (d) The amount of computers available to prisoners will be assessed to accommodate increased prisoner numbers.
- (e) The use of the 20 computers for education are available from 8.45am to 11.25am and 12.45pm to 3.25pm. The two computers in the library are available during the following times (dependant upon prisoner recreation time):
- Monday to Friday:  
9.00am to 11.30am, 1.00pm to 3.30pm, for prisoners on days off work.  
4.00pm to 5.00pm for all prisoners.
- Weekends and Public Holidays:  
9.30am to 11.30am, 1.30pm to 3.30pm, 4.00pm to 5.00pm for all prisoners.
- (f) Yes
- (g) Not applicable
- (8) (a) Yes
- (b) [See paper 4124.]
- (c) (i) The Commissioner will make it available to OICS.  
(ii) Not applicable  
(iii) The survey commenced in October.
- (9) The Department's response to recommendation 20 does not relate to mothers.

- (10) (a) The provision of computers and access to word software. The Department is continuing to look at ways to provide assistance.
- (b) These changes have already been implemented.
- (11) (a) Yes, the Department will provide this to OICS.
- (b) Not applicable
- (12) (a) Nil. There is no revised response.
- (b) (i)–(ii) Appointment request data per prisoner is not available.
- (c) (i) Clinical Nurse Manager — 1 FTE  
Nurses — 7.81 FTE which allows for 3x 12/7 nurses.  
Doctors — funded for 2.0 FTE to provide for 14 patient contact sessions per week. Currently receiving on average ten sessions per week.  
Co-Morbidity — Three full time staff covering 10/7, and four psychiatry sessions per week.
- (ii) Clinical Nurse Manager — 1 FTE.  
Nurses (Outpatients) — 7.0 FTE which allows for 3x 12/7.  
Nurses — (Infirmery) — 10.0 FTE this allows for 2x 24/7.  
Doctors — funded for 3.0 FTE to provide for 21 patient contact sessions per week. Currently receiving 19 sessions per week.  
Co-Morbidity — 3.5 full time staff covering 10/7 and ten psychiatry sessions per week.
- (13) North Metro Area Health Service (NMAHS) is the nominated provider for this contract. The Department continues to communicate with NMAHS with respect to obtaining a start date for the service however has not yet received a confirmed start date. It should be noted that the service is provided by an external body (NMAHS) and managed by Western Australian Country Health Service (WACHS).
- (14) (a) Nil
- (b) Expected number is 17.  
Cultural Training is contracted out to the Aboriginal Council of Health WA (ACHWA) to provide the service. All regional areas have been completed and the Department is awaiting the ACHWA schedule to commence metro area training. A Department representative is meeting with ACHWA on 21 November 2011 in this regard.
- (15) (a) For the quarter 1 July 2011 to 30 September 2011, there were 1370 occasions of service undertaken by the co-morbidity team with 249 distinct individuals. A snapshot taken on 7 November 2011 indicated 67 (29%) distinct individuals were being managed for a major mental illness, by the co-morbidity team. A further 50 (21%) distinct individuals with a less acute mental illness were being managed by the primary care team on the same day.
- (b) In the “Health and Wellbeing of Adults in Western Australia, Overview and Trends” report 2011, 9.2% of all women interviewed were being treated for a mental health problem. This compares to a total of 50% of female offenders being treated for a mental illness while in Bandyup.
- (c) No. The Crisis Care Unit is only used in an emergency and then only for a short period.
- (d) No. As the unit is not staffed by clinical staff, the Crisis Care Unit could not be considered a therapeutic environment for people who have a mental health issue.
- (e) The Department has nominated a unit where prisoners who are considered vulnerable can reside. However, no resources are currently available to advance this recommendation further.
- (16) All medical practitioners, including the “on call” doctor can access the Mental Health Emergency Response Line (MERL) on a 24/7 basis or can contact the Emergency Department of their local hospital for advice and support, where urgently required.
- (17) (a) No
- (b) From February 2008 to December 2010 the Department supplied prisoners with free nicotine replacement patches (NRT) as part of the Department’s initiative to have reduced smoking in prisons. Nominated health and custodial staff from each site completed Fresh Start Training

with Cancer Council WA to enable them to conduct smoking cessation groups to assist patients to quit. Nicotine Replacement Therapy (NRT) was to be used in conjunction with group attendance over six consecutive weeks — one hour per week approximately.

The groups were not widely successful, as attendance and motivation of participants was limited and coupled with time constraints of staff. Most importantly the replacement therapy was abused by prisoners and was being used to supplement their nicotine intake. Due to the ongoing abuse of NRT, limited motivation of patients in engaging and no obvious health outcomes, the free patches were ceased on 1 January 2011.

- (c) A health promotion day entitled “check out for women’s health” was held earlier in the year. Health promotion and education is undertaken as part of ongoing one on one consults. All prisoners have access to the Quitline via the prisoner telephone system, free of charge.
- (18) (a)–(b) There are no current discussions taking place.
- (19) The prison is locked down each Friday morning to allow training to take place on the site. In addition, if staff are required to attend the Academy, training is arranged during the non-leave period or overtime is made available..

#### WATER CORPORATION — PLANT AND EQUIPMENT COST

4905. Hon Sally Talbot to the Minister for Mental Health representing the Minister for Water

For each of the financial years 2008–09, 2009–10 and 2010–11, I ask —

- (1) How much did Water Corporation spend on plant and equipment?
- (2) How much of this expenditure was on plant and equipment manufactured in States other than Western Australia?
- (3) How much of this expenditure was on plant and equipment manufactured overseas?
- (4) How much of this expenditure was on plant and equipment manufactured in Western Australia?

Hon HELEN MORTON replied:

- (1) 2008–09: \$134 267 723  
2009–10: \$163 718 966  
2010–11: \$ 95 590 354
- (2)–(4) The Water Corporation does not record information on where plant and equipment are manufactured. However, the majority of plant and equipment are Australian supplied.

#### WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4911. Hon Ljiljanna Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11, for each of the suburbs of Dianella, Noranda and Nollamara —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many Water Corporation customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

- (1)–(5) Please refer to Legislative Council Question on Notice 4886.

#### WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4912. Hon Ljiljanna Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11, for each of the suburbs of Coolbinia, East Perth, Inglewood, Maylands, Menora and Yokine —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?

- (4) How many Water Corporation customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

(1)–(5) Please refer to Legislative Council Question on Notice 4886.

#### WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4913. Hon Ljiljanna Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11, for each of the suburbs of Ellenbrook, Lexia, Ballajura, Beechboro, Caversham, Cullacabardee, Henley Brook, Malaga, West Swan and Whiteman —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many Water Corporation customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

(1)–(5) Please refer to Legislative Council Question on Notice 4886.

#### WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4914. Hon Ljiljanna Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11, for each of the suburbs of Armadale, Brookdale, Camillo, Champion Lakes, Forrestdale, Haynes, Hilbert, Kelmscott, Mount Nasura, Mount Richon, Seville Grove and Wungong —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many Water Corporation customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

(1)–(5) Please refer to Legislative Council Question on Notice 4886.

#### WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4915. Hon Ljiljanna Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11, for each of the suburbs of Ashfield, Bassendean, Bayswater, Eden Hill, Kiara and Lockridge —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many Water Corporation customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

(1)–(5) Please refer to Legislative Council Question on Notice 4886.

## WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4916. Hon Ljiljanna Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11, for each of the suburbs of Ascot, Belmont, Cloverdale, Kewdale, Redcliffe, Rivervale, South Guilford and Welshpool —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many Water Corporation customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

- (1)–(5) Please refer to Legislative Council Question on Notice 4886.

## WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4917. Hon Ljiljanna Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11, for each of the suburbs of Forrestfield, Gooseberry Hill, High Wycombe, Kenwick, Maddington, Maida Vale, Orange Grove and Wattle Grove —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many Water Corporation customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

- (1)–(5) Please refer to Legislative Council Question on Notice 4886.

## WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4918. Hon Ljiljanna Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11, for each of the suburbs of Gosnells and Thornlie —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many Water Corporation customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

- (1)–(5) Please refer to Legislative Council Question on Notice 4886.

## WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4919. Hon Ljiljanna Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11, for each of the suburbs of Bedford and Embleton —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many Water Corporation customers have been pursued through legal avenues over non-payment of bills?

- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

- (1)–(5) Please refer to Legislative Council Question on Notice 4886.

#### WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4920. Hon Ljiljana Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11, for each of the suburbs of Bellevue, Boya, Darlington, Greenmount, Guilford, Hazelmere, Helena Valley, Jane Brook, Koongamia, Middle Swan, Midland, Midvale, Red Hill, Stratton, Swan View, Viveash and Woodbridge —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many Water Corporation customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

- (1)–(5) Please refer to Legislative Council Question on Notice 4886.

#### WATER ACCOUNTS — CUSTOMER PAYMENT DIFFICULTIES

4921. Hon Ljiljana Ravlich to the Minister for Mental Health representing the Minister for Water

I ask for each of the years 2009–10 and 2010–11, for each of the suburbs of Balga, Alexander Heights, Koondoola, Mirrabooka and Westminster —

- (1) How many ‘restriction of supply notices’ have been issued to Water Corporation customers?
- (2) How many Water Corporation customers have requested a payment plan?
- (3) How many Water Corporation customers have entered into a payment plan?
- (4) How many Water Corporation customers have been pursued through legal avenues over non-payment of bills?
- (5) How many applications for the Hardship Utility Grant Scheme have been received by the Water Corporation and how many applications have been approved?

Hon HELEN MORTON replied:

- (1)–(5) Please refer to Legislative Council Question on Notice 4886.

#### LITTERING AND ILLEGAL DUMPING — PENALTIES

4957. Hon Sally Talbot to the Minister for Mental Health representing the Minister for Environment

I refer to the penalties for littering and illegal dumping under the *Litter Act 1979* and the *Environmental Protection Act 1986*, and I ask —

- (1) How many fines or other penalties for littering cigarette butts, syringes or broken glass were imposed in —
  - (a) 2008–09;
  - (b) 2009–10; and
  - (c) 2010–11?
- (2) How many fines or other penalties relating to the offence of unlawfully dumping waste were imposed in the year ending 31 October 2011?

Hon HELEN MORTON replied:

The Minister for Environment has provided the following response:

- (1) The Department of Environment and Conservation and the Keep Australia Beautiful Council do not keep statistics on the individual type of litter an infringement is issued for, other than for cigarette butts.

The information provided does not take into account fines or other penalties imposed by local governments.

- (a) total infringements 4233, including 3700 for cigarette butts
  - (b) total infringements 4842, including 4402 for cigarette butts
  - (c) total infringements 3935, including 3532 for cigarette butts
- (2) One conviction (\$10,000 fine) in the Magistrates Court of Western Australia, with four separate prosecutions pending.

ENVIRONMENTAL PROTECTION AUTHORITY —  
APPOINTMENT OF ELIZABETH CARR TO BOARD

4958. Hon Sally Talbot to the Minister for Mental Health representing the Minister for Environment

In relation to the appointment of Elizabeth Carr to the board of the Environmental Protection Authority (EPA), I ask —

- (1) What positions did Ms Carr hold in the Western Australian Department of State Development?
- (2) What dates were these positions held?
- (3) Has Ms Carr disclosed a conflict of interest under s.12 of the *Environmental Protection Act 1986*?
- (4) When was this conflict of interest disclosed?
- (5) When did Ms Carr discuss with EPA Chairman, Paul Vogel, her previous involvement in the Browse LNG proposal?
- (6) Did Ms Carr discuss with the Minister her previous involvement in the Browse LNG proposal?
- (7) If yes to (6), when?
- (8) When was it agreed that Ms Carr would abstain from any EPA decision on the proposal?
- (9) Will abstaining from EPA decisions on the proposal mean that Ms Carr receives briefing papers on the proposal and attends meetings of the EPA at which the proposal is discussed?
- (10) What restrictions will be placed on Ms Carr's activities as an EPA Board member as a result of the agreement that Ms Carr will abstain from any EPA decision on the proposal?
- (11) What other disclosures under s.12 of the *Environmental Protection Act 1986* were made by Authority Members in 2008, 2009, 2010 and 2011? Please provide details of these disclosures.

Hon HELEN MORTON replied:

- (1) Executive Director Browse.
- (2) July 2009–February 2011.
- (3)–(4) Ms Carr has declared a potential conflict of interest with regard to assessment of the Browse LNG proposal at EPA meetings 1016 and 1017 (27 October 2011 and 10 November 2011).
- (5)–(8) Ms Carr discussed her previous involvement in the Browse LNG proposal shortly after being appointed and it was agreed that she would remove herself from any discussion or decision on the proposal.
- (9)–(10) Ms Carr will not receive briefing papers related to assessment of the Browse LNG proposal. Ms Carr may attend meetings but will remove herself from the meeting for any Item concerning the proposal.
- (11) [See paper 4131.] for a list of potential conflicts of interests declared at the EPA meetings during the last six months.

WESTERN RINGTAIL POSSUM — SPECIES SURVIVAL STRATEGIES

4959. Hon Sally Talbot to the Minister for Mental Health representing the Minister for Environment

- (1) Is the Minister aware of Commonwealth Government advice that the western ringtail possum has disappeared from 90 percent of its original range due to a number of threats including habitat loss due to land clearing and logging, and introduced predators such as foxes and cats, with the most significant threat to the species currently being the ongoing clearing of habitat in the Busselton area for urban development?
- (2) Does the following information from the Department of Environment and Conservation (DEC) website about strategies for the recovery of the western ringtail possum represent the entirety of DEC's conservation efforts in relation to the western ringtail possum: '1. Conserving existing populations within public lands managed by the Department of Conservation and Land Management. 2. Improving

the species conservation status, through habitat management (including fox control) and translocations to increase their numbers. 3. Minimising the impact of land developments through in-situ conservation and translocations. 4. Ensuring that derelict (injured, orphaned or nuisance) animals are rehabilitated where possible and released into the wild where chances of survival are maximised.’?

- (3) If no to (2), what other strategies are being employed by DEC to ensure the survival of this species?
- (4) If yes to (2), what evidence is there that DEC’s strategies are effective? In particular, have previous well-documented failures to translocate successfully the species been overcome, so that translocation is a viable option for species recovery?
- (5) If translocation is a viable option for species recovery, how have the possible causes for the lack of translocation success (including drought, mesopredator release, prey switching, unsuitable habitat at release sites, anthropogenic disturbances, disease and competition with sympatric native species) been avoided?
- (6) Does the translocation of western ringtail possums ever involve ‘hard release’?
- (7) Is radio collaring one of the devices used to monitor the translocated possums?
- (8) If yes to (7), what evidence about the success or failure of the translocation is provided by the use of radio collars?
- (9) If translocation is not a viable option for species recovery, why is it still listed as a strategy for species recovery?

Hon HELEN MORTON replied:

The Minister for Environment has provided the following response:

- (1) The Department of Environment and Conservation has advised that a 2007 brochure available on the Commonwealth Department of Sustainability, Environment, Water, Population and Communities website includes these statements.
- (2) No
- (3) Other strategies include field survey, wildlife disease studies, revegetation of degraded habitat and improved management of existing habitat.
- (4) Not applicable
- (5) The criteria used to determine the success of past translocations have varied according to the objectives for each translocation. Information gained from monitoring outcomes has been used to inform management of ringtail possum populations and subsequent translocations following an adaptive management framework.
- (6)–(7) Yes.
- (8) Radio collars provide information on the movements, home range, activity and dispersal of each collared possum. Collars can also provide information on mortality and allow the possums to be resighted to confirm wellbeing, or recaptured to allow assessment of health and reproductive status, and to replace or remove transmitters that are nearing the end of their operational life.
- (9) Translocation is one of the options in strategies to conserve possums.

#### SWAN RIVER TRUST — EMPLOYEE DETAILS

4960. Hon Sally Talbot to the Minister for Mental Health representing the Minister for Environment

- (1) What is the actual number of employees performing the functions of the Swan River Trust employed by the Department of Environment and Conservation (DEC)?
- (2) For each of these employees, what is their —
  - (a) classification level (including job description and salary ranges);
  - (b) full-time/part-time status;
  - (c) gender; and
  - (d) location?
- (3) What is the employment type based on gender of these employees; for example, but not limited to —
  - (a) permanent;
  - (b) fixed-term;

- (c) part-time; and
- (d) casual?
- (4) How many of these employees identify as Aboriginal or Torres Strait Islander and where are these employees based?
- (5) How many of these employees work in administrative positions?
- (6) What is the actual total remuneration for senior officers employed in these positions?
- (7) What is the actual total remuneration of other (non-senior officer) staff employed in these positions?
- (8) Does the Swan River Trust have any employees who are not employed by the DEC?
- (9) If yes to (8), please provide all information requested in (2) to (7) for these employees.

Hon HELEN MORTON replied:

- (1) 52.06
- (2)–(4) [See paper 4132.]
- (5) 5
- (6) \$146 806.17
- (7) \$4 750 175.46
- (8) Yes
- (9) (1)–(4) [See paper 4132.]
  - (5) 2
  - (6) \$0.0
  - (7) \$397 280.97

#### SWAN RIVER TRUST — PROPERTY ACQUISITIONS AND DISPOSALS

4961. Hon Sally Talbot to the Minister for Mental Health representing the Minister for Environment

I refer to the Swan River Trust's property acquisitions and disposals detailed in the Annual Report 2010–11, and ask —

- (1) How much freehold land does the Trust own?
- (2) What is the location, size and value of this freehold land?
- (3) How many residential houses or other residential accommodation does the Trust own?
- (4) How many residential houses or other residential accommodation does the Trust lease?
- (5) How many non-residential properties does the Trust own?
- (6) How many non-residential properties does the Trust lease?
- (7) What is the location, size and cost for both owned and leased residential and non-residential properties?
- (8) How many employees performing the functions of the Swan River Trust receive housing assistance, (for example, housing allowance payments or rental assistance) and where are these employees based?
- (9) In relation to office accommodation, how many offices does the Trust own or lease, and where is this office accommodation located?
- (10) What is the location, size and cost for both owned and leased office accommodation?

Hon HELEN MORTON replied:

- (1) Nil
- (2) Not applicable
- (3)–(5) Nil
- (6) 1
- (7) Level 1, Fortescue Centre, Perth. Size is 944m<sup>2</sup>. Cost for 2010/11 financial year is \$562 207.
- (8) Nil
- (9)–(10) Refer to (7).

## WHITE POINTER SHARKS — TAGGING

5020. Hon Linda Savage to the Minister for Fisheries

- (1) How many white pointer sharks have been tagged by the Department of Fisheries off the West Australian coast since 1 January 2009 to date?
- (2) Of those tagged, at what locations approximately were they located and tagged?
- (3) Of those tagged, on what dates were they tagged?

Hon NORMAN MOORE replied:

- (1) Eleven (11) white pointer sharks have been tagged off the Western Australian coast since 1 January 2009. In addition, one hundred and eighteen (118) compatible tags have been deployed on white pointer sharks outside Western Australia.
  - (2) Six (6) of the eleven (11) WA-tagged sharks were tagged around Albany, four (4) off the Perth metropolitan coast and one (1) to the east of Esperance.
  - (3) The Albany sharks were tagged on 9 March 2009, 21 July 2010 and 6 September 2010. The Perth sharks were tagged on 24 May 2009 and 14 July 2009. The Esperance shark was tagged on 25 May 2009.
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