Legislative Assembly

Wednesday, 24 August 2016

THE SPEAKER (Mr M.W. Sutherland) took the chair at 12 noon, and read prayers.

PAPER TABLED

A paper was tabled and ordered to lie upon the table of the house.

BILLS

Notice of Motion to Introduce

1. Loan Bill 2016.
Notice of motion given by Dr M.D. Nahan (Treasurer).

2. Local Government Amendment (Auditing) Bill 2016.
Notice of motion given by Mr A.J. Simpson (Minister for Local Government).

GOVERNMENT OFFICE ACCOMMODATION — JOONDALUP

Statement by Minister for Finance

MR W.R. MARMION (Nedlands — Minister for Finance) [12.02 pm]: I rise today to advise the house of the fulfilment of a 2013 election promise to support the growth of suburban office precincts in the outer Perth metropolitan area. The Liberal–National government has signed an agreement for lease with Primewest to construct approximately 9,600 square metres of new office space in Joondalup. It is anticipated that more than 800 public servants from the Departments of Water and Environment Regulation and the Office of the Environmental Protection Authority will be relocated from the Perth central business district to the newly constructed premises in Joondalup by early 2019.

The government’s Directions 2031 and Beyond initiative identified Joondalup as a future metropolitan activity centre. As a result, during the 2013 state election, a commitment was made to develop a new office building to enable the relocation of more than 500 government employees to Joondalup between 2016 and 2018. Following negotiations and a successful agreement with the preferred proponent, Primewest, I am pleased to advise that construction of the eight-storey building is expected to commence in October 2016, with office fit-out works scheduled to follow once construction is completed in April 2018.

The City of Joondalup is expected to benefit immediately from the generation of around 340 jobs during construction and enjoy the ongoing stimulus following the relocation of government employees in 2019. The building is in close proximity to Joondalup train station and bus stops and will have modern end-of-trip facilities that will provide numerous transport options for staff. Decentralisation of government office accommodation from the Perth CBD to metropolitan activity centres, such as Joondalup, aims to save taxpayers’ funds through lower rents and support the growth of urban office precincts.

In addition to the Joondalup initiative, the government has made a decision that the Department of Finance proceed to the next stage in the Fremantle office accommodation process, which is to enter commercial negotiations to ascertain whether a value-for-money outcome can be achieved for up to 20,000 square metres of office space. The government will make an announcement on the outcome of the Fremantle process, which is anticipated to be at the end of the year. The Premier also recently announced that a new headquarters for the Department of Parks and Wildlife is being developed in Bunbury. This will initially see 100 departmental staff share the site with a state-of-the-art visitor gateway to Western Australia’s south west.

The Liberal–National government continues to deliver on its election commitments and is making sure that the decisions about decentralisation reflect value-for-money outcomes and deliver long-term benefits for our growing state.

BUSINESS OF THE HOUSE — PRIVATE MEMBERS’ BUSINESS

Standing Orders Suspension — Motion

On motion by Dr M.D. Nahan (Treasurer) on behalf of Mr J.H.D. Day (Leader of the House), resolved —

That so much of standing orders be suspended as is necessary to enable private members’ business to have priority on Wednesday, 24 August 2016 between 4.00 pm and 8.00 pm.

BUSINESS OF THE HOUSE — DINNER SUSPENSION

Statement by Speaker

THE SPEAKER (Mr M.W. Sutherland): Members, I wish to announce that there will be a dinner break tonight between six o’clock and seven o’clock.
MR A.P. JACOB (Ocean Reef — Minister for Heritage) [12.07 pm]: I move —

That the bill be now read a second time.

It is with great pleasure that I introduce the Heritage Bill 2016. This bill will create a new heritage act to replace the current Heritage of Western Australia Act. Western Australia was the last Australian state to establish heritage legislation, passing the Heritage of Western Australia Act in 1990. This was in response to the community’s demands that the wholesale destruction of heritage places, particularly in Perth, be addressed by the Parliament. Almost as soon as the current act came into operation 25 years ago, it was found to have many flaws and shortcomings and was expensive to administer. It contains complex and redundant assessment and consultation processes, inflexible development referral requirements, countless ambiguities and arcane language that is hard to comprehend.

At least three previous reviews of the heritage act have attempted to address some of these issues, but none has delivered the much needed reform required to meet the needs of the Western Australian community today and into the future. This bill does just that. It has been carefully developed through three phases of stakeholder and public consultation undertaken since 2011 by the State Heritage Office on behalf of the Heritage Council of WA. It brings forward the elements of the current act that have served us well, while addressing its shortcomings by introducing new features that reflect contemporary heritage management principles and practice. Recognising and conserving cultural heritage is central to the purpose of heritage legislation. It promotes the identification, recognition and protection of those special places that tell the story of the state’s history and development. They are the familiar landmarks that give the community a sense of place and a foundation for the development for future generations. These places offer tangible links, through physical elements, and intangible links, through stories and associations, between the past and the present.

A total of 1353 such places of outstanding cultural heritage value to all Western Australians have been entered in the state register over the past 25 years, and this important work will continue under this bill. In response to stakeholder and community feedback, the sorts of places that will be considered for entry in the state register are clarified, as are the key features that contribute to their cultural heritage significance through a definition of “place” that is consistent with national and international standards. The bill also adopts new, clear heritage assessment criteria that are widely accepted in all Australian jurisdictions.

This bill simplifies the cumbersome listing processes of the current act through the introduction of a one-step process to assess and recommend the entry of a place in the state register. This will significantly reduce the time and cost of entering a place in the register while enhancing engagement with owners, stakeholders, local governments and the wider community throughout the assessment process. There will be more certainty for property owners when a place is nominated for entry in the register through regulations that will set a time limit within which the Heritage Council must decide whether the nomination warrants full assessment. Regulations will also limit how long the minister may take to decide on a Heritage Council recommendation to register a place. Further, the bill specifies that an owner must be notified of, and consulted in regard to, any action proposed or taken under the act that may affect the owner’s property.

Greater openness and transparency is delivered through reforms such as the requirement for the Heritage Council to publish its advice when recommending the entry of a place in the state register to the Minister for Heritage. The minister’s decision will also be published to ensure that stakeholders and the wider community are fully informed. Improved certainty and predictability for owners, decision-makers and stakeholders is delivered through development referral processes that will promote sustainable and adaptive reuse of state registered places. More clarity will be provided by clearly setting out the scope of the Heritage Council’s authority in respect of proposals that may affect registered places, and the obligations of decision-makers, such as local government planning authorities, development assessment panels and the WA Planning Commission, in regard to that advice. Regulations ensure that the Heritage Council’s advice, although limited to heritage conservation matters, will be fully taken into account in planning and other decisions. An expanded role for the
State Administrative Tribunal and simplified processes will make it easier to access reviews of decisions and enforcement where necessary. The result will be better and more consistent heritage outcomes for all Western Australians.

This bill also recognises that the state government is custodian of more than one-third of places entered in the state register. Regulations will enable the Heritage Council to prepare guidelines to help state agencies identify and manage heritage assets. Regulations will also feature the longstanding government heritage property disposal process policy to ensure that the heritage values of heritage places earmarked for disposal are assessed and protected where necessary in the transition to new ownership.

More protection for registered places is achieved by encouraging owners to take care of their heritage places through a mix of deliverable incentives, such as grants, and meaningful disincentives. In addition to the 2011 amendments to the Heritage Act that increased penalties for deliberate destruction from a mere $5,000 to $1 million, this bill introduces a repair order, which is common in all Australian jurisdictions. This will enable the Minister for Heritage, under strict conditions, to address genuine cases of demolition by neglect by requiring an owner to make the place safe and secure.

This bill responds to the lack of clarity surrounding the purpose, compilation and maintenance of municipal heritage inventories, which have caused widespread concern amongst local governments and their communities. Established inventories will remain in the form of local heritage surveys, which for many local governments now serve a wider purpose than providing source information to assist in the establishment of heritage lists under local planning schemes.

This bill recognises that public sector governance has moved on significantly since 1990 by adopting a skills-based Heritage Council membership, clarifying its role and functions, and providing for contemporary management practices for dealing with conduct of meetings, conflicts of interest and financial management.

The Heritage Council of Western Australia has worked closely with the State Heritage Office on this bill, and has formally endorsed the legislation introduced in this place today. The introduction of the Heritage Bill 2016 meets a commitment that was made by the Liberal–National government in 2013 to bring to Parliament heritage legislation that is open, transparent, simple to operate and understand, and reflects best practice in the recognition and protection of heritage places.

I commend this bill to the house.

Debate adjourned, on motion by Mr D.A. Templeman.

**FIREFIGHTERS AND EMERGENCY VOLUNTEERS LEGISLATION AMENDMENT (COMPENSATION) BILL 2016**

*Second Reading*

Resumed from 11 May.

**MS M.M. QUIRK (Girrawheen) [12.14 pm]**: The opposition will be supporting the Firefighters and Emergency Volunteers Legislation Amendment (Compensation) Bill 2016. It is about the health and wellbeing of firies. I can use the word “firies” with some endorsement now from *The Australian National Dictionary* because I understand the term has at last been included in the dictionary.

**Mrs M.H. Roberts**: Into the lexicon.

**MS M.M. QUIRK**: Yes. The word “firies” is used by the Australian populace as connoting both affection and respect for what is a noble profession, be they career or volunteer firefighters.

As many members in this chamber are aware, in February 2012 Labor introduced a private member’s bill enshrining a presumption that if career firefighters contracted certain forms of cancer after having served a specified period, that disease was incurred in the course of employment. This was intended to be the first tranche, with provisions made for volunteers at a later time. For reasons best known to it, the government did not support the bill. In October 2012, then minister Buswell announced in a press release that the government —

would amend legislation to ensure a career or volunteer firefighter who developed a prescribed cancer—one of 12 cancers as scheduled in the Commonwealth legislation—would have greatly simplified workers’ compensation considerations.

The press release also noted —

“It has been established that firefighters are at an increased risk of developing certain cancers through exposure to carcinogens while performing lifesaving roles for the community,” …

“This legislation will provide cover for career and volunteer firefighters who predominantly undertake structural firefighting duties, and retrospectively take into account their past years of service.”

I commend this bill to the house.
Closer reading of this commitment made it clear that the commitment to volunteers was limited to frequent exposure to structural fires. Minister Buswell, I believe cynically, went to the election knowing that thousands of bushfire volunteers were under the mistaken impression that the promised legislation would routinely include them. Following the 2013 election, the government introduced such a bill but it covered career firefighters only. It did not even include other employed firefighters, such as those employed by the Department of Parks and Wildlife or the Forest Products Commission, nor did it include volunteers and former career firefighters. This bill was happily assented to, with the opposition’s enthusiastic consent, in September 2013.

I was advised in the briefing—I thank the minister for making his staff so readily available—that five claims have been lodged since 2013 under the presumptive legislation. Four of these claims have been accepted and in one case the presumption was rebutted. Since 2013 there has been a level of disquiet from those classes of persons who have been omitted from that 2013 legislation. This bill expands this presumption to include other state-employed firefighters, volunteer firefighters under the Fire and Emergency Services Act 1998 and former career firefighters, which I think was an omission on the last occasion, who contract any of the prescribed cancers within the prescribed period. In order to ensure that there is no negative impact on firefighters, the presumption is happily retrospective to the same date that the presumption for current career firefighters commenced in November 2013. A close examination of this bill could conclude that the inclusion of some volunteers is in name only. Although a proportionally small number of firefighters involved in road crash rescue and structural fires would, as a matter of course, be covered, most local government bushfire volunteers will not be automatically eligible. As an aside, I travelled overseas when the opposition was developing its legislation and noted that some jurisdictions have even extended this presumption—for example, to include those who contract post-traumatic stress disorder. I can see that there might be some capacity to expand that in the future, especially in the area of road crash rescues. I am thinking particularly of the south west where the fire and rescue service volunteers routinely witness road trauma. It takes an enormous toll. I make that reflection in view of the dreadful record of road fatalities in recent weeks.

To get back to the bill, certain prerequisites need to be met. Firefighters must have a qualifying period for the prescribed period pre-cancer and they must have met the requirements of “hazardous firefighting service”. I want to briefly canvass that definition in the bill. The bill states —

**hazardous firefighting service** means —

(a) FES employment; and

(b) non-FES employment during which the worker attends hazardous fires at a rate at least equivalent to the rate of 5 hazardous fires per year; and

(c) volunteer service during which the volunteer attends hazardous fires at a rate at least equivalent to the rate of 5 hazardous fires per year;

The definition of “hazardous fire” states —

(a) a fire in a building; or

(b) a fire in a vehicle, whether designed to move under its own power or to be towed and whether or not still moveable; or

(c) a fire involving non-organic refuse or rubbish created by humans; or

(d) a fire that is prescribed to be a hazardous fire …

If these prerequisites are met, the presumption will apply, as it does in the existing legislation, and is therefore compensable unless proven otherwise.

Local government bushfire units do not routinely engage in hazardous fires as defined by the bill, although there will be some and that statement might be contestable. By and large I think that is correct, and hence they will be outside the scope of the bill. Although local governments seem to think they will be covered, I am not so sure. It is also likely that inadequate record keeping of attendance at incidents may create some eligibility issues. We need assurances from the government that accurate records of attendance at incidents, irrespective of which branch of service the firefighter belongs to, will be maintained and kept. In this context, I refer to the August 2015 Auditor General’s report entitled “Support and Preparedness of Fire and Emergency Services Volunteers”. The media release about that report stated —

… many of the problems he had identified had arisen from, or were affected by gaps and inaccuracies in volunteer membership, training and incident data.

“Without accurate information about volunteers, DFES struggles to understand how many volunteers are needed and where, and the level of equipment, training and support they need,” …
At this point it is worth exploring why there is an epidemiological distinction between exposure to structural fires and fighting forest or bushfires alone. As I noted in my speech on the second reading on the private member’s bill in 2012, a 2011 Senate inquiry by the Education, Employment and Workplace Relations Legislation Committee reported favourably on similar federal laws. That committee concluded —

Study after study has pointed to a higher risk of cancer for firefighters than the general population. Science has confirmed what firefighters suspected for decades: that a disproportionate number of them in the prime of their lives are brought down with illnesses usually reserved for the old and the infirm.

… The committee recognises that cancer is an illness that touches many fit, healthy people in the non-firefighter population as well. In many cases it is unpredictable and incomprehensible, due to genetics or factors we do not yet understand. But when the science tells us that a particular group of people who are routinely exposed through their service to the community to known carcinogens are at higher risk of developing certain types of cancer, then the response becomes clear.

… The committee recognises that when a person spends their professional career inhaling and absorbing known — and probably some as yet unknown — carcinogens in the course of public service, it is the moral duty of the community to enable them to seek compensation should they fall ill as a consequence.

In that second reading, I also noted the events of September 11, 2011 at the World Trade Center that exposed first responders to a cocktail of toxins. I cited a study published in the British medical journal The Lancet in 2011 that found that firefighters who toiled in that wreckage were 19 per cent more likely to develop cancer than those who were not there. These firefighters were exposed to the caustic dust and smoke created by the fall of the Twin Towers. The findings indicated an increased likelihood of the development of any type of cancer. There were indications in the study that certain cancers, including melanoma, non-Hodgkin’s lymphoma, and thyroid and prostate cancer occurred more frequently among those firefighters than in the general population. In that study, occurrences of lung cancer did not increase. Thankfully, such extreme and high-profile events testing the endurance, courage, resilience and threatening the lives of so many first responders are rare. They do, however, add substantially to our knowledge of the risks inherent in this kind of work.

The regime imposed by the Workers’ Compensation and Injury Management Amendment Act 2013 is more about the cumulative effect of exposure by firefighters in their day-to-day duties, in some cases over many years. It targeted those firefighters suffering cancer contracted through years of occupational exposure to a conglomerate of carcinogens, hazardous materials and toxins emanating from structural blazes, road crash rescues and hazardous material spills. Before these laws were enacted, the injustice caused to those firefighters was manifested and comprehensively chronicled in the Senate inquiry’s report. The report included moving evidence of individuals and their family members struggling with not only a cancer diagnosis, often at a young age, but also a compensation system insistent on identifying the exact event giving rise to the illness. If it is not bad enough that a firefighter must face the ultimate battle for life, he was also burdened with the knowledge that during his struggle with cancer he was not entitled to workers’ compensation payments and his family faced the additional strain imposed by this financial hardship. The reason was that as the law stood at the time, the worker had to point to a particular source to prove what caused the cancer. In other words, they had to identify the carcinogen or toxin and also when they were exposed to it — namely, which fire and/or fires or emergency. That was simply never possible. I contrast that with a firefighter who is killed or physically injured attending a fire incident — he would receive compensation for work-related injuries. The Labor Party was very pleased when the 2013 act amended this anomaly.

As I have said previously, volunteer firefighters were not included in the original act because their exposure was not considered frequent and continuous and there was not the same body of evidence about exposure to bushfire smoke to warrant their inclusion at that stage. That is reflected in the “hazardous fire” definition that I read out.

It is now well accepted that exposure to both structural fires and motor crash rescues subject firefighters and rescue personnel to levels of toxins that have a high potential to be carcinogenic, even with protective clothing and breathing apparatus. However, I should note that with legislation passed federally and in several states, it was felt necessary to conduct Australian research to confirm the extensive body of overseas research on firefighter exposure and its outcomes. In 2011, Monash University was commissioned by the Australasian Fire and Emergency Service Authorities Council, more commonly known as AFAC, to carry out a national retrospective study of firefighters’ mortality and cancer incidence. This is known as the Australian firefighters’ health study. As I said, this study was in part prompted by the results of several overseas studies that had identified excesses of several types of cancers in firefighters. The aims of the study were to examine mortality and cancer among firefighters and investigate different subgroups based on the type of employment; duration of firefighting service; era of first employment or service; service before, including or only after 1985; the number of incidents attended; and whether an individual was identified as having been a trainer. The latter, of course, is relevant because trainers may have had higher exposure to fire-retardant foams, which have subsequently been identified as highly carcinogenic.
The research was based on the data of 232,871 current and previously serving firefighters. The study compared them with the Australian general population for both causes of death and incidence of cancer. In summary, it found that paid firefighters were at greater risk of melanoma and prostate cancer, especially after multiple exposures or prolonged service. Participating fire agencies supplied records of individual firefighters, including their job histories. The start dates of the personnel records that were provided varied with the agency and ranged from 1976 to 2003. Incident records that were attached to individual firefighters were also supplied by most agencies. The incident data also had varying start dates between 1990 and 2011. It was a complex exercise in data matching and seeing whether any trends or patterns were evident.

Compared with the Australian population, the overall cancer incidence was significantly raised for male career full-time firefighters, particularly those who had worked longer than 20 years. There was a trend of increasing overall cancer incidence with increasing attendance at vehicle fires. There was a statistically significant increase in prostate cancer incidence for career full-time firefighters overall, particularly for those employed for more than 20 years. The risk of melanoma was significantly increased for career full-time firefighters who had been employed for more than 10 years. Compared with the Australian population, kidney cancer was elevated for those who had been employed for 10 to 20 years and was significantly higher for those career full-time firefighters who had worked for more than 20 years. Lymphohematopoietic cancer occurred in career full-time firefighters at the same rate as in the Australian population but was significantly elevated for those who had worked for more than 10 years when compared with those who had worked for a shorter period. Compared with the Australian population, male breast cancer was elevated and statistically significant amongst those who had worked for more than 20 years. Compared with the Australian population, mesothelioma was statistically significant and showed higher rates.

In August 2015, Monash undertook a supplementary analysis focusing on volunteers. It found that male volunteer firefighters had an increased risk of ischemic heart disease deaths and kidney cancer compared with those male volunteer firefighters who had attended fewer incidents. Importantly, this report notes that landscape fires may go on for days or weeks, which is rare for structural or vehicle fires. A simple count of incidents does not take this into consideration; nor does it take into account information on fire intensity or duration on an individual basis, so that certainly qualified the findings. I note, however—I do not think we are at the stage to broaden the eligibility—that there is a growing body of research that points to the harmful composition of smoke from bushfires. However, to record levels of exposure to toxins and pinning down a nexus between a higher incidence of specific diseases is still very much a work in progress in the context of those who attend bushfires only.

In an article released in March last year by Dennekamp, Straney, Erbas, Abramson, Keywood, Smith, Sim, Glass, Del Monaco, Haikerwal and Tonkin in *Environmental Health Perspectives* entitled “Forest Fire Smoke Exposures and Out-of-Hospital Cardiac Arrests in Melbourne, Australia: A Case-Crossover Study”, the authors concluded that this study found an association between exposure to forest fire smoke and an increase in the rate of out-of-hospital cardiac arrests. They said that these findings have implications for public health messages to raise community awareness and for planning emergency services during forest fire seasons. That research related to the general population, not bush fire fighters in particular, but they certainly identified some health issues.

In addition, work done by CSIRO and the Bushfire Cooperative Research Centre, including simulations, suggests that bushfires on the peri-urban fringe produce fine particulates, carbon monoxide and a range of toxins exceeding occupational health standards, but I think it is early days and it is by no means conclusive. Underpinning those findings, within the peri-urban fringe and within those particulates there will be, for example, vehicles or housing structures. Drawing a long bow from those conclusions is not without some peril. It seems to me that if the currently minimal evidence about the carcinogenic nature of bushfire smoke alone is augmented, maybe we will need to revisit the definition of hazardous fire and it may need to be changed in the future. The opposition certainly agrees with the proposition that there is not the weight of scientific evidence to justify broader coverage at this stage.

I also note that we do not really know what impact firefighter fatigue may have on, for example, compromising the immune system. This is certainly a common problem that is identified at most major incidents, and that is another factor that we may need to consider down the track. As all of us know, as human beings, when we are fatigued, it certainly makes us susceptible to a range of infections and diseases.

I want to briefly talk about the second tier of the bill, which will ensure consistency of insurance coverage for fire and emergency volunteers. At present, different arrangements apply to different volunteer groups and their entitlements are not always the same. In his second reading speech the minister asserted —

These new provisions will maintain or improve insurance coverage for volunteers.

It is about ensuring consistency for volunteers who are carrying out their statutory functions under the Fire and Emergency Services Act. Fire and emergency volunteers in Western Australia currently operate under three separate pieces of legislation: fire and rescue services volunteers operate under the Fire Brigades Act 1942; bush
fire brigade volunteers operate under the Bush Fires Act 1954; and State Emergency Service volunteer marine
rescue services and Fire and Emergency Services unit volunteers operate under the Fire and Emergency Services
Act 1998. Each of these groups of volunteers are covered by different insurance regimes, which means that not
all volunteers are entitled to the same level of insurance cover and some volunteers are better protected than
others in the event of injury or loss.

I recall the case of Pamela Story, a bush fire volunteer who was injured in 2011 after a firefighting vehicle ran
over her. This case was, to some extent, a catalyst for some of these changes. She had to personally fight a highly
technical refusal for loss of earnings, and she had to have that debate with an overseas insurance company that
was the insurer for the council to which her bush fire brigade was attached. If she had suffered the same injuries
but was in the volunteer fire and rescue service, for example, her coverage would have been met by RiskCover.
This bill amends the Fire and Emergency Services Act to provide uniform legislative insurance for all
emergency service volunteers. As I said and as has been asserted by the government, this bill will maintain or
improve insurance coverage for volunteers.

The bill mandates that an insurance policy must be in place to cover loss of or damage to privately owned
vehicles, equipment and items of personal property when being used for volunteer activities. This will apply
when volunteer activities are being carried out by registered volunteers of the responsible agency or at the
direction of a registered volunteer, bush fire control officer or Department of Fire and Emergency Services staff
member. Responsible agencies will also be required to maintain an insurance policy for loss or damage to the
vehicles, appliances, equipment and apparatus of their volunteer units.

When this bill was first second read in this place, I contacted the Western Australian Local Government
Association to ask for its feedback as to whether these changed insurance arrangements would have any cost
implications for local government members. Unfortunately, WALGA has not responded to my request for that
information, so I hope for its sake that there are no unexpected adverse outcomes for local governments, and we
will proceed on the basis that silence connotes assent and that local governments are not unhappy with that
aspect of the bill.

This bill is about acknowledging that WA firefighters charged with protecting the community and property have
an inherently dangerous job. It is about acknowledging that these dangers extend to contracting certain cancers
after years of exposure to chemicals, toxins and fumes, and their cumulative effects. It is about acknowledging
that some are excluded from the current rule, and seeking to do away with this inequity. It is about
acknowledging that although firefighters willingly put themselves in dangerous situations to protect the
community, they do so taking all reasonable precautions. We also acknowledge that these precautions are of
little utility against occupationally acquired cancer. It is impossible to avoid absorbing these toxins through the
skin, as protective clothing has to breathe to avoid metabolic heat build-up. As I have outlined, an impressive
body of medical research indicates that firefighters have a high risk of certain cancers because they absorb the
carcinogens and toxins through their skin whilst firefighting.

As I said earlier, the community has deep respect and gratitude for those who protect and assist. If we are honest,
however, along with this respect and gratitude comes high expectations. We expect firefighters and rescue
personnel to come to our assistance when our homes, schools, hospitals and motor vehicles are ablaze. We
expect a firefighter to enter a burning building when every human instinct tells us to leave. We expect that they
will search for those trapped inside and bring them out alive. We expect them to do what they can to minimise
loss of life and damage to property. While everyone else is fleeing danger, it is the firefighters’ duty to tackle it
head-on—to enter an extreme and dangerous environment, armed with the best protective gear available.

Lastly, I previously observed that this issue should have some special resonance for Western Australians. It was
not too long ago that the scandalous and shameful saga relating to the health impacts of asbestos was finally
exposed. The inordinate delay between the scientific evidence of the harmful effects of asbestos being proven
and that evidence being officially accepted and acted upon meant that thousands more lives than were necessary
were exposed, and those people suffered lethal consequences. As an aside, it beggars belief that the stark and
horrible truth we have learnt about the deadly impacts of asbestos are being conveniently forgotten, exposing
construction workers at the new Perth Children’s Hospital to that lethal substance in 2016. It is even more mind-
boggling to think that only a stone’s throw away at Sir Charles Gairdner Hospital, there are world-leading
medical practitioners in the diagnosis, research and treatment of mesothelioma. It is quite extraordinary to
consider that in this day and age, given our knowledge, workers are still being exposed to asbestos.

To conclude, as I said in my contribution to the second reading debate in 2012, we cannot say that our
firefighters are heroes and disregard their health and wellbeing. We are duty-bound to act promptly on this bill
and on the evidence, and not to repeat the mistakes of the past. The opposition proudly supports this bill, and
I commend it to the house.
soror phat I was not here for the beginning of the shadow Minister for Emergency Services’ contribution; I am assuming she may have reflected on the fact that we are amending something because there was an oversight at the outset with regard to volunteer coverage for the compensation scheme and the ability to capture those volunteers. It is undeniable that the Minister for Emergency Services’ predecessor, the former member for Vasse, some time ago misled the public of Western Australia, particularly the volunteer firefighting community and other volunteer services, when he suggested that they would be covered by the legislation and that they would be protected by the same processes and safeguards that were being introduced for career firefighters with respect to acknowledging the fact that they could contract cancer as a consequence of their employment. In the most recent debates, prior to the minister taking on the portfolio, I think Hon Troy Buswell suggested to the public that they were covered, and we are correcting an oversight. In my view, we are correcting a deliberate misconception engendered in the community at the time by the then minister. It is not my portfolio but I was here when the debates were conducted in Parliament.

Mr J.M. Francis: It is really simple. The first one for career firefighters was a simple amendment to draft for workers’ compensation and injury management. Retired firefighters and volunteers are much more difficult.

Mr P. PAPALIA: I concede that.

Mr J.M. Francis: There were up to nine drafts for a number of different reasons, but it amends more than just that one act.

Mr P. PAPALIA: Perhaps like me, not having the portfolio at the time, the minister may not have been entirely focused on the debate. I believe that some of the contributions in this place by the former minister were deceptive. They were designed, as was his wont, he was a very effective communicator —

Ms M.M. Quirk: He didn’t introduce the legislation; this minister did.

Mr P. PAPALIA: Yes. The actual context of my contribution may be wrong about the present minister amending an error and oversight, because he is introducing the legislation. I recall that the former minister suggested that it was all covered and a wrong was going to be rectified, but then did not do it. He was very capable of creating an impression that may not have been the reality.

I am glad to see this legislation has been introduced. When career firefighters had to prove that their cancer was caused by their service, we were all being lobbied. I remember going to the United Firefighters Union of Western Australia’s headquarters and meeting with the then secretary of the firefighters’ union and discussing with people the nature of their employment and the exposure in their occupation to the dangers of the environment. Like the minister, having experienced the military going through a phase of denying responsibility and, ultimately, accepting without question that people may have been exposed to carcinogens in the course of their employment, I thought it was extraordinary that firefighters were not covered by the same acceptance of responsibility by government at the state level. At that time, I agreed with the firefighters’ union and people who were advocating change that it was part of government responsibility. If people are asked to expose themselves to this type of danger in the course of their duties, we should take responsibility for caring for them and not compelling them to prove the cause of their cancer. It is good to see that the legislation is being amended to ensure that that is the case. As I said, it is very good also to recognise that many volunteer firefighters and other volunteers are exposed to similar threats in the course of their voluntary duties.

I commend the legislation and this minister for introducing it and righting the wrong that has been extant not just recently but forever, really. It is good to see that, finally at state level, this type of situation is being acknowledged. As I said, I imagine it is at least two and a half to three decades since the military accepted that many people serving in certain environments have been exposed to carcinogens.

Mr J.M. Francis: The mid-90s for asbestosis.

Mr P. PAPALIA: Yes. It is a long time for the state to delay that recognition. We are talking about almost the same environment by virtue of people being exposed to carcinogens in their workplace. It is a significant step to ensure that people deemed to have contracted cancer are not compelled to go through the additional trauma of having to prove it. It is extraordinary that it took so long for the state jurisdictions to catch up. It is also good to note and acknowledge that in the course of completing their service, the volunteers will be covered by insurance policies for the damage incurred to vehicles and private equipment that may be employed. I think those things will be universally endorsed and supported by people in this nation. Sadly, we thought it might have been the case before now but it is good that it is being taken care of with this legislation.

Prior to ending my contribution, I will take a moment to acknowledge specifically in my own electorate the volunteer bushfire brigade personnel who serve with the Baldivis Volunteer Bush Fire Brigade. It is an interesting environment down there. The suburb and the region are in transition from semi-rural, with many remnant bushlands, to very much urban fringe. All the challenges the minister is confronting with bushfire-prone zones come to bear in Baldivis because there is remnant bushland, Bush Forever sites and even heavily forested road verges that can result in serious fires, as we saw a couple of years ago. The prime response to these fires is
provided by volunteers in the form of bush fire brigades. They themselves are acknowledging the transition and seeing as a priority the need to acquire the equipment and undertake the training required to fight house fires. The region within which they operate is transitioning and they need to transition, and that has been acknowledged by the department. The Fire and Emergency Services Commissioner has indicated that the status of the brigade itself is to change under his governance. He sees that it needs to become different.

Mr J.M. Francis: They made the request that they adopt a higher level to do structure firefighting.

Mr P. Papalia: Therefore, it must change from being a bush fire brigade to a different fire and rescue service or appropriate entity that enables them to have the equipment and training. I endorse his approach. We need a governance model, so it seems logical and reasonable to me that he has engaged in that discussion. It is a little disappointing that the debate has gone off on tangents, with people feeling that they were not being heard and consulted. They clearly are now. I urge the minister and the commissioner to get on with that process as a matter of priority so that that brigade, which provides an excellent service, can meet the additional responsibilities that they would like to meet.

Mr J.M. Francis: There are a number of submariners in it.

Mr P. Papalia: It is true; there are a few submariners in that brigade. That fire brigade is a great asset to the community and will be an even greater asset given its additional roles and responsibilities and training and equipment. The sooner that happens the better. Given this legislation, the firefighters will be better protected and cared for in the event that they succumb to any disease as a consequence of their service.

I, with the opposition, welcome the legislation and support it and we share any observations regarding the need for future studies that the shadow minister articulated. The shadow minister is far more across it than I am, but the growing body of evidence suggests that there may be likelihoods of other cancers as a result of exposure to different environments.

Perhaps bush fire fighting does require further studies and further effort on our behalf to ensure that we do not miss dangers that volunteers are exposed to. They may not be captured currently under this legislation. If there is the possibility to support studies, that would be a good thing. The worst thing that could happen is that we think we have captured everybody and then, decades down the track, other people succumb to diseases as a consequence of their volunteer work. Without any intended negative consequences, this legislation could miss those people; it would be bad to think that this is the end of it. As indicated by experience elsewhere in the defence forces and other sectors, different threats that were not identified at an earlier stage are constantly being encountered and recognised. We need to be flexible enough to ensure that people are covered and supported. If people’s circumstances change, we need to acknowledge that and learn that there are other carcinogens out there that we have not identified, or if we learn that exposure at different rates over different periods does have the potential to increase the threat to individuals of contracting cancer, we should be able to respond to that in the future.

Beyond that, I will end my comments and commend the bill to the house.

MS L.L. Baker (Maylands) [1.01 pm]: I am very pleased to stand and speak to the Firefighters and Emergency Volunteers Legislation Amendment (Compensation) Bill. I congratulate the government on getting the bill here. A tremendous amount of work has gone into the formation of the bill, including consultation, particularly with the unions and volunteers involved. It is a complex area; we have already heard that spoken about today. It is a very difficult area with career firefighters and a whole bunch of volunteers—people like members of my family—who just want to do the right thing by being part of their community and helping out in times of trouble. The complexity of having an insurance program that effectively covers all their needs has always been challenging. It is absolutely wonderful that this initiative will solve some of those issues for volunteers and emergency service volunteers.

I want to put on the record my deep gratitude to the Baylands—sorry; I just made up a new suburb—Bayswater and Maylands State Emergency Service group that works out of 27 Clavering Road in Bayswater.

Mr J.M. Francis: South Park.

Ms L.L. Baker: Yes, South Park. That is another story. Let us not go into the government’s amalgamation strategy; perhaps it is best not to go back there. Let us look forward at this amazing legislation and what it will do for our volunteer firefighters and our emergency rescue crews. I would like to take this opportunity to acknowledge the great work done in my electorate by the Bayswater SES crew. At the moment, there are 57 of them, which is a good number—a solid crew. They are always very willing to be part of the community. They take part in things such as the Autumn River Festival, where members will have seen them all decked out, walking around and handing out information about the role of the SES in the community. I think they also take part in the Avon Descent, particularly at the finish line where, of course, I usually hang out to watch all the boats finish. At the moment, Nicola Wilkinson is our local manager. I have had a lot to do with previous managers of the SES, but not so much with Nicola. That is possibly because we have not had storms like we did in 2013, so
we have not had to jump to support the SES’s work in my community quite as much as we did back then when Perth, the suburbs, and Bayswater suffered destruction as a result of that storm. I knew Ashley Smith, who was a longstanding member of the SES Bayswater. Again, I want to thank him for all the years of service he put in to help keep our community safe. I would also like to acknowledge Martin Hale, who won the 2013 Peter Keilor Award, showing his dedication to the SES in the Bayswater community. That is great work by all of them. My Bayswater SES started back in the 1960s. In those days, of course, it was under different legislation. The SES has grown a lot since those early days, in both the complexity of the issues that it deals with and also the size of the organisation that is able to deal with the issues.

Our volunteer helpers have been through a lot of ups and downs. When I first took on this role, I spent a lot of time with a crew in those early days back in 2009–10. We talked about some of these reforms, but they had a lot of concerns as they could not quite see how the reforms would support their need for new equipment and a solid organisation, and for a good relationship with the career firefighters. I think they were very concerned about how that relationship would develop in the future when we changed this kind of legislation that governs their activities. I think it is fair to say that some of those concerns have been put to one side. The United Firefighters Union of WA has done a great job of representing the membership’s concerns to get through those problems and I am very grateful to see Bayswater SES continue to deliver a vital service in my community.

I also want to go a bit further afield. Members know that I am very interested in what happens in the hills around Perth where I have a small property and a couple of horses, a lot of chickens and various other souls. I am always, always awestruck by the community spirit that is automatically given when a disaster happens in a local community. The Parkerville fire is probably the most recent example of that for me. Two of my best friends who have a property in Parkerville lost everything. The first I knew about it was when I drove out of my brother’s property in Hovea and hit Great Eastern Highway. I looked left before I turned right onto Great Eastern Highway and saw an enormous cloud of smoke; for all the world, if I had ever seen an atomic bomb, it would have looked similar to that. I had somebody with me who had just arrived from Ireland. She was sitting in the front seat of the car and I said, “Oh, my God; that does not look good!” She was completely oblivious; they do not get many bushfires in Ireland. She asked, “What?” and I said, “Can you see that enormous cloud? It’s going to be a problem.” Instead of turning right down Great Eastern Highway, I turned left and drove to my property. I started calling my friends who live in that area. Alannah brought her horses, dogs and cats over and we picked up her son and their dog shortly after. They lost everything. Their property was burnt basically to the ground. In the weeks that followed, their remarkable resilience struck me most of all—that and the community’s willingness to come together and help. My experience, not from having a direct involvement, but from being evacuated a few times due to bushfires, and through watching volunteers and career firefighters work to try to warn people, has been that it is an absolutely manic time for everyone involved.

It is not only incredibly dangerous, but also completely unpredictable. For my first experience of being a hills resident and having a bushfire evacuation, we had only one entry and exit point to our property. One road goes in and out, so if that road goes, we cannot go anywhere. We were called up and evacuated at about 3.00 am. The volunteer firefighters came screaming down the driveway of my property and said, “You guys have to get out; we don’t know what this fire is going to do and we can’t protect you.” They were very stressed. I cannot imagine what it must have been like to travel through the hills, delivering that message to other people in the hills. I suppose that drove home to me the gravity of the situation; mind you, that was not hard because all our furniture had been moved by friends in the preceding 12 hours when we realised that it looked like we would lose the house. We were sitting there in an empty house, with no animals on the property, and just the two of us looking around wondering whether we would have to leave. The volunteers had to make a judgement call, because although they knew the wind speed and direction at the time, they simply did not know what would happen with a summer wind that can swing from a north-westerly to an easterly at the drop of a hat, and they were huge winds. I watched the volunteer firefighters work in that incredibly dangerous and unpredictable situation, a long way away from the fire, just trying to deal with people who were incredibly stressed. It was astonishing work, and I take my hat off to them.

In the past few months we have had to do a massive green burn on a pile of prunings. When I went to get the licence for the burn, the chap said they would come around and have a look. I think they thought that, being a girl, I just had a little pile of tree prunings, but we had pruned about 200 trees and the pile was about as big as this chamber. It was on the hill, and they pulled up and said, “Oh, right.”

**Mr D.A. Templeman:** I heard you were handy with a chainsaw.

**Ms L.L. Baker:** The chainsaw and me are like this.

They looked at the pile and said, “Yes, we can see why you want to burn this pile; it is going to be a bit of a danger.” The bad news was that we were to be put on a list, and it would probably be two and a half years before the fire brigade could get to it. That shut that door. Bless their hearts, they were very supportive and helpful, saying that we would just have to leave if there was a fire anyway, so who cares about the pile in the
garden. It is a long way from the house; it is on the other side of 20 acres, but it is a big pile and I was worried for our neighbours, so we hired some local contractors with water carriers and the like, and with the help of volunteers —

The ACTING SPEAKER (Mr I.M. Britza): Excuse me, members, the conversation in the chamber is getting louder. Just be aware of that.

Ms L.L. BAKER: I think they are trying to drown me out.

The ACTING SPEAKER: I am enjoying the story; thank you very much.

Ms L.L. BAKER: Thank you.

We had the help of a local water carrier and a bunch of blokes, one of whom, quite comically, holds a doctorate of philosophy and another who is completing a doctorate in architecture—not necessarily the qualifications that we would choose for a couple of firefighters, but at least there would be a lot of circumspect discussions around the nature of fire and the architecture of it. We waited for a little bit, and we were a little concerned when they started burning, because the pile was sitting on a bit of a slope. Generally speaking, it would be logical for a pile of that size to start the burn at the base of the downhill slope and let it burn upwards, but no, they stuck the burning equipment in the top end of the pile and wondered why it just stopped. We helped them rejig, from text messaging across the property, asking whether they had ever thought that perhaps they should start burning at the base. I am very pleased to announce that we now have no pile.

Mr D.A. Templeman: You've got no piles?

Ms L.L. BAKER: I have got no piles!

Mr D.A. Templeman: I am very pleased to hear that. They can be an occupational hazard!

Ms L.L. BAKER: That is why we have standing orders, and that is why I am standing to deliver this speech, obviously! I am very relieved that we now have no pile. I would like to thank the local volunteers who helped us make the decision to outsource our pile burning.

That really concludes my contribution to this debate. Before I sit down and think about piles again, I would like to mention the following volunteer brigades that help in the hills. I apologise, because I probably will not name all of them, but the immediate ones are Glen Forrest, Darlington, Parkerville, Hovea, Chidlow, Sawyers Valley and Mt Helena. It was an amazing job done by quite a set of characters, and I am forever in their debt for what they bring to safety in our community. I look forward to the positive things that this bill will bring for safety, and ensuring that these protective services from career firefighters, with very valuable help from volunteers, continue in the best possible fashion.

MR D.A. TEMPLEMAN (Mandurah) [1.15 pm]: It is always interesting to follow such mirth, when members talk about various aspects of their local communities. I also rise to contribute to the debate on the Firefighters and Emergency Volunteers Legislation Amendment (Compensation) Bill 2016. The opposition strongly supports the bill and I am sure that the bill will have swift passage through the Assembly and into the other place. I hope it does not become one of a number of bills that seem to become constipated in the other place. It seems that the other place is almost in a state of paralysis in its capacity to deal with legislation. The government has a number of bills in its legislative program that we now know we will not get to, because of its appalling handling of legislation in this place.

Ms M.M. Quirk: You wouldn't call it management.

Mr D.A. TEMPLEMAN: No, we certainly would not; it has been appalling. I honestly hope that this bill is not one of the bills that languish in the other place and does not see gazetted and proclaimed before Parliament is prorogued in preparation for the much anticipated March 2017 election.

This bill does a number of important things. I will not go over some of the very important aspects that the member for Girrawheen, as our very able shadow minister, outlined in her contribution. The aspects of the bill that ensure the protection of emergency service volunteers are absolutely admirable and are strongly supported by the opposition. The other aspect of the bill that I think is important is its capacity to ensure that volunteers in any emergency service area are equally protected by insurance. The minister’s second reading speech states that currently three separate pieces of legislation oversee volunteers. Fire and rescue service volunteers are covered under the Fire Brigades Act 1942; bush fire brigade volunteers are covered under the Bush Fires Act 1954; and the State Emergency Service, Volunteer Marine Rescue Services and fire and emergency service volunteers are covered under the Fire and Emergency Services Act 1998. Each of those volunteer groups has been covered by a different insurance arrangement and this bill seeks to amend those acts to provide uniform legislative insurance provisions for all of them. That is very important.

I am a member from the Peel region, which, in recent times, has experienced some of the most horrific bushfires, as recently as January of this year. There are other examples prior to that of numerous local government areas in
the Peel region that have been threatened by bushfires and, indeed, damaged. Earlier this year, there was the tragic loss of two lives in the Waroona bushfire. I therefore know the importance of ensuring that people who put on the uniform of a volunteer, alongside their colleagues in the career fire and emergency services, are protected appropriately. That is crucial.

This is not a dig at members who represent inner city boutique electorates and enjoy sipping on lattes and feasting on pastries from their local patisserie. I certainly do not want to reflect poorly on those boutique members, who are protected in their beds by gated communities and personal security mechanisms. However, as a member from the regions, we need only look at some of the country towns and rural and regional centres, and even outer metropolitan local government areas, to understand the importance of the commitment of many dedicated people to the communities in which they live. Many of those people were born in their community and have lived there for decades. When their community is threatened, they have a remarkable innate response.

I want to reflect on a couple of volunteers in the Peel region and in my electorate of Mandurah, which many people have assumed is a boutique little seat. Many people would not be aware that one-third of my seat is in fact a rural part of the west Murray portion of the Shire of Murray. This is a very historic, well-known and unique part of the Peel and the Shire of Murray. I will mention two names. However, that is not to demean the work of all the other tremendous volunteers in the West Murray Volunteer Bush Fire Brigade. These two people are local government councillors and long-serving volunteers with the west Murray brigade and the nearby Coolup Volunteer Bush Fire Brigade. The first is Councillor Chris Thompson. She is a former deputy shire president of the Shire of Murray and has been a councillor of the Shire of Murray for over 30 years. Earlier this year, the shire commemorated her 30-plus years of commitment as an integral part of the local government of the Shire of Murray. Her service to the local bush fire brigade is remarkable. I will always remember going to the Pinjarra evacuation centre during the Waroona bushfires in January this year, and there was Chris Thompson in the corner with her phone. I think her role at that stage was very much being responsible for radio and communications. She has also been on the State Emergency Management Committee and the district emergency management committee, which are the two hierarchical emergency management groups. There she was in the corner, as she has been on countless occasions during bushfire emergencies and during other emergency challenges, directing the traffic in her communications capacity. What a remarkable Western Australian woman. Not only is she making a significant contribution to her community in that local government area, but embedded in that contribution is her commitment to her local community in countless other organisations, including bushfire volunteering. She is a tremendous role model for the many young men and women who come through that brigade in the Shire of Murray and the brigades in the surrounding local government areas for her expertise, commitment and contribution. It is remarkable. I am not saying she is the only person in our community who has that commitment. There are many people like Chris Thompson throughout Western Australia and Australia. They are the unsung heroes of our communities.

I also want to mention Councillor Trish Briggs from the Shire of Murray. She is also a remarkable Western Australian woman. She also was a radio operator during the Waroona bushfire when the Murray bush fire groups were responding in more of a support role to the effort in the Shire of Waroona and ultimately into the Shire of Harvey. Trish Briggs has made a remarkable contribution to the bush fire service and to local government, as well as to many community organisations. I am very thankful to people like Chris Thompson and Trish Briggs, who are long-term committed residents in my electorate of Mandurah and are consistently supporting an emergency response whenever that is required. I still see Chris Thompson sitting there with her phone and notepad and communications logbook, or whatever she was responding to, and doing that in a very matter-of-fact way, as she has done for many years. I salute Chris and Trish. I also salute all the volunteers south of Mandurah, in the electorate of the member for Dawesville, who are part of the Mandurah Southern Districts Bush Fire Brigade and the Falcon brigade. We often see them on a Sunday morning doing their training exercises. They are tremendously led and are tremendous men and women. The firefighters in the Mandurah Volunteer Fire and Rescue Service are also a tremendous group of men and women who respond whenever they are required to do so. I salute them, too. I went to their awards night last year, and an awards night must be coming up again soon, I would hope.

Some of the people I am talking about have dedicated decades to the service. I remember a great young fellow whom I taught at North Mandurah Primary School. His dad is Mr Hendon—I keep forgetting his first name. The commitment of the Hendon family in serving their community in fighting bushfires and being involved in fire and rescue now crosses generations. Mr Hendon started his commitment to volunteer firefighting in Wickham when he was there in the early days and his family was very young—his children were born in Wickham and were only babies. He came to Mandurah after that time and has continued that commitment. I remember Mr Hendon senior received his 40-year service acknowledgement at that awards night—which is tremendous. For them, being part of an organisation like that—be it volunteer firefighting, State Emergency Service or marine rescue—is very much like being part of a family; they treat each other like family.
I want to highlight the importance of this bill as it will affect and impact very positively on volunteers from other emergency services in the region, including Chris Stickland and his team at the Mandurah SES unit. The minister will remember he came down a few months back when we opened the great new Mandurah SES unit facilities in the north of Mandurah. Chris Stickland and his team are very proud of that facility, which will ensure that the Mandurah SES unit will continue to be a leading unit in Western Australia. It is a leading unit in terms of numbers, and in terms of the cadet program, which has now run for over 20 years, specifically under Chris Stickland’s stewardship when he was a teacher at Mandurah High School and then at Mandurah Senior College. Chris, with his team of volunteers, has seen over 5 000 young people go through that cadet training program, and many of them return as active adult participants in the Mandurah SES unit. It is the quality of the leadership of people like him and his predecessors, as managers of that unit, that has cemented that unit as one of our pinnacle units in Western Australia. I say that unashamedly.

Mr J.M. Francis: Can you seek an extension, so I can ask you a question?

Mr D.A. TEMPLEMAN: I will seek an extension.

[Member’s time extended.]

Mr J.M. Francis: Did you find out whether the origin of that unit is the story about the priest looking for the boy down a well?

Mr D.A. TEMPLEMAN: There are two stories; I will tell members about that very quickly. One relates to another group. The SES has its early origins in the incident in the late 1950s of the boy who fell down a well in Ward Street, in central Mandurah. One late afternoon, a young fellow of about five years was playing in what was then a very big vacant part of Mandurah—it is almost in the centre of Mandurah now—and fell down a four-metre borehole. He was wedged and he could not get out. In 1959—I think it was 1959—it got national attention, and the community rallied. In 1959, Mandurah probably had about 700 or 800 or maybe 1 000 people. That is how big Mandurah was in 1959. The community rallied around. The people in the house across the road rallied, and two trucks of rescue workers were called to come from Collie. They were on their way on the South Western Highway to help this boy. The local doctor, who now has a unit named after him in the Peel Health Campus, was called. There was going to be a dance in town. Most of the old families, if you like, the Suttons and the Tuckeys, were all down in the Santoy ballroom getting ready for a midnight stomp that night.

Ms M.M. Quirk: Actually, 1959 would be pre-stomp.

Mr D.A. TEMPLEMAN: They used to call them a midnight stomp.

They had to leave the preparations for the stomp to get over to Ward Street and work out how they were going to save this boy. They could not go straight down the hole, so they had to dig a hole adjacent to the hole that the boy was in. In the meantime, they handed down a vacuum cleaner, because they were worried about sand falling on the boy. They had a vacuum cleaner down there, but I cannot remember what they were doing with that; it was to keep the sand away from him. They also had a tube going down to him. This boy was distraught, as members can imagine. As the night went on, the digging was taking place, and the boys from Collie arrived and the press arrived. There was one big tree in the paddock, if you like. Interestingly enough, a guy grabbed a ladder and a reporter climbed up the ladder to try to get some photos—it was a big tree. While he was up the ladder trying to get photographs, somebody took the ladder away because they needed it, and he was stuck up there. It was quite an interesting story, apparently. As it turned out, the whole community—a very small community—responded, and the boy was recovered from the borehole after I think it was 13 hours or 14 hours from when the incident was reported. Minister, that is the early origins of the Mandurah SES.

The other story from the Peel region is the story of the Mandurah Water Rescue Group, which I am the patron of, and I have been for more than 15 years. The Mandurah Water Rescue Group’s origins are in the tragic drowning of some nuns and a priest in 1963. A group of Catholic nuns and a priest, six of them, went out in a small tinny one beautiful Sunday afternoon. The Mandurah Estuary looks beautiful and sedate or flat but can become quite a treacherous place, and that is what happened that afternoon. The boat capsized—remember that Mandurah was very sparsely populated then—and they did not return. The people at the local parish noticed they had not returned, and someone went out on horseback. I think that the late Dudley Tuckey was one who went out on the early search for them. Unfortunately, a couple of the nuns passed fairly quickly when they slid into the water when the boat overturned. They perished fairly quickly, but the others clung to the overturned boat most of the night. It was not until the next morning that they were found. That tragedy commenced the establishment of the water rescue group, which I think was the first in Western Australia. The history of that water rescue group goes back decades.

The Mandurah Volunteer Marine Rescue Group has a magnificent facility, as the minister has seen, in the Mandurah Ocean Marina and the volunteer men and women involved in that organisation are remarkable. Interestingly, the Peel–Harvey waterway system is a very large expanse of water, and so the marine water rescue group in Mandurah plays a significant role in water rescues throughout the year, particularly in our peak
seasons—in the crabbing season, the summer and the spring. This group is almost certainly engaged in a few hundred rescues or responses throughout the year. Another interesting thing about the Mandurah Water Rescue Group is that during the Waroona fires in January this year it saved people from the beaches of Preston Beach. The fires had jumped Old Coast Road and were threatening Preston Beach, which is a small community of a few hundred people. It has only one road in and out, so people could not escape via the eastern side of the town, because that is where the fire was coming from.

Most of the people who were still in Preston Beach during that fire had to retreat to the car park areas around the beach. It was almost expected that Preston Beach was going to be lost. During the height of the fires, I remember that the beach was covered in a huge amount of smoke that was going out over the ocean. Then the big water rescue vessels from the Mandurah Volunteer Marine Rescue Group arrived and a number of people were plucked off the beach. The volunteers evacuated people from the beach, particularly people who were vulnerable. It made the front page of The West Australian during the height of those fires as a photo was shown of the marine rescue group boat and people being ferried from the shore. I am immensely proud of my community volunteers in the emergency services areas. I am pleased that I am associated with many of them in a variety of ways, not just as local member, but I know a number of those people involved personally and call them friends. I salute them and am pleased that this bill is being presented to this house. I hope it has very swift carriage through this place. It will not only underpin the important work that they do in a voluntary capacity, but also send a message, I suppose, that this Parliament and members of Parliament genuinely understand and recognise the importance of volunteers to our communities—the work that they do, the threats and the dangers that they find themselves in and the tremendous courage that they demonstrate time and again when faced with a perilous situation.

One last thing—I think we should always do this—is to acknowledge the families who support these men and women, and the anguish, thoughts and prayers involved each time their loved ones go out, sometimes into very perilous situations. Many, many families willingly support their loved one—man or woman, father, son or daughter, or whoever—in their endeavours in their voluntary capacities. Unfortunately, given the perilous nature of Australian landscapes, some of those volunteers do not come home. I can only imagine what it would be like being a mother, a father, a son, a daughter, a wife or a husband of somebody who did not return, having given their lives ultimately to community service. Those families should always be in our thoughts at all times when there are emergency situations in our communities.

MS J.M. FREEMAN (Mirrabooka) [1.43 pm]: I will be very brief. I want to make a few comments on the Firefighters and Emergency Volunteers Legislation Amendment (Compensation) Bill 2016. I recognise members of the United Firefighters Union of WA in the Speaker’s gallery. They do great work in representing the workers and firefighters, and, as the member for Mandurah outlined, recognition in our community of the important work that firefighters do is vital to keeping our community safe.

The purpose of this bill is to provide a rebuttal presumption. That is really interesting. It is not a reversal of onus as such, I understand, but provides a set of parameters that state, “If you have met this, it will be seen to be a causative factor.” Instead of going in and saying, “I have cancer, and the workers’ compensation jurisdiction and my employment made this happen”, the employer or the insurer for the employer has to say that actually, no, there would be other things. Therefore, this reverses the onus of who can show that this is a rebuttal presumption. That may be because the workers’ compensation jurisdiction tends to be a no-blame jurisdiction, so this is the terminology used. I am sure I stood up here and spoke on the first measure that this bill is amending, but I had not heard a rebuttal presumption before; maybe it is in the previous bill and I just missed it.

This bill provides for volunteer firefighters, state employed firefighters such as the Department of Parks and Wildlife and Forest Products Commission firefighters, and former career firefighters—which is very important—who contract any one of the 12 prescribed cancers to workers’ compensation as long as they meet the prerequisites, which are outlined in the bill or in regulations. As long as those are met, it is presumed that the cancer occurred as a result of the firefighting and is therefore compensable unless proven otherwise. There is a bit of reversal of proof there, but it is accepted that the causative factor was workplace related—that is, it happened in the course of employment. That is the terminology used in the workers’ compensation legislation. I also understand the bill amends the Fire and Emergency Services Act 1998 to provide uniform legislated insurance provision for all emergency service volunteers, and I congratulate the minister on that.

One of the worst situations that a person can be in in any workers’ compensation dispute is an argument between insurers, because it becomes all about money and not about the substantive nature of the matter. Being able to have one insurer is a very important aspect. It causes great difficulties if people work at a particular place with different insurers. I understand this has a minimum of five years. A person could volunteer at a particular place and then volunteer somewhere else. If they fell under different insurers, that would cause a technical difficulty. When they are dealing with the prognosis of cancer and recovery from cancer, they do not want to have to deal with an argument between insurers about who has liability.
I stand here with my experience of having dealt with workers’ compensation for many years, as the minister knows. I believe that certainty for workers when they are trying to recover from an illness is very important so that they can provide for their families and have the capacity for wellbeing, even whilst they are dealing with their cancer. It is such an important thing to have certainty of financial security and other things. I refer to certainty that they will be able to get the treatment they need and that they will have the support of their organisation. Those things are absolutely pivotal to people being able to have the best prognosis for their illness and cancer. I have often said in this place, and I was saying this to one of my colleagues the other day, that the most difficult thing about the workers’ compensation system is that a person often has to keep proving to the insurers—the employers a bit, but the insurer mostly—that they are sick enough to stay in the system. If they have to do that the whole time, it can have an impact on their mental wellbeing, which can also impact on their physical wellbeing. That is certainly my view.

The member for Girrawheen did a sterling job in outlining the background to the reasons for this amendment. She outlined the history of the matter with how the Labor Party in opposition brought in a bill in the first instance, and then subsequently a measure came in through the government. She referred to the history of the campaign to ensure that this very important issue is recognised by both our sides of Parliament and has bipartisan support.

What I want to raise is how we reduce the toxins in our workplaces and homes, the areas that catch fire, so that we do not have to compensate exposed workers. How do we reduce the hazard of getting cancer in the first instance versus compensating someone who has cancer? The next challenge for the minister as an employing authority is how to reduce the toxins. In the last 20-odd years—it may be more, but for the best part of between 20 and 30 years—there has been an increase in the toxins and hazards in a fire because of the way products are designed and the materials used in those products. It goes across all portfolios that we should look at the health and wellbeing of our community and the products it uses to ensure that the chemicals used in products are safe for normal use. If those products are then flammable and release carcinogenic toxins in a fire, we have to ask ourselves what, over the last 30 years, let us say, have we let occur in our community, the manufacturing industry and the importing of goods that has increased the hazard of things that burn.

I refer to an article in The Atlantic— I am sure that the minister’s attention has been drawn to this article—titled “How Modern Furniture Endangers Firefighters”, which was written by Olga Khazan on 11 September 2015. It outlines the problems that have caused a rise in firefighter cancer deaths in the United States since the 1950s and refers to research from other countries. I want to focus on the comment in the article that the problem is our stuff. The problem is the stuff that we like to put in our houses, such as furniture and the Hardie board that we use on our walls, because when they catch fire, they become noxious fuel. The article reads —

The cancer rates are being driven up, researchers believe, by chemicals that lace the smoke and soot inside burning buildings. Consumer goods are increasingly manufactured using synthetic materials, and fires are more toxic as a result.

A century ago, we furnished our houses with wood, cloth, metal, and glass. Today, it’s plastics, foams, and coatings—all of which create a toxic soup of carcinogens when they burn.

The article refers to fire retardants that, when ignited, become very dangerous. The article quotes Timothy Rebbeck, a professor at the Dana-Farber Cancer Institute, to highlight how dangerous they are. The article refers to—I have seen it on YouTube or television—the flammability of a modern room compared with the flammability of a legacy room, so the wood and furnishings et cetera. Having had an opportunity to look at it, I suddenly realised how highly flammable and highly dangerous modern buildings are, especially given the massive heat that comes from window dressings, furniture, televisions, things that melt—all sorts of things.

I was in Dunsborough during the fires that we have been talking about and I could see the plume of smoke, which was black. It was clear that it was a bush fire, but with the loss of so many homes, I wondered how many other particulates were in that fire. I think we need a serious discussion about how we as legislators can ensure that the things that catch fire do not increase the risk to those people on whom we rely to put out fires.

One of the issues the article refers to is the suits that firefighters wear, which soak up toxins and give off gases, and have higher levels of carcinogenic compounds, such as phthalates, which are chemicals added to plastic to make it soft, as well as arsenic, lead and mercury. As we have moved into further areas of technology, we have gone into nanotechnology. Things like paint use nanotechnology, which is very small particles to achieve better adherence of and smoothness in paint. There are concerns about the people who apply the paint because of the impact the particles may have on their bodies when they inhale the fumes and pass into the membranes of their lungs. Imagine nanotechnology and what will happen when it burns. We have no understanding of the impact, yet we race on with that new technology for being a great solver of some of the problems of modern manufacturing and modern products. I do not for one minute want to be labelled a Luddite—that is not what I am asking. Rather, I am saying that the debate has to turn its mind to other matters. Now that we have decided to properly compensate the people whom we rely on to put out fires, we must move on to how we can ensure that we listen to them and others in our community to make sure that they put out fires with the safest of capacities and that we do not increase the level of hazards to which they are exposed.
I note that the United States Congress recently passed the Frank R. Lautenberg Chemical Safety for the 21st Century Act. The act was named after Frank R. Lautenberg because he had been fighting for such legislation for so long. The 1976 Toxic Substances Control Act had basically been powerless for the past 20-odd years or more. When in 1991 the agency that regulated the Toxic Substances Control Act attempted to ban asbestos under the act, the case was struck out by the federal appeals court. Effectively, one of the biggest manufacturing and exporting and importing countries, and a country that leads the way in many environmental legislative reforms, has effectively, since 1991, had a mute chemical hazards act. I refer to an article that argues that because of the Toxic Substances Control Act’s weakness, Americans have been exposed to chemicals at a greater rate in their workplaces and consumer products, for which there is little or no toxicity information.

An article that appeared on The Conversation’s website stated that in 2010 the President’s Cancer Panel concluded that the true burden of environmentally induced cancers has been grossly underestimated. Considering that the current President, Obama, at one stage made a grand claim that we should be trying to cure cancer, we need to look beyond research into cures and into what causes it, and limiting the causes. That is what I continue to say here. It is that whole perspective of limiting the causes. In the final minute I have, I want to say that we have the capacity here.

Debate interrupted, pursuant to standing orders.

[Continued on page 5169.]

QUESTIONS WITHOUT NOTICE
QUEEN ELIZABETH II MEDICAL CENTRE — CAR PARKING

556. Mr M. McGOWAN to the Treasurer:
I refer to the “Queen Elizabeth II Medical Centre Car Parking Project: Project Summary”, which states — Capella will not be compensated for events which affect demand for parking on the Site.

... such as the impact of the construction of the New Children’s Hospital ...

Why is the state paying $500 000 per month to Capella even though this clause is included in the project summary?

Dr M.D. NAHAN replied:
The decision to contract out through a public–private partnership the building of the car parking facility was made some time ago. It has saved the state a substantial amount of money.

Mr M. McGowan interjected.

Dr M.D. NAHAN: It has.

Mr M. McGowan: What about the clause in the project summary?

Dr M.D. NAHAN: You asked a question; let me get to it.

Mr M. McGowan: You’re not answering.

Dr M.D. NAHAN: Just hold on.

Mr R.H. Cook: How much money has it saved?

The SPEAKER: Thank you, member for Kwinana.

Dr M.D. NAHAN: It allowed the state to avoid spending $120 million up-front. It also required the Capella joint venture to contribute $2 million a year to the QEII oversight facility—over the life of the project, $52 million. It saved the state $120 million in up-front borrowing. If it was done in government hands, it would have had to borrow the money and pay interest on that money. If there was a slowdown in the receipt of parking money, the state would have been out of pocket. It would have lost money from the failure of the hospital to open. It would have lost money for that, and it would have been basically worse off than the situation we have now.

Mr F.M. Logan interjected.

The SPEAKER: Member for Cockburn, I call you to order for the first time.

Dr M.D. NAHAN: The understanding at the time of the contract, as I understand it, was if the hospital did not open on a certain date—1 July 2016—Capella would be compensated for that loss of access to billable parking facilities.

Mr M. McGowan: Why does the project summary say something different?
Dr M.D. NAHAN: That is a rule and that is why the payment has been made. The payment has been made because there was an agreement back in 2011 when the contract was signed that Capella would have not only access to parking at its facility but also under the Perth Children’s Hospital. The understanding was that the children’s hospital would open on a certain date, and if Capella did not have access to the 300-odd parking bays under the children’s hospital, it would be compensated for lack of access to those parking facilities. That was part of the whole plan to fund the facility. That is why the Department of Health is not compensated. I might add, if we did not go to a Capella arrangement, we would have built it ourselves. We would have borrowed the money —

Mr W.J. Johnston interjected.

The SPEAKER: Thank you. Member for Cannington, I call you to order for the first time. Minister, a quick answer.

Mr W.J. Johnston interjected.

The SPEAKER: Member for Cannington!

Dr M.D. NAHAN: If we were to build the Capella —

Mr W.J. Johnston interjected.

The SPEAKER: Member for Cannington, I call you to order for the second time.

Dr M.D. NAHAN: If we had funded and built the car park ourselves, we would have borrowed $120 million. If, as has happened, the hospital did not open on time, we would have suffered the losses that Capella is currently suffering and we would have been out of pocket as much.

QUEEN ELIZABETH II MEDICAL CENTRE — CAR PARKING

557. Mr M. McGOWAN to the Treasurer:

I have a supplementary question. Why did Treasury not allow for delays in the construction of the Perth Children’s Hospital in its contract with Capella, and why did taxpayers take all the risk?

Dr M.D. NAHAN replied:

Taxpayers did not take all the risk.

Mr M. McGowan: Why are we paying half a million dollars a year?

Dr M.D. NAHAN: Taxpayers did not take all the risk. Capella took the risk of building, owning and operating the facility.

Several members interjected.

The SPEAKER: Member for Girrawheen, I call you to order for the first time.

Dr M.D. NAHAN: Treasury’s contract did allow for delays. Every point the Leader of the Opposition made is wrong. The risk was borne by Capella, and the contract did take into consideration potential delays. Both points made by the Leader of the Opposition were wrong. He should get his facts right!

CONTAINER DEPOSIT SCHEME LEGISLATION

558. Mrs G.J. GODFREY to the Minister for Environment:

I note the members for Gosnells has given notice that he intends to introduce into this place a bill to establish a beverage container deposit and recovery scheme. Can the minister please advise the house —

Several members interjected.

The SPEAKER: Member for Girrawheen!

Start again, please.

Mrs G.J. GODFREY: Can the minister please advise the house if this bill would support the implementation of a container deposit scheme as announced by the Minister for Environment and the Premier this week?

Mr A.P. JACOB replied:

I thank the member for Belmont for the question. Unfortunately, member for Belmont, ours was actually announced last week, but thank you for the question. I acknowledge that members opposite introduced a bill this week.

I have been surprised at the level of community support and engagement that the government has received on its announcement.

Mr P. Papalia interjected.
Mr A.P. JACOB: I will get to that.

I acknowledge that Hon Eric Ripper, when he was in this house in the last Parliament, introduced, I believe, a similar bill, but I stress to the house that the bill introduced by Hon Eric Ripper in the last Parliament when he was replaced as Leader of the Opposition simply lapsed from the notice paper.

Mr W.J. Johnston interjected.

The SPEAKER: Member for Cannington, you are not the arbiter of all things in this chamber. I do not want to discuss it with you. I am not going to call you now, but if you shout out again I will call you; and if you shout out again I will ask you to leave the chamber.

Mr A.P. JACOB: I welcome the Labor Party’s indicated support for our policy on container deposit legislation. I am appreciative that for the first time the member for Gosnells is now so keen that he produced a draft bill only a week after the government announced that it will introduce legislation.

Several members interjected.

Mr A.P. JACOB: I am keen for that enthusiasm to help support the Liberal–National government’s container deposit legislation. Please keep this enthusiasm up, member for Gosnells! However, careful planning does need to be undertaken to implement a container deposit scheme.

Mr P. Papalia interjected.

The SPEAKER: Thank you. Member for Warnbro, I call you to order for the first time. Minister, a quick answer through the Chair.

Mr A.P. JACOB: I point to the example of the Northern Territory, which tried something similar. Unfortunately, as some members may be aware, when the Northern Territory first tried to introduce its container deposit legislation, it infringed section 90 of the Constitution. Looking at the member for Gosnells’ bill, it unfortunately appears that clause 6 of the bill contains essentially the same infringement of the Constitution. I genuinely appreciate the opposition’s enthusiasm in supporting Liberal–National government policy—a bit belated, but I appreciate it—but this highlights why a methodical, careful approach needs to be undertaken. I point to the Northern Territory, which had an embarrassing loss —

Several members interjected.

The SPEAKER: Member for Victoria Park, I call you to order for the first time. Minister, a quick answer through the Chair.

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro, I call you to order for the second time.

Mr A.P. JACOB: The opposition cannot rewrite history. This is Liberal–National government policy. We are the ones doing this. I appreciate the opposition’s enthusiasm in support, but we will ensure that we do not infringe on the Constitution as the Northern Territory did only a few short years ago by rushing the legislation in much the same manner. But I encourage members opposite to keep up their level of support for this and, indeed, other policies. We will make sure that we do this properly. I flag to the house that we possibly may not even need legislation to bring this in. There are existing provisions under the Waste Avoidance and Resource Recovery Act 2007 —

Several members interjected.

The SPEAKER: Member for Victoria Park, I call you to order for the second time. Leader of the Opposition! Minister, you have 30 seconds.

Mr A.P. JACOB: That will depend on the final design of the bill, so I will inform the house as we work through this. Members opposite cannot get away from it; this was never their policy. They have never done it in this place. They may talk about it, but they do not deliver in government and they never delivered this in government. We are the ones doing this and we will do this, but I welcome the support from members opposite.

PERTH CHILDREN’S HOSPITAL — CAR PARKING

559. Mr R.H. COOK to the Minister for Health:

I refer to the half a million dollars per month being paid to Wilson Parking at Perth Children’s Hospital.

(1) Is this money being paid from the Department of Health budget?

(2) Has the minister asked Treasury for extra funding to cover the contract?
Mr J.H.D. DAY replied:

(1)–(2) No, there has not been any submission to the Treasurer for additional funding at this stage, whether it is coming out of the health budget or from —

Several members interjected.

The SPEAKER: Member for Victoria Park, I have called you twice. If you carry on, you will be having a rest, okay?

Mr J.H.D. DAY: I expect that the funds are coming out of the project budget for the Perth Children’s Hospital redevelopment; it is a $1.2 billion redevelopment. As I said yesterday in relation to the issue of parking, the problem would not have happened under Labor because Labor would never have built this hospital.

PERTH CHILDREN’S HOSPITAL — CAR PARKING

560. Mr R.H. COOK to the Minister for Health:

I have a supplementary question. Can the minister confirm that, even though this is a strategic management project, it is the Department of Health that is leeching half a million dollars a month because of the minister’s bungled mismanagement of the hospital project?

Mr J.H.D. DAY replied:

I would have thought the opposition and the member for Kwinana would by now understand that there is a new, approximately $120 million, multilevel 3 000-bay car parking facility at the Queen Elizabeth II Medical Centre site that has been funded through a public–private partnership between the state government and the private sector. In other words, taxpayers of the state have not had to outlay that $120 million upfront. That is an avoided cost. There is a short-term cost in relation to the fact that, unfortunately and beyond the government’s control, the opening of the Perth Children’s Hospital has been delayed. We regret that that is the case; as I said, it is beyond our control and it is no fault of the government at all. Incidentally, the fact that this children’s hospital development has been delayed is something we have in common with other major hospital redevelopments around the country—particularly the Royal Adelaide Hospital and the Royal Hobart Hospital, so we are no orphan in that respect. However, we regret the fact that the opening of the hospital has been delayed as a result of no fault of the government. That has led to a short-term cost according to the contract in relation to the parking facilities, but there is a substantial benefit to taxpayers overall in the fact that a major new capital project has been provided through this public–private partnership.

COMMUNITY GARDENS GRANTS PROGRAM

561. Mr A. KRSTICEVIC to the Minister for Community Services:

This morning the minister visited the Duncraig edible garden in my electorate to announce that the Liberal–National government would extend funding for the community gardens grants program. Can the minister please outline how this program is helping to build stronger communities across Western Australia?

Mr A.J. SIMPSON replied:

I noticed a little chuckle from the other side. It is a commitment of this government to support the community gardens program in our communities. The 2013 commitment by the Liberal–National government was to help support community gardens throughout Western Australia. There was $400 000 provided in the first tranche, with opportunities for communities to access $20 000 to set up new community gardens, and $10 000 to extend community gardens already in place. These facilities go a long way towards encouraging people to engage with the community and to go out and work with the community. It was really good this morning to see the community garden outside the Duncraig library in the member for Carine’s electorate. That is a quite interesting use of a space that would otherwise be what I would call very much a dead space, but it has been made an active place for people to go on a Saturday morning. There were more than 20 people there, helping out with the community garden. That is what is called an edible community garden; this morning we planted some lettuces with the kids, and there were all types of fruits. More importantly, we saw people of all ages coming together to help their community do some fantastic work. In the recent state budget, the government again committed to continue funding for 2019–20 to make sure community gardens are funded.

Several members interjected.

The SPEAKER: Thank you, member for Mandurah. I call you to order for the first time and for the second time.

Mr A.J. SIMPSON: It was great to meet with —

Ms J.M. Freeman interjected.

The SPEAKER: Member for Mirrabooka, I call you to order for the first time. A short answer, through the Chair.
Mr A.J. SIMPSON: It was great to provide more than $9,000 towards a water tank to expand the community garden and to capture the water so they can recycle that water to make sure they have a more sustainable garden. More importantly, it is good to see a number of these gardens right throughout the community, in Busselton, Hilton, Cannington, Manjimup and Goomalling. They are great examples of how volunteers have worked with community gardens to bring our communities together and to make sure that we provide our communities with the great asset of having —

Mr D.A. Templeman interjected.

The SPEAKER: Member for Mandurah, I call you to order now for the third time. Just decide what you want to do, okay?

Mr A.J. SIMPSON: To finalise, I thank the member for Carine for inviting me today. It was great to have a morning tea at his great community garden in a great location. I acknowledge the City of Joondalup and the great work it does in supporting these community gardens. I thank the member and the Liberal–National government’s commitment to community gardens.

562. Mr R.H. COOK to the Minister for Health:
I refer to the swathe of elective surgery operations that were cancelled at Midland Public Hospital in the final weeks of June, as confirmed by answers to questions in the other place on 30 June, and those cancellations in relation to budget restrictions.

(1) Does the minister think it is acceptable that surgeries are being cancelled while the government is paying half a million dollars a month to operate a car park at the new Perth Children’s Hospital?

Dr M.D. Nahan interjected.

The SPEAKER: Treasurer, I call you to order for the first time.

Dr M.D. Nahan interjected.

The SPEAKER: I call you to order for the second time.

Mr R.H. COOK: I ask again —

(1) Does the minister think it is acceptable that surgeries are being cancelled at Midland Public Hospital while the government is paying half a million dollars a month to operate a car park at the new Perth Children’s Hospital?

(2) How many surgeries could have been conducted or not cancelled if the state government did not have to pay half a million dollars to operate a car park with no cars?

Mr J.H.D. DAY replied:

(1)–(2) It really is very sad how the opposition is continually running down the world-class public hospital system that exists in this state.

Several members interjected.

The SPEAKER: Members!

Mr J.H.D. DAY: As I think most people understand, there has been a substantial redevelopment in the time that we have been in government. About $7 billion has been spent on building new hospitals and redeveloping hospitals right around the state. Regarding elective surgery at Midland Public Hospital and the car parking arrangements at the Queen Elizabeth II Medical Centre site, there is absolutely no link whatsoever between the two. It is completely disingenuous to try to suggest that there is.

Several members interjected.

The SPEAKER: Member for Wanneroo, you are becoming tiresome; member for Kwinana, I want to hear the minister answer the question. We are running out of time again.

Mr J.H.D. DAY: Relating to the car parking arrangements at the children’s hospital, there will probably be a submission through the budget process to the Treasury process for the costs. However, there is absolutely no link whatsoever between the amount of elective surgery that is being undertaken at a very high level in hospitals right around Western Australia.

563. Mr R.H. COOK to the Minister for Health:
I have a supplementary question. Current reports show that about one in five metropolitan category 1 patients are not getting their operations within the clinically recommended time. Does the minister think that is acceptable while he is tipping half a million dollars into the pockets of a car park with no cars?
Mr J.H.D. DAY replied:

Mr Speaker —

Mr C.J. Barnett interjected.

Mr R.H. Cook: You are still grumpy and arrogant. I thought you had a makeover in the holidays!

The SPEAKER: Member for Kwinana, I call you to order for the first time. Premier, I call you to order for the first time. I suggest that you all keep quiet and let the minister answer.

Mr J.H.D. DAY: It would be a nice story for the opposition if it were true. The only problem is it is not true. There is no link whatsoever between the amount of elective surgery undertaken in the state and the car parking arrangements at Queen Elizabeth II Medical Centre. As I, the Treasurer, and the Premier have explained at different times, the result of an increase of 3,000 car parking bays on the Queen Elizabeth II Medical Centre site is in part to cater for the new children’s hospital, which will be fantastic for the children and families of Western Australia when it opens.

SHARKS — DATA-RECORDING ACOUSTIC RECEIVERS

564. Ms L. METTAM to the Minister for Fisheries:
Can the minister please update the house on the state government’s shark monitoring program?

Mr J.M. FRANCIS replied:

I thank the member for her question. I acknowledge the work that the member does and the interest she takes in shark activity in her electorate. From the outset, I note that the member for Bassendean is not in the chamber so I will not direct my comments or reflect on his comments. I will make it general.

Several members interjected.

The SPEAKER: Member for Willagee!

Mr J.M. FRANCIS: This is a very important issue of public safety. I want to highlight the fact that when politicians try to score cheap political points, they can sometimes exacerbate a problem and create a greater risk to the public by exposing them to risks that they should not be exposed to in order to gain, as I said, some kind of cheap, political point.

Mr F.M. Logan interjected.

The SPEAKER: Member for Cockburn!

Mr J.M. FRANCIS: That happened on the weekend when the opposition claimed that the government was putting people’s lives at risk because we had not fixed two active transponder buoys that are part of the VR4G satellite system. Over the last few years in Western Australia, the government has spent over $40 million in shark mitigation and hazard management. Part of that management includes the tagging program and the sonar buoys that transfer data into the satellite system in real life—people’s phones, laptops, whatever it might be—so they can monitor the tagged sharks. Over 800 sharks have been tagged and 200 of them are white sharks. Mr Speaker, I promise you that I do not know how many white sharks there are in the ocean —

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro!

Mr J.M. FRANCIS: — but there are far more than 200. In fact, the member for Bateman just pointed out that a tagged shark was tracked doing 7,000 kilometres in 99 days from the coast of Africa to the coast of Western Australia.

Several members interjected.

Mr J.M. FRANCIS: We do not know how many sharks are out there but we know there are a lot more than 200. My point is that there are 25 VR4G receiver buoys in the ocean. In the last couple of weeks, two of them went offline, which was the subject of a criticism by the Labor Party on the weekend.

Several members interjected.

The SPEAKER: That is enough.

Mr J.M. FRANCIS: Two of them went offline. The reason two of them went offline—surprise, surprise—had something to do with the weather conditions and the sea state off the coast in the last few weeks. One buoy went offline off Busselton and another off Floreat. They were fixed this week. We were criticised for putting people’s lives in danger because those buoys had not been fixed.

Mr B.S. Wyatt: When?

Mr J.M. FRANCIS: It was on Saturday night. The reason they were not fixed was —
Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro.

Mr J.M. FRANCIS: — that we did not want to put the lives of Department of Fisheries workers in danger in rough sea states to go and fix the buoys. We just cannot win with the Labor Party. The bottom line here is the more people were told that their lives were in danger because two buoys were offline, the more the falsehood was reinforced that, if the buoys were working, their lives would be any safer. Members opposite are telling people it is okay to swim in the ocean because those two transponder buoys are working now.

Mr B.S. Wyatt interjected.

The SPEAKER: Member for Victoria Park!

Mr J.M. FRANCIS: I am happy to give the opposition a lecture on bathymetrics, sonar technology and the speed of sound through water any day of the week. The bottom line is —

Several members interjected.

The SPEAKER: Member for Cockburn. Member for Warnbro, you might have missed the story, but I have not missed you shouting out—just relax. Through the Chair.

Mr J.M. FRANCIS: Members opposite obviously do not listen to the member for Bassendean either. That is okay; it means that nobody does, so maybe I am reading too much into this. However, the bottom line is that it is ridiculous to reinforce the myth that people would somehow be safer going into the ocean were those two buoys working, had they been repaired and had we endangered the lives of people from the Department of Fisheries and contractors to go and fix them in a rough sea state. Members need to be guarded, when they try to score cheap political points, that they are not doing more to put people’s lives at risk, like the Labor Party has just done.

RANGELANDS REFORMS

565. Mr P.C. TINLEY to the Minister for Lands:

I refer to the minister’s long-awaited and much talked about rangelands reforms.

(1) Could the minister outline what differences exist with his Liberal alliance partners that are delaying these reforms?

(2) When does the minister expect to introduce these reforms to Parliament?

Mr D.T. REDMAN replied:

(1)–(2) I thank the member for Willagee for the question. As members know, I have advocated to institute changes to the Land Administration Act as it applies to the rangelands that make up about 87 per cent of the state’s land mass. The pastoral estates make up about one-third of that at about 34 per cent—something like that. A range of changes has been proposed and they have been through quite a consultation process. We have engaged with all the stakeholders including pastoralists, native title holders, the mining sector, the conservation sector, the tourism sector and all those who want to engage in opportunities that this change will institute. By way of background, this has occurred on two other occasions. When Yvonne Henderson was the lands minister in the mid to late 1980s, she tried to institute those reforms. Prior to federal native title changes, those reforms were blocked by the Pastoralists and Graziers Association. At its request, she pulled those changes. I think that Hon Alannah MacTiernan did the same thing in about 2007. Again, the PGA blocked the changes. I have been pretty strong in my views that the PGA has once again blocked opportunities by making it a showstopper if I were to get rid of the Pastoral Lands Board and shift its powers to the Minister for Lands. In my view, that would be entirely appropriate and I put some concessions into the changes I put forward regarding the appeals process that pastoralists could have had against potential adverse decisions from ministers. Once again, the Pastoralists and Graziers Association has exercised its influence. It put a level of uncertainty out there and made it difficult for backbenchers to support the changes. Therefore the challenge —

Point of Order

Mr P.C. TINLEY: With the greatest respect to the minister’s attempt to answer the question, I was very specific in my first question that he should outline the differences that exist between him and his alliance partners.

The SPEAKER: Thank you.

Mr P.C. TINLEY: He seems to have failed to address the actual question.

The SPEAKER: Thank you.

Mr M.P. Murray: Remember that song, We Are Family!
The SPEAKER: Right, sit down —

Mr D.T. Redman: Mr Speaker, I would like to hear the second verse!

The SPEAKER: Thank you—minister.

Questions without Notice Resumed

Mr D.T. Redman: Everyone in this place knows that changes to legislation by the government have to go through cabinet. I am not going to talk about the cabinet process, but I have made very public my views that the Pastoralists and Graziers Association, for whatever reason, has been quite averse to the changes put forward. A range of opportunities, including better tenure outcomes, were offered. When I attended a number of those forums, and presented myself, many pastoralists came to me and said that I should not for a minute think that the view of the Pastoralists and Graziers Association represented their own view. The Kimberley Pilbara Cattlemen’s Association was another group I engaged with that was supportive of many of the changes put forward—not all of them, but I do not think that anyone gets 10 out of 10 for legislative changes. Unfortunately, we have not been able to progress this in a timely way. If there is a good outcome for the Liberal–National government in March next year, I will make every effort to put it back on the table.

RANGELANDS REFORMS

566. Mr P.C. Tinley to the Minister for Lands:

I have a supplementary question. Is the minister’s failure to get these changes through the cabinet process yet another example of the complete shattering of the relationship between the Nationals and the Liberals?

Several members interjected.

The SPEAKER: Short supplementary question, please.

Mr P.C. Tinley: When did the PGA become a member of the government’s cabinet?

Mr D.T. Redman replied:

I absolutely reject what the member for Willagee is talking about in indicating that this is some measure of dysfunction. The Liberal–National government has a fantastic record of achievement in this state, not the least of which is a focus on regional Western Australia that is second to none in the past hundred years. One of the challenges the member for Willagee faces is that he has not been over those hills, as many members opposite have not. That is the other challenge he faces, because he has not seen the very good work happening out there, and the fundamental shift in regional Western Australia, supporting the economic driver of not only this state but also the nation.

BREASTSCREEN WA — MANDURAH CLINIC

567. Dr K.D. Hames to the Minister for Health:

I understand that the minister will be opening a new BreastScreen WA clinic on Friday. Can the minister update the house on this important new facility?

Mr J.H.D. Day replied:

I thank the member for Dawesville for his question. I suspect that that is the first question he has asked for some time.

Dr K.D. Hames: The second question.

Mr J.H.D. Day: It is his second question in quite a number of years.

Mr B.S. Wyatt: There is no need to demean him.

Mr J.H.D. Day: I was actually making an implied compliment to his long record as a minister. The member did not quite get the subtlety.

Mr B.S. Wyatt: You didn’t get the sarcasm.

Mr J.H.D. Day: The subtlety, I said. I got the member’s sarcasm, do not worry.

This is a serious issue, and I will be very pleased to visit Mandurah. As well as the member for Dawesville being there, I trust that the member for Mandurah will be there for the opening of the new BreastScreen clinic on Friday. Friday is Daffodil Day, and it is an important day on which the Cancer Council and other organisations seek to raise the awareness of cancer in the community and to take whatever actions we can to try to reduce its incidence in the future. Every day, about 350 Australians are diagnosed with cancer, and it is therefore a leading cause of death in Western Australia, and in one way or another it has probably touched the lives of everybody in this chamber. One in eight women in Australia will develop breast cancer in her lifetime and, of course, as with any cancer, the best chance of successful treatment is when it is identified early. A mammogram can detect up to 90 per cent of breast cancers when regular screening is undertaken, increasing the chance of finding breast cancer, sometimes when it is as small as a grain of rice.
BreastScreen WA has come a long way since the first clinic was opened in 1989, when 4700 women were screened. In the last financial year, more than 120 000 women had a screening mammogram. Nevertheless, screening rates are still too low in Western Australia, especially in the high-risk group of women aged between 50 and 74, where more than 75 per cent of breast cancers are found. Nationally, the screening target is 70 per cent of women in the appropriate age groups, but in Western Australia we are currently achieving only about 54 per cent. We want to encourage all women over the age of 40, including those without any symptoms, to take up BreastScreen WA’s offer of a free mammogram every two years, as is recommended.

The population in the Peel region of women aged between 40 and 74 is expected to grow from slightly over 18 000 at present to almost 22 000 in 2026. The new BreastScreen clinic will enable women in Mandurah and the broader Peel region to more readily access breast screening services throughout the year, and the mobile clinic, which has been in use in Mandurah, will therefore be able to spend more time in regional areas in more remote parts of the state that are experiencing greater demand, including Port Hedland, Busselton, Broome, Geraldton and Albany.

Finally, I acknowledge the federal government’s funding contribution that has made the new Mandurah clinic possible and, in conjunction with the state government’s contribution, has helped to fund BreastScreen WA to a total of $17.9 million in this financial year.

RENEWABLE ENERGY

568. Mr W.J. JOHNSTON to the Minister for Energy:

I note that the minister has now acknowledged that he was wrong to say that climate change was not caused by human-induced carbon pollution.

(1) Was the minister wrong to say that Western Australia has too many wind farms?

(2) Was the minister wrong to say that Western Australians should buy renewable energy certificates from east coast renewable energy projects instead of building their own projects?

Mr F.A. Alban interjected.

The SPEAKER: Member for Swan Hills, I call you to order for the first time.

Mr W.J. JOHNSTON: To continue —

(3) Was the minister also wrong when he said that there should be a nuclear power station in the Pilbara?

Dr M.D. NAHAN replied:

(1)–(3) After four years as shadow energy spokesman, the member finally made a speech last night. It was late in the night, and it was a long night for many people, and many people fell asleep, but he showed a complete lack of knowledge —

Point of Order

Mrs M.H. ROBERTS: Mr Speaker —

Several members interjected.

The SPEAKER: Thank you, members. Points of order are to be heard in silence.

Mrs M.H. ROBERTS: Quite specific questions were asked by the member for Cannington, but the moment this minister gets to his feet he goes into story time—some pre-prepared diatribe of personal attack. It is not answering the question. That is my point of order.

The SPEAKER: Thank you. Through the Chair, a quick answer.

Questions without Notice Resumed

Dr M.D. NAHAN: As people want to sing songs, what comes to my mind is Is That All There Is? Four years of wasted space —

The SPEAKER: Minister, that question had four parts to it. Just address the four parts.

Dr M.D. NAHAN: I need to put this in the proper context.

The SPEAKER: Okay, now let us go.

Dr M.D. NAHAN: It is hardly worth responding to, but I will do so. Firstly, to meet the large-scale renewable energy target, Synergy will purchase the large-scale long-run renewable energy requirements dictated by the commonwealth. It will do that, and it is up to date right now. My priority is to have those adhered to, or purchased in Western Australia. At times, because that requires around 500 megawatts to be purchased up to 2020–21—it is a large purchase, and that is a significant rate of increase—there might be some that need to be purchased interstate. Almost all organisations buy and sell on the market constantly to meet the requirement. The member for Cannington should know that, but he is more a propagandist than a politician. That is my commitment.
Wind farms. Under our watch, Synergy has not only facilitated wind farms—Mumbida and other ones—but we have opened them, we have invested in them, we have expanded them, and Synergy has considered investing in them.

An opposition member: So were you wrong?

**Dr M.D. NAHAN:** There are problems with wind farms. Look at South Australia, where they ran out of energy. The price of energy went up to $1 400. I am cognisant that there are problems with too high a dominance of wind, but I never have argued that we should eliminate them altogether.

I might add that people out there are going to be pushing large scale very heavily. That is what they are geeing up to and that is what this is all about. But I can tell members that we have had four days of the highest consumption of electricity ever this year—four of them—and on each one of those days, the wind contributed zero energy at peak load. That is because, as we know, in Western Australia, the Fremantle doctor is not in and the easterly is not blowing when it is very hot. So, if we rely too much on wind, we are going to undermine the whole electricity system. I did not say do none of it. It requires balance.

**The SPEAKER:** Minister, I want a quick answer, please. We are running out of time.

**Dr M.D. NAHAN:** He asked four questions.

**The SPEAKER:** Right. Well, four short answers.

**Dr M.D. NAHAN:** As to climate change, it is real.

Several members interjected.

**Dr M.D. NAHAN:** Okay? You people believed it before the evidence. I believed it once the evidence had come. I base my judgement on evidence.

Several members interjected.

**The SPEAKER:** Thank you!

**Dr M.D. NAHAN:** Maggie Thatcher was always a believer in climate change.

**Dr A.D. Buti:** She’s your hero!

**Dr M.D. NAHAN:** She is. She was a great woman.

**RENEWABLE ENERGY**

569. **Mr W.J. JOHNSTON to the Minister for Energy:**

I ask a supplementary question. Was the minister wrong to say that South Australia has too many wind farms?

**Dr M.D. NAHAN replied:**

I did not say they have too many wind farms—no, I did not. What I said is that we are not going to go down the South Australian route and build too many wind farms. We are going to have a balanced system. We are not going to be over-reliant on an intermittent source of energy that does not contribute at peak load during the summer. That is sensible. That is the way we are going to do it.

**GOVHACK WA — 2016 EVENT**

570. **Mr M.H. TAYLOR to the Minister for Innovation:**

Can the minister please update the house on the recent success of the 2016 GovHack WA event?

**Mr W.R. MARMION replied:**

I would be delighted, member for Bateman. This must be the first hackathon in the last three years that the member for Bateman was not able to attend—he is such a strong supporter. It gave me great pleasure to open the 2006 hackathon, which was held on 29 July.

Several members interjected.

**The SPEAKER:** Members!

**Mr W.R. MARMION:** The government has been a major sponsor of this event.

**Mr P. Papalia** interjected.

**The SPEAKER:** Member for Warnbro!

**Mr W.R. MARMION:** I meant 2016.

**Ms R. Saffioti** interjected.

**The SPEAKER:** Member for West Swan, I call you to order now for the first time, I believe.
Mr W.R. MARMION: It was 2016, Mr Speaker. I apologise for saying 2006.

GovHack is a national event that goes into 40 jurisdictions right across Australia and New Zealand, and in Perth, Western Australia, we had over 128 participants, which was the largest venue in Australasia. Indeed, this year we actually had a link to Geraldton. I congratulate Pollinators and Andrew Outhwaite, who managed to organise a direct link so that the Geraldton team could participate in this year’s event. I am pleased to say that Geraldton came second in one of the categories—so congratulations to the Geraldton team for coming second in the Keep WA Moving category. They developed a mobile app that shows the restaurants and services at a destination so that drivers can better plan their trips.

There were many successful entries that I hope will go on to win national awards. Just to mention two, there was one that was a dashboard for local government services, and another one that was an app that brings together shark data, which is very pertinent today, together with local government information and coastal information, to generate community engagement.

Also, interestingly, to show age was no barrier, a nine-year-old boy participated. He came up with an interesting innovation using Minecraft—which many parents will know about—to teach 12-year-olds how to be more sustainable with natural resources. That particular young boy won the Future Hacker award for his efforts. I know members are all very interested in that, so well done.

Over 1 000 datasets and 50 government departments assisted in GovHack. I am pleased to say that people from many government departments provided assistance on the weekend and gave up their valuable time to assist the event.

GovHack is an opportunity for government to show off its data and for the community to work out innovative ways to use that data, which can better provide services to the community of Western Australia. I congratulate the Western Australian GovHack prize winners and wish them all the best for the national awards. It is also an opportunity to remind them that they can also enter their project in the StartupWA innovation contest, for which $100 000 is available to them, which will be happening in two months’ time.

MINING TAX — NATIONAL PARTY PROPOSAL

571. Mr W.J. JOHNSTON to the Minister for Mines and Petroleum:

I refer to the proposal by the minister’s partner in government, the Leader of the National Party, to impose a $5 per tonne tax on iron ore produced by Rio Tinto and BHP.

(1) Does the minister support this extra mining tax?

(2) Has the minister met with these companies; and, if so, what did they say to him?

(3) Will this mining tax proposal encourage investment in the mining sector in Western Australia?

The SPEAKER: Minister, short answers, thank you.

Mr S.K. L’ESTRANGE replied:

(1)–(3) It is an absolute pleasure to hear that question asked by the member for Cannington, because the member for Cannington would well know that the Liberal —

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen, I call you to order for the second time.

Mr S.K. L’ESTRANGE: The member for Cannington would well know that the Liberal–National government does not need to meet with any mining companies on this issue, because it is an idea. It is not a government policy. We are not introducing any new tax to the mining industry. That is a fact. Can I just say, to assist some of the members present, that to change any sort of tax on a state agreement requires it to go back through the Parliament. It is quite a detailed process. It would require the two parties to the agreement to sit down, have a conversation and work out a way forward, and then it would need to be agreed to by this Parliament. So, I would be curious to know whether the member for Cannington would be looking to support an increased tax on the mining sector. Member for Cannington, I ask this question —

Mr W.J. Johnston interjected.

Mr S.K. L’ESTRANGE: Let me just put this to the member: this government has said categorically that it will not increase a tax on the mining community.

Several members interjected.

Mr S.K. L’ESTRANGE: The government has said that.

Mr B.S. Wyatt interjected.

The SPEAKER: Member for Victoria Park, I call you to order for the third time. I want very short answers, through the Chair. We are running out of time.
Mr S.K. L’ESTRANGE: This side of politics is different from that side of politics. This side of politics does not propose to increase taxes on the mining sector; that side of politics does. Let me give an example. Where was the Leader of the Opposition in July 2012 for the mineral resources rent tax debate? Where was the Leader of the Opposition when we were out there advocating to not increase the tax on this very important sector? We were fighting hard to fight that tax; members opposite were not. The Leader of the Opposition was AWOL. Members, can I just say that when we are talking about increasing taxes on the mining sector, may I remind everybody to have a look at the “WA Labor 2015 Platform”. I refer members to paragraph 159, part (i) —

An incoming Labor Government will legislate to ensure that there is a requirement for all major resource companies to contribute to the Building and Construction Industry Training Fund … (through a training levy) at the construction stage of a project.

Members, this is not a government that wants to tax the mining sector. That is an opposition that cannot wait to get its hands on the mining sector, so it can throw any number of taxes at this wonderful sector of the Western Australian community. The people of Western Australia are awake to the member for Cannington and they are awake to the Labor Party. They know perfectly well that all the opposition wants to do is increase taxes, increase charges and damage the most prosperous, successful and important employer of people in Western Australia that this side of the house supports. The Liberal–National government is a friend of the miner; members opposite are no friend of the miners.

MINING TAX — NATIONAL PARTY PROPOSAL

572. Mr W.J. JOHNSTON to the Minister for Mines and Petroleum:

I have a supplementary question. Where do I start? Is the minister saying that there is no circumstance in which the Liberal Party would support the National Party’s policy?

The SPEAKER: Minister, you have 10 seconds.

Mr S.K. L’ESTRANGE replied:

It is very hard with 10 seconds when he has given me another free hit. Member for Cannington, I cannot be clearer: we have no intention of increasing a tax on the mining sector of Western Australia.

ELIZABETH QUAY WATER PARK — OPENING

Matter of Public Interest

THE SPEAKER (Mr M.W. Sutherland) informed the Assembly that he was in receipt within the prescribed time of a letter from the member for West Swan seeking to debate a matter of public interest.

[In compliance with standing orders, at least five members rose in their places.]

MS R. SAFFIOTI (West Swan) [2.51 pm]: I move —

That this house condemns the Liberal–National government for placing public health and safety at risk by rushing the opening of the Elizabeth Quay water park for purely political deadlines against expert advice.

We raised this issue a number of times earlier this year. Since that time, we have undertaken some freedom of information inquiries.

Several members interjected.

The SPEAKER: Thank you! Member for Pilbara, I call you to order for the first time.

Ms R. SAFFIOTI: Of course, we are still waiting for government agencies such as the Metropolitan Redevelopment Authority, which is continuing to hide and to absolutely deny information being sent out, but we did get one FOI request back from the City of Perth that clearly shows that this government misled the public and put children’s lives at risk. That is what it did.

Several members interjected.

The SPEAKER: Premier, you can have your turn to speak. Member for Wanneroo, I call you to order for the first time.

Mr C.J. Barnett: Pretty successfully—with 25 000 people.

Several members interjected.

The SPEAKER: Member for Belmont and Minister for Health, let us try to get this thing going, and then everyone can talk.
Ms R. Saffioti: It is interesting to hear the interjection that there were thousands of people there, because it was built for only 150 people. Number one, the government had more people there than it could accommodate. Members should watch their interjections on this. Let us go through the key issues.

Several members interjected.

The Speaker: Member for Wanneroo, I call you for the second time. Member for Swan Hills, I have had enough!

Ms R. Saffioti: The water park was commissioned and built for only 150 people. That is what happened. Let us go through the issues of the opening week. Remember, through questioning and through lots of probing in this Parliament, we found out that the park was opened when they had negative tests back and they knew that there were bacteria at the water park. What did the government say at the time? The government said that it does not matter because it superchlorinated the night before it opened, and that would have dealt with everything. Now, information obtained through the FOI inquiry shows that that was the second time that they had to superchlorinate, and that they did the same process two days beforehand and it had not made the water safe. That is what it shows. That is information the government never disclosed to the public.

Mr J.H.D. Day: Who said that?

The Speaker: Minister for Health!

Ms R. Saffioti: I will go through who said that.

Mr P. Papalia interjected.

The Speaker: Member for Warnbro!

Ms R. Saffioti: Information that we obtained from the City of Perth states that the water park —

... was superchlorinated after the second sample result and after a 3rd set of samples taken on 26 Jan of the backwash & balance tank. The preliminary results from Pathwest indicate the presence of Naegleria...

After the water was superchlorinated on 26 January, there were still bacteria and amoeba at the park. That is what the government did. The government said that it opened the park, even though there were results of bacteria, because it had been superchlorinated and it would be okay. In fact, the government had already done that and it had not fixed the problem. That is point one.

Point two—this is the key point—is that the day before, the government was told by the Department of Health and the Perth city council that it could not open the water park until Monday. That is what happened, and I will go through that.

An email at 1.19 pm on Thursday, 28 January, from the manager in relation to the public health division in the Department of Health states —

In view of the successive water sample results detecting Naegleria, and the spray surface not able to be tested to determine if there is a presence of Naegleria due to the project not completed, the approval of the EDPH will not be sought to approve the WSP. It is unlikely that results of water samples taken today will not be available until Monday.

That is what happened. The City of Perth emailed the MRA at 1.21 pm to state —

We have received the results from Pathwest ... Amoebae and Thermophilic Naegleria have been detected.

The City has sought advise from the Department of Health, unfortunately the water playground will not be able to be used by members of the public until we receive satisfactory results.

Billy is down on site now taking further samples, we will have the results of these samples Monday afternoon.

I am so sorry about this.

On Thursday, the MRA was told that the government could not open the water park. The City of Perth, which does this process all the time, and the Department of Health said that there were concerns and that the government could not open the park until it got satisfactory results back. That was the key.

A City of Perth internal email from the same day at 1.55 pm states —

Please be advised that the Water Playground water samples are still poor, and DOH have advised the facility can’t be used still until water results are satisfactory. So the Department has informed the MRA that the water playground can’t be used.
Therefore, the Department of Health and the City of Perth both said that that water park could not be used, which is very different from what we have heard before. The government was telling us that they had said that superchlorination would fix it. They were not saying that; the government was saying that.

This is what happened. Over the night of 28 January and 29 January, there was more superchlorination undertaken. Now, we know that that had already been done and it had not fixed the problem, but it was tried again. On Friday, 29 January, there were two emergency phone calls made to the Executive Director of Public Health from the MRA, and a certificate was issued by the City of Perth an hour and a half before the park was opened.

I will go through that certificate in a minute, because the minister has a lot of explaining to do about that certificate. The internal email from 2.48 pm on 29 January reads —

… has just advised that MRA have been provided with an OK from Dept of Health to operate the Water Playground during daylight hours.

Apparently there remains an issue with the lighting and therefore cannot be operated with lighting on.

Later that day, after it had been opened, City of Perth officers were pretty confused about the situation. They thought it was not going to open. The City of Perth internal email reads —

… they must be comfortable that the water playground can be used after all.

At 6.00 pm, an email states that the water playground had been granted approval by the Department of Health and that it had allowed the Metropolitan Redevelopment Authority to operate with lifeguards at night because the lighting needed improving. The email states that although the water sample results were not 100 per cent, the Department of Health made the call that there was minimal risk.

On the Friday, the executive director was pulled out of a very important meeting and asked by the MRA to issue the certificates—I will go through the certificates—even though the day before the Department of Health and the City of Perth said that the park could not open until there were clear results; but the government opened it.

The other key point that came out through freedom of information—the government did not tell us—was the lighting issue. We knew there were water quality issues that had not been fixed, but apparently the park was not meant to open at night because the lighting had not been done. This put the government in a bit of a bad position because on the Sunday beforehand, the Premier was showing off the water park at night and now we have information that there was not only a water quality issue, but also the lighting was too poor. I will go through the documents put forward. The government issued some certificates, but they were very different from what was tabled by the minister. This email is from Health to the City of Perth, and reads —

Two letters … have been issued, sequentially. The first by … delegate EDPH includes a section regarding the spray park … not being used at night because of poor lighting levels. The second … omits this condition. However it is our understanding that the MRPA will —

Have to employ lifeguards at night because the lighting was too poor.

Mr C.J. Barnett interjected.

Ms R. SAFFIOTI: This is your government, Premier. I am sorry if the truth offends the Premier—I know the truth offends the Premier—but this is about his government.

The certificate that was issued had a covering letter. What was tabled by the Minister for Planning was the permit to operate document from 29 January. What in fact was sent was a document with a covering letter stating that the park could not be operated at night unless lifeguards were employed. I want to hear from the minister why he failed to table the full document. He tabled a subset of the documents without the covering note that states that the park cannot open. The minister must explain exactly why he tabled a subset of the documents, not the full documents and the covering letter with the conditions. The minister tabled a subset of that.

I turn to section 20 of the code. The executive director ended up clearing the park for opening under discretionary powers under section 20 of the code. I make the point that that is the first time that section 20 has ever been used for water quality exemptions. It has been used for fencing, barriers and other issues, but that was the first time it was used for water quality. The minister opened it under section 20. I will go through the City of Perth examination of that concept. The City of Perth internal emails from 5 February show the following —

As discussed the results from Thursday 28 2015 again revealed that the amoeba detected was not Naeglaria …so the DOH is making their decision on this fact. That the organism is not the type that cause amoebic meningitis.

I stress again I am not supporting the Departments decision, but just advising you why DOH representatives are at this stage recommending closure and not insisting that the water playground be closed.
The City of Perth recommended closure but did not insist on closure. I refer to another internal email from that day. I will not mention the person’s name. It reads —

What … hasn’t included in his verbal advice that the Code of Practice requires the facility to be closed. Dept of Health is however not applying the Code of Practice in this instance.

…has advised that it is not the City’s role to call for the closure as where the facility is on Crown land and the DoH is the regulator.

That is further evidence that the government ignored key parts of the report. I refer again to what the minister tabled. The minister tabled the two-page permit to operate. The minister did not table the covering letter. The covering letter states that approval was open subject to certain conditions. It stated that the lighting provision for the aquatic facility had not been demonstrated to comply with the minimum 30 lux level required for group 4 aquatic facilities under the code of practice. It further states that due to uneven ground, wet settings and a variation in patron vision levels, contributing to increased risk of slip and fall–type injuries occurring, use of the facility after hours was not supported. That letter was attached to the document that the minister tabled, but he refused to table that letter. He did not include the letter that said that the water park should not be open after hours.

I refer to other points that go to the key of the matter. I have no doubt there was a rush to clean the water by the time it opened, but there was a fundamental problem. The park was built for only 150 people and it was not ready to be open. On 22 February, the Department of Health indicated that water samples were still poor and recommended the park’s closure for another superchlorination. The Department of Health raised concerns about the number of patrons using the park and questioned why there was an overloading of the number of patrons at the park. The park was designed for only 150 people. The government opened a park that was designed to cater for 150 people, but it invited thousands of people down there.

Mr C.J. Barnett: No, they all came spontaneously—we did not invite them!

Several members interjected.

The SPEAKER: Member for West Swan, through the Chair.

Ms R. Saffioti: I find it incredible that the Premier thinks that this is a laughing matter.

The government built a park that it thought was safe for 150 people and enjoyed the fact that it overloaded the chlorination system and made it basically impossible to keep the water safe. That is what happened.

Another key point is that the water park was not ready because it had not been cleaned. The government opened the park before the balance tank and drainage system had been cleaned. On 1 February, there were issues with the water park, including the wash down not being plumbed to divert to the sewer, so contaminated water was entering the balance tank and the floor of the balance tank had to be investigated by divers due to sand and other debris forming biofilm, which is highly resistant to chlorine. The government rushed the opening and did not clean it. It basically left the debris in the water park. Of course, it could not be chlorinated because biofilm had been created and the water could not be cleaned, which is why the government had all these problems.

We have evidence after evidence showing that the government did not manage this project well. In fact, evidence shows —

Several members interjected.

The SPEAKER: Order, members! We have had a pretty good debate thus far; let us keep it that way.

Ms R. Saffioti: It is incredible to watch. The government was presented with evidence that showed that the government opened a water park designed for children that was not ready, and it does not care. That is fundamentally what happened there. The government knowingly opened this water park. As I said before, mistakes will happen and things happen in life; we know that. When things are unknown, that is fair enough. But the government knew it was not ready and it went ahead and did it. As I said, I have three young children. People are concerned that the government would willingly do that. I believe that, after all we have been through, the fact that the government still cannot take it seriously shows it is unable to accept responsibility for this and understand what it did.

The other key point is what the government did to try to hide it all. Through the freedom of information process we found some emails from 23 February. When the news started breaking, we saw the ministerial officers come into play, sending emails. Speaking notes prepared by the Department of Health were sent to the former minister’s office, which state —

- The risk to public health remains low but *Pseudomonas* bacteria can cause skin rashes or eye or ear infections in some people.
- Anyone who experiences these conditions following exposure to the water park should visit their GP.
This was the advice the Department of Health gave to the minister’s office. The minister’s press secretary did not like that —

I’ve … spoken to —

X —

… and suggested he needs to talk journos through the sampling process …

The press secretary said we need to tell them that they have not been exposed to bacteria, there is no major public health issue and that we acted within the public health guidelines. The next line states, “Fingers crossed”. This was the approach of the government.

Mr J.H.D. Day interjected.

The SPEAKER: Member!

Ms R. SAFFIOTI: We have the briefing note; that was the approach. Several members interjected.

The SPEAKER: Let the member continue.

Ms R. SAFFIOTI: We have the briefing note stating that the government should warn people to visit the doctor, that there is actually some risk. The minister’s office was saying that, actually, it is all okay; talk through the sampling process and fingers crossed we will get through this. That was the approach—fingers crossed, we will get through this.

The last point I want to make is about the playground. Remember, the playground had similar issues to the water park. It was semi-opened, about 30 per cent, over that weekend. People could get to the first level of the climbing tower but they could not get further up. We saw, again through an FOI, what happened there. The operator and builder of other playground equipment—of course there is some commercial interest, I am not saying there is not—went down and warned the City of Perth that there were some issues with this playground. They said —

… there is head entrapments all over it. (see photos attached)

That was sent to the City of Perth. The City of Perth sort of has a role, but it does not because it is government-owned land. The City of Perth jumps on it, and states —

Please see the email below, does the City have a say in relation to the playground equipment at EQ? This is extremely high risk in relation to Australian Standards for Playground Safety.

That is what happened in relation to the playground. Mr Speaker, this is just one FOI that has come out.

Ms M.M. Quirk: Someone dropped the ball, didn’t they?

Ms R. SAFFIOTI: This is the City of Perth; this is not the government. We are still waiting for the government ones to come back. What it shows is the process from this government.

Several members interjected.

The SPEAKER: Thank you!

Ms R. SAFFIOTI: The process is to deny, mislead and then, when the truth comes out, say, “It’s too late. It’s already over.” That is what the government does time and again. This is irrefutable evidence that the Minister for Health, who now has the Minister for Health role but of course was the Minister for Planning, should be ashamed of himself for what he did.

Dr M.D. Nahan interjected.

The SPEAKER: Treasurer!

Ms R. SAFFIOTI: The minister hid key information from the public. He oversaw a project that was rushed for political reasons. That is what he did. The park was not ready; it was not even cleaned. There was still debris from the structure. I have not even gone through the —

Mr J.H.D. Day: Have you been there since it has been opened?

Ms R. SAFFIOTI: It has been shut for about three months.

Mr J.H.D. Day: It is not shut at all.

Ms R. SAFFIOTI: The playground? The water park?

Several members interjected.

The SPEAKER: Thank you! Member for West Swan, move on.
Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro!

Ms R. Saffioti: There is more and more evidence that the minister misled the public and did not genuinely manage the project. He was all focused on the headline act, the big opening, and he ignored the concerns and opened that project when there were serious health concerns still there. That is the key issue.

MR J.H.D. Day (Kalamunda — Minister for Health) [3.15 pm]: Talk about an old issue being rehashed, just about all of these issues have been well and truly covered in debates, probably on about four occasions in this chamber —

Several members interjected.

The SPEAKER: Thank you!

Mr J.H.D. Day: — since Elizabeth Quay was very successfully opened to many thousands of people on 29 January this year.

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen!

Mr J.H.D. Day: The opening of Elizabeth Quay was not rushed at all. Yes, in the end there was a deadline, as there always needs to be a point set when a particular facility is going to commence operations, but, as I said previously, our intention and expectation was that the project would be completed and able to be open to the public probably three or four weeks prior to Christmas of last year. The opening was, in fact, delayed; it was not rushed at all.

In relation to the information that the member has gone through from the FOI process with the City of Perth, I understand the City of Perth has a role to play but the City of Perth was not the decision-maker for the opening of the water park. The MRA was not the decision-maker. I, as Minister for Planning, was not the decision-maker, the former Minister for Health was not the decision-maker, and the Premier was not the decision-maker. None of us were. One person ultimately had responsibility as the decision-maker on whether the water park was appropriate to open to the public or not and that was the Executive Director of Public Health, Professor Tarun Weeramanthri. He answered questions extensively in the estimates committee process, partly here in this chamber if I remember rightly, and certainly also in the similar process in the Legislative Council. He very much stands by his judgement and his professional decision based on appropriate advice that he was given on whether the water park could open or not. If the member for West Swan is questioning his professionalism and his experience and expertise in the decision to allow the water park to open, then she needs to say it because that is effectively what she is saying.

Ms J.M. Freeman interjected.

The SPEAKER: Member for Mirrabooka!

Mr P. Papalia interjected.

The SPEAKER: Member for Warnbro!

Several members interjected.

The SPEAKER: Thank you. Member for Mirrabooka, I call you to order for the second time. We have had a reasonably good debate. I want it to continue.

Mr J.H.D. Day: No pressure was exerted by the government, by me, the Premier or indeed the MRA. There was certainly a lot of communication; there was no question about that. What else would we expect, when we have a major project about to open, when thousands of people were expected to visit? There was a lot of public interest and indeed a lot of appetite, as has been borne out by the reality, for the project to be open to the public. Elizabeth Quay is a very successful project and it will be for decades, probably centuries, to come. There is a large amount of activity there. People go there and wander around; they go and get something to eat.

In relation to the water park itself, no pressure was exerted. There was certainly concern about whether it was likely to open or not. If I remember rightly, the first I knew that there may be an issue was the day before the opening of Elizabeth Quay. My view, and the view of my office, and the Premier’s view and that of his office,
was that if the water park could not be opened, so be it. Obviously it would have been disappointing to many people, not least the many children who enjoyed themselves on that day and subsequently, and who will, I have no doubt, do so when it is open again, hopefully in a month or so following the upgrading that has been undertaken. I am sure the parliamentary secretary will make some comment about the upgrading of the filtration system. There has been a lot of interest in the project. There was a lot of excitement from children and families who actually wanted to use it. If it could not have opened on that day, it would have been disappointing, but if that was the decision of the Department of Health, particularly the Executive Director of Public Health, that would have been accepted. There would have been no alternative. I was Minister for Planning at the time. As somebody who has a health background and understands a bit about microbiology and so on, in no way would I have exerted any pressure or even thought about not accepting professional advice.

The ultimate decision-maker was the Executive Director of Public Health, Professor Tarun Weeramanthri. Let me go through some of what he had to say in the estimates committee process, to make the point, in case the member for West Swan and others are not familiar with what he said. Amongst other things, he said on 16 June —

Because of the large number of such applications and authorisations—just in the aquatic facilities area we have got 2,000 aquatic facilities across the state in 1,200 locations—these are matters that need to be dealt with administratively, and we have a delegated system of approval. The final approval for the opening of Elizabeth Quay was signed by Mr Dodds as my delegate, but I take responsibility for that decision because we were in phone contact because of the importance of the issue—he and I were discussing it. He discussed the decision with me before the approval was given so I am responsible for that decision.

... Ultimately, a decision has to be made, and all of that thought, experience, skills and facts have to come together in terms of a decision about public safety. Now that is a decision that I am responsible for, and, frankly, it is completely not in my DNA to put public health anything other than first.

... So in that week prior to the opening of the water park, a lot of work was undertaken by the MRA and its consultants to change a number of the things that we had identified in earlier assessments. The cumulative decision-making process culminated in a decision on the Friday. The point being made is that no single aspect or issue led to the decision to open the water park or to approve its opening; it was the accumulation of knowledge. All of the information that was provided by the Metropolitan Redevelopment Authority and from within the health department led to a decision being made for which the Executive Director of Public Health takes responsibility. Frankly, I have complete confidence in his professionalism and judgement on this matter.

Ms R. Saffioti interjected.

The SPEAKER: I want to say something, Member for West Swan: every time somebody interjected on you, you stopped and waited. You are now starting to interject on the minister. I want the minister to finish. There is plenty of time for anybody to put a counterargument to what they have heard here.

Mr J.H.D. DAY: As I said earlier, there was clearly a lot of communication between the MRA and the health department given that the whole project was about to open the next day and they needed to know what the situation was. The health department needed to have all the information it needed. Clearly there was communication underway. Anybody in their right mind had a strong desire that the water park, and the whole of the Elizabeth Quay project, could be opened, assuming it was safe to do so. No pressure was applied —

Several members interjected.

The SPEAKER: Member for Kwinana and Leader of the Opposition!

Mr M. McGowan interjected.

The SPEAKER: Leader of the Opposition, I call you to order for the first time. I do not want to call people —

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen, I call you to order for the third time. I just said I did not want to call people. I have tried to be lenient.

Mr J.H.D. DAY: I will also place on record what I have explained previously but it is relevant to the debate today, given that it has been raised again by the opposition. The Executive Director of Public Health’s approval was based on the department’s confirmation that —

• analysis of the initial sample taken on 21 January 2016 confirmed that the Naegleria detected in the system was not Naegleria fowleri;
That is the pathogenic one —

- sanitisation processes had been applied to the WSP,

That is the water spray park —

- including overnight superchlorination on 28 January 2016, that would kill all Naegleria species;
- a qualified technical operator had been appointed; and
- the WSP had been brought up to compliance with the Code following remedial work undertaken between 19–29 January 2016, and there was not considered to be a risk to the public.

As I have tabled in this house previously, and as the member for West Swan referred to, a certificate of compliance and a permit to operate were issued by the health department to the Metropolitan Redevelopment Authority.

Mr R.H. Cook interjected.

The SPEAKER: Member for Kwinana, I call you to order for the second time.

Mr J.H.D. DAY: I tabled all of the information that I was given that is relevant to the debate. I have not seen any covering letter; the opposition has obviously got something through the freedom of information process. I do not actually spend all my time surveying all correspondence that goes out from the MRA, the City of Perth, the Department of Health or wherever. I also remind members that the previous Minister for Health tabled a report on the opening and closures and water quality issues at the BHP Billiton water park at Elizabeth Quay on 15 March this year. The issues were well explained in that report.

One other aspect raised by the member for West Swan related to lighting around the water park. I do not recall that being raised with me; certainly not around the time of the opening and indeed in the debate in the subsequent few weeks. The parliamentary secretary will probably add a bit more information, but I have been advised that the advice of the health department was certainly not ignored. The MRA ensured that people were on the ground around the water park to ensure the safety of the children playing in it. The advice of the health department was taken, as I understand it, and the MRA addressed that issue. I think the member for West Swan is trying to play up an issue that in fact is probably, albeit important, of less consequence than is being made out.

The government does not support this motion. The evidence is not there. Once it is fully considered, once the information that I have just explained and reiterated is taken into account—most it is not new because we have had this debate several times before—it can quite clearly be seen there is no justification for the motion moved by the member for West Swan. The government has taken a completely responsible approach to the management and operation of the water park at Elizabeth Quay and will continue to do. A substantial increase in the capacity of the filtration system has been undertaken over the last two or three months or so. In addition, the artwork has been completed—that is, the mosaic tiles around the water park. It was always expected the water park would have to close after the opening on 29 January to allow that work to be undertaken. The two aspects have been undertaken concurrently.

Mr M. McGowan: How much did it cost?

Mr J.H.D. DAY: The cost of?

Mr M. McGowan: Everything!

Mr J.H.D. DAY: It is a little while since I have dealt with this issue, but from my recollection the cost of upgrading the filtration system was being shared between the contractor and the Metropolitan Redevelopment Authority. I think I am right in saying that the cost was around $250 000 to the MRA, so not an exorbitant cost. It will be a fantastic facility when it is reopened, once the approval of the health department and the Executive Director of Public Health is given for the MRA to reopen the park and for it to be in operation.

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [3.30 pm]: Thank you, Mr Speaker, for the opportunity to speak on this motion. Of course I support it.

There can be no more important obligation on a government than to protect the health of its citizens. For a government to manipulate the protocols and regulations of the very laws that have been put in place to protect those citizens is unconscionable and unforgivable, yet that is what we have here. I want to look at the basic elements of what went on on 29 January 2016 and the days preceding that date. The information that had been transferred to the MRA was that it could not open the water park because of problems with water testing. What happened after that was an unholy process of coercion, pressure and bullying of people in the City of Perth and the Department of Health to make sure they had that clearance. The evidence we have includes a stream of emails from City of Perth health officials saying that they had results that suggested that the tests had come back positive to show the presence of amoeba.

Dr G.G. Jacobs interjected.
Mr R.H. COOK: Thank you, member for Eyre. In addition to that we have the stream of phone calls made on 29 January from the CEO of the MRA direct to the Department of Health to continue to put pressure on that department to come through with the clearance that had already been denied to it. We know the reason the government was so desperate; it already had pre-event publicity lined up, ready to go. It was doing it because it wanted hundreds of children playing in the water park, because that was the public relations moment that it desperately needed.

Mr F.A. Alban interjected.

The SPEAKER: Member for Swan Hills!

Mr R.H. COOK: The consequence of this series of events was a child with infected eyes and other children with illnesses associated —

Mr J.H.D. Day: Do you have any proof of that?

Mr R.H. COOK: Well, you have never disproved it, minister, and that is the point. All the way along, you have accepted —

Several members interjected.

The SPEAKER: Minister, you had a good chance; the member for West Swan has had a good chance. I want the member for Kwinana to have a chance.

Mr R.H. COOK: We have the ongoing little whispers from the Premier, “Oh, dishonourable member. We like your sort. How dare you! You’re a grubby little man”, because we know from today’s polling that indeed the water park is more popular than he will ever be, and certainly more popular than he is at the moment.

In particular, what we had was a government that was hell-bent on a good PR outcome. It was hell-bent on that good news story, because it was desperate for it. It knew that this project was a thorough waste or inefficient use of taxpayers’ money, it knew the project was going down the gurgler, and it needed to respond. The government was desperate to get the results it wanted. Let us look at the interview that the member for Dawesville gave on 6PR Perth on 25 February, when he was still Minister for Health. According to the transcript of the interview, on that day he said to Gary Adshead —

I have it written here in front of me. Results from 28th of January, which is the day the report came back all clear at 1pm.

We now know, from the work of the member for West Swan under the freedom of information process, that that is just not true. Not only is it not true, it is the direct antithesis of the truth, because we have correspondence and email exchanges that suggest very clearly that there were test results that indicated that that water was infected, but the government went along with its little PR campaign nevertheless. It went along with it because the speeches had already been written and sent to the Premier’s office. The photo opportunities had already been taken. We know what the government was up to: it was hell-bent on a political outcome, and it was the safety and health of the citizens of Western Australia that paid the price.

MR J. NORBERGER (Joondalup — Parliamentary Secretary) [3.35 pm]: It must irk members opposite no end how popular Elizabeth Quay has become. The only people in this state who do not like the success of Elizabeth Quay are the people opposite.

Mr P.B. Watson: What success?

Mr J. NORBERGER: What success? I will come back to that in a minute.

It has been an amazing success for this state, including the events that have been held and the economic returns that have already been realised, let alone what is going to come. It has become one of the most popular backdrops of the city, be it for filming, community events—you name it. We have had the Perth International Arts Festival, we have had the Fringe World Festival, and there is so much more to come. What a bizarre motion to bring into this place. Hardly anything new has been brought to the chamber today. It seems that the crux of the argument is that communication was taking place between the MRA and the Department of Health—God forbid; better do an MPI! I wonder whether this motion today had more to do with the fact that the member for West Swan might be worried that Alannah MacTiernan is after her job. Maybe she thought, “I need to stay relevant. I need to pop up in the chamber. Alannah MacTiernan is coming back and she wants my portfolio!” Members opposite have not brought anything new to bear on this argument. They cannot escape the fact that, no matter what kind of stories they want to tell about this email to this person or that email to that person, at the end of the day the water park was opened only after a permit to operate was issued by the Department of Health. If we had not had that permit to operate, we would not have opened the water park, as the Minister for Health has already explained. Would it have been disappointing? Sure, it would have been disappointing, but we would have done it. Even so, we have upgrades underway and I will take the opportunity in a minute to update the house on the progress of those upgrades.
Irrespective of that, even with the water park currently undergoing upgrades, the Elizabeth Quay project has been an outstanding success, with literally millions of visitors. We have hundreds of millions of dollars coming back to the state from land sales; we have the Ritz–Carlton Hotel under development. I have already mentioned the Perth International Arts Festival and the Fringe World Festival. We have also had the Night Noodle Markets and Celebrate WA. The entire state, apart from members opposite, has embraced this iconic project. This just continues a trend that we have seen from members opposite; they will go to any length to tear down this state. Are they Western Australians? Are they proud to be Western Australians? I am. Yet again Perth has been rated in the top 10 world’s most liveable cities. Members opposite must be so bitterly disappointed that this government made sure that we lost the Dullsville tag that they worked so hard to attain.

**Dr A.D. Buti** interjected.

**The SPEAKER:** Member for Armadale!

**Mr S.K. L’Estrange** interjected.

**The SPEAKER:** Member for Churchlands!

**Mr J. NORBERGER:** We would have been in the bottom 10. They cannot help it; if they are not attacking children’s hospitals, they are attacking the success of Elizabeth Quay. You guys are not fit to lead. Several members interjected.

**The SPEAKER:** Member for Butler, I call you to order for the first time. We have had a reasonably good debate; let us keep it going.

**Mr J. NORBERGER:** It is so successful that even the Leader of the Opposition cannot resist the opportunity to use it as a backdrop for his Facebook page and his video. The hypocrisy is amazing. However, I promised to update the house on the upgrades that have been going on at Elizabeth Quay water park. The upgrades that are currently nearing completion will bring the facility to a spec that is beyond the code of practice requirements. We believe that the upgrades will be completed and ready for inspection by the Department of Health by 30 August—not long now. Following approval for the works, quality testing will commence. Some of the upgrades that have taken place include an increase in the number and type of filters, the installation of ultraviolet equipment and an extra pump. All this was undertaken in accordance with advice from the Department of Health. There is no, and there has been no, political pressure to determine the construction, management and operation of this facility. The suggestion that government would allow politics to drive such matters is outstandingly ignorant and reprehensible. The only people who are trying to politicise these issues are members opposite.

**Ms R. Saffioti** interjected.

**The SPEAKER:** Member for West Swan.

**Mr J. NORBERGER:** Nonetheless, at this stage, we believe that the water park should reopen in September, subject to all approvals being secured. We are looking forward to the summer season ahead. It is going to be a fantastic venue for some key attractions that are coming up at Elizabeth Quay.

**Mr R.H. Cook** interjected.

**Mr J. NORBERGER:** It will attract thousands of Western Australians who will continue to enjoy it, some maybe for the first time. We cannot get away from the fact that no matter what kind of weird, convolution of detail that members opposite would like to get into, the park was opened after a permit to operate was issued. Thank you.

**MR B.S. WYATT (Victoria Park) [3.41 pm]:** The only way we can describe the government’s approach to the opening of Elizabeth Quay is to quote the email to the Premier’s senior media staff—“fingers crossed”. That is the entire approach members opposite took. They knew that the superchlorination did not work, did they not? They knew it did not work, yet they did not care. That is the problem. The public health division made the point to the City of Perth that the water park could not be opened because they would not have the results back from the testing for the next round of superchlorination until after the opening day, but fingers crossed it all goes well. Fingers crossed that the sorts of symptoms of skin rashes and ear and eye infections do not appear. Nobody disputes the fact that the government can build projects and people will come to them, member for Joondalup. The member got up there and gave an outline of events going on —

**Mr J. Norberger** interjected.

**The SPEAKER:** Members! Member for Joondalup!

**Mr B.S. WYATT:** Until the member takes his job seriously —

**Mr J. Norberger** interjected.

**The SPEAKER:** Member for Joondalup, I call you to order for the first time. Member for Victoria Park, through the Chair.
Mr B.S. Wyatt: The member should start taking his job seriously and start asking the questions that the ministers and the cabinet should have asked: are we running this on a “fingers crossed” or will we open a project that will be safe for those who use it—the fundamental question? Nobody disputes the fact that government can build projects.

Mr J. Norberger interjected.

The Speaker: Member for Joondalup.

Mr B.S. Wyatt: When half a billion dollars is spent on a project, something will be created. That is not the duty of care that the government has. The duty of care the government has is to—

Mr F.A. Alban interjected.

The Speaker: Member for Swan Hills, I call you to order for the second time.

Mr B.S. Wyatt: The government has a duty of care to ensure, not “fingers crossed”, that kids do not end up with skin rashes and eye and ear infections, but to make sure that they do not. The opposition moved the matter of public interest today because we know that all the information that ministers John Day and Kim Hames and the Premier gave, up until this freedom of information document, has proven to be incorrect. They were told about it. The Metropolitan Redevelopment Authority was told about it. The Department of Health and the City of Perth told them that the superchlorination had not worked and the results would not come back before opening day, and that the park should not be opened. The approach members opposite took was “fingers crossed”.

Mr M. McGowan interjected.

Mr C.J. Barnett (Cottesloe — Premier) [3.44 pm]: What is your hatred now?

Mr M. McGowan interjected.

The Speaker: Members!

Mr C.J. Barnett: Elizabeth Quay is an outstanding success. As has been said, over three million people—

Several members interjected.

The Speaker: Members!

Mr C.J. Barnett: — have visited—

Mr M. McGowan interjected.

The Speaker: Leader of the Opposition.

Mr C.J. Barnett: Over three million people have visited Elizabeth Quay. The date for the opening of Elizabeth Quay—I think it was 29 January—was set prior to Christmas. Obviously, work was to be completed right around Elizabeth Quay. The date was set and a whole lot of arrangements were put in place. The opening of Elizabeth Quay was actually quite a low-key event. It was interesting that I think 25 000 to 30 000 people turned up. There was not massive entertainment; there was a sort of laser water show, but that was about it.

Mr J.R. Quigley interjected.

The Speaker: Member for Butler, I call you to order for the second time, I believe.

Mr C.J. Barnett: In the lead-up to the opening, there were issues about the water quality in the water playground—there were. Obviously, the government was going to go ahead; the opening would happen regardless. It was all set in place. Obviously, we wanted people to be able to see and use the water playground because it is a significant attraction for families, obviously particularly children, as part of Elizabeth Quay. Obviously, the government, the MRA and everyone else concerned wanted to see Elizabeth Quay fully operational. Yes, there was a fair bit of activity to make sure that the water was safe. Testing was done right up until the day before. Again, as I have said many times in this place, if we had advice that it was unsafe for children to go into the water playground, it would not have happened.

Ms R. Saffioti interjected.

The Speaker: Member for West Swan.

Mr C.J. Barnett: Indeed, Mr Speaker—

Ms R. Saffioti interjected.

The Speaker: Member for West Swan!
Mr C.J. Barnett: Indeed, Mr Speaker, the water park was given clearance to be operational. There was no undue pressure. Obviously, I and everyone wanted to see the water playground operational. Had we had advice that the water was not safe —

Ms R. Saffioti interjected.

The Speaker: Member for West Swan, just stop.

Mr C.J. Barnett: Had we had advice that the water was not safe, what would have happened? I will tell members what would have happened: the water playground would have been switched on but children would not have been allowed to go into it. They would have seen the visual effects of the lighting. That would have been disappointing because the kids would have wanted to go into it; it was a warm night. It still would have been operational, but it would not have been used by children. It was always going to be the case that Elizabeth Quay would open. However, clearance was given, the testing had been done and the advice we had was that it was safe, so we proceeded. As I have said numerous times in here, if we had advice that it was unsafe for children to go into the water playground, they would not have been allowed into the water playground. It is as simple as that—as a responsible government would do. Opposition members are consumed with jealousy. They opposed Elizabeth Quay throughout. They opposed it continuously. When 30 000 people, or close to that, turned up on the opening night, it was a massive endorsement by the people of Western Australia for a project that has been talked about for 40 years.

I will just mention this about the Perth Children’s Hospital. Members opposite are consumed with jealousy that this government has built a children’s hospital—a magnificent hospital.

Several members interjected.

Mr C.J. Barnett: The opposition spokesperson for health has done everything he possibly can to demean that hospital and destroy public confidence in that hospital. What could be worse for young parents of seriously ill children than the member going around and criticising the hospital?

Mr R.H. Cook interjected.

Mr C.J. Barnett: It is an investment by the people of Western Australia into the health of the sickest children in this state, and members opposite have shown no support for it.

Several members interjected.

The Speaker: Thank you.

Several members interjected.

Mr C.J. Barnett: No.

Mr R.H. Cook interjected.

The Speaker: Thank you. Member for Kwinana. I want you to come back to the point.

Mr C.J. Barnett: That is the point, Mr Speaker. It is the point of public confidence in projects.

Several members interjected.

The Speaker: Member for Kwinana! Member for Albany, I call you to order for the first time.

Mr C.J. Barnett: They are big projects—Elizabeth Quay, the Perth Children’s Hospital, sinking the rail line and Perth Stadium. They are all complex, but none is more complex than a hospital. It is not simply a building.

Mr R.H. Cook: Don’t build it with asbestos next time.

The Speaker: Just hold it.

Mr C.J. Barnett: That is an example.

The Speaker: Thank you. I will say that you have spoken about the hospital; come back to Elizabeth Quay. Thank you.

Mr C.J. Barnett: Mr Speaker —

Mr P.B. Watson: Look at the look on his face! Sookie la-la!

The Speaker: Thank you!

Mr C.J. Barnett: No, I am not happy.

Big projects are complicated. This government is proud of what it has achieved—absolutely proud. The opposition can continue to criticise Elizabeth Quay, the Perth Stadium or the Perth Children’s Hospital, but this government, and the people on this side of the house, always support this state, the big projects, and the parents and young children of Western Australia.
Division

Question put and a division taken with the following result —

Ayes (20)

Ms L.L. Baker  Mr R.F. Johnson  Mr P. Papalia  Mr C.J. Tallentire
Dr A.D. Buti  Mr W.J. Johnston  Mr J.R. Quigley  Mr P.C. Tinsley
Mr R.H. Cook  Mr F.M. Logan  Ms M.M. Quirk  Mr P.B. Watson
Ms J. Farrer  Mr M. McGowan  Mrs M.H. Roberts  Mr B.S. Wyatt
Ms J.M. Freeman  Mr M.P. Murray  Ms R. Saffioti  Mr D.A. Templeman (Teller)

Noes (31)

Mr P. Abetz  Mr J.H.D. Day  Mr A.P. Jacob  Mr N.W. Morton
Mr F.A. Alban  Ms E. Evangel  Dr G.G. Jacobs  Mr J. Norberger
Mr C.J. Barnett  Mr J.M. Francis  Mr S.K. L’Estrange  Mr D.T. Redman
Mr I.C. Blayney  Mrs G.J. Godfrey  Mr W.R. Marmion  Mr A.J. Simpson
Mr I.M. Britza  Mr B.J. Gayliss  Mr J.E. McGrath  Mr M.H. Taylor
Mr G.M. Castrilli  Dr K.D. Hames  Ms L. Mettam  Mr T.K. Waldron
Mr V.A. Catania  Mrs L.M. Harvey  Mr P.T. Miles  Mr A. Krsticevic (Teller)
Mr M.J. Cowper  Mr C.D. Hatton  Ms A.R. Mitchell

Pairs

Ms S.F. McGurk  Ms W.M. Duncan
Mr D.J. Kelly  Mr D.C. Nalder

Question thus negatived.

**FIREFIGHTERS AND EMERGENCY VOLUNTEERS LEGISLATION AMENDMENT (COMPENSATION) BILL 2016**

*Second Reading*

Resumed from an earlier stage of the sitting.

**MR M.P. MURRAY (Collie–Preston)** [3.55 pm]: I could not let this bill pass without making some comments about the volunteers in our community, from all walks of life, not just firefighters. We must remember the amount of money that is saved each year as a result of these people spending countless hours protecting and assisting our communities. I am sure that I do not have to convince the Minister for Emergency Services of that. We must look after them in a way that is fair and just in any form, whether it be their vehicles, uniforms or compensation, in view of what could result from any incident that they become involved in, including asbestos dust or a fire that creates chemical fumes. Those are the sort of situations in which we must look after our volunteers.

I am proud to say that in country areas, the volunteers, especially those in the bush fire brigades, are second to none, despite some recent events and criticism from other departments about volunteers, particularly those in the bushfire area. You have had a lot of involvement in recent times yourself, Mr Acting Speaker (Mr M.J. Cowper), and I am glad to see that you have been out there praising those people for the work they have done. Far more lives could have been lost in the Yarloop fire, and far more damage could have been done to our state if it had not been for the volunteers out there. At times, red tape gets in the way, and there was some of that in the case of Yarloop as well, but I do not think it was intentional. It is about people doing their best, recognising the rules and playing by them, whether it be in basketball, volunteer firefighting or football. We have to play by the rules spelled out to us. With this legislation, we have to make sure that the rules are the same for everyone, and that everyone will get a fair go and a fair hearing on such issues as compensation. That has not been the case in the past. The member for Girrawheen, in her capacity as shadow minister, has brought that to the attention of the house on numerous occasions, as well as in our caucus. I also thank her for her advocacy for volunteers; it has been very good.

Particularly focusing on bush fire brigades, the money from the emergency services levy has upgraded the machinery and safety equipment for all firefighters in Western Australia. I remember, with a bit of humour and a bit of angst at the same time, the changes since earlier times, when the biggest arguments in country areas were about what colour the appliance was going to be—whether it was going to be red or white—or which tie to wear to the next function. There were two types of neckties, and they had this argument about what tie they would wear to their official functions. That was about their pride and commitment to their group. Thank goodness, most of that has gone away. Quite a simple solution sorted out the colour of the machines. If brigades did not get their machines painted red, and kept them as white, they got a $3,000 donation. Most of the brigades took the donation instead of having a red truck. That was debated quite heatedly. I am not sure which tie they started wearing, but those sorts of things have moved on.
In my region alone, there are people who have gone to America, to the east coast, and to many other parts of the world, and have taken their expertise so that they could help with the fires in those areas. A person from my area, fire officer Hunter, went to California to help fight the fires there, and he was certainly recognised for that when he came back.

Another issue is the ownership of bush fire brigades. A man in Donnybrook—I should have his name but I do not have it here—was recognised recently for his 40 years of service as a volunteer. That is amazing.

Debate adjourned, pursuant to standing orders.

CONTAINER DEPOSIT AND RECOVERY SCHEME BILL 2016

Second Reading

MR C.J. TALLENTIRE (Gosnells) [4.00 pm]: I move —

That the bill be now read a second time.

An incentive-based container deposit scheme will increase recycling, reduce waste, and reduce the number of beverage containers that litter roadides across the whole state. It will help spare our public spaces from dangerous smashed glass and our marine environment from the scourge of plastic pollution.

Overwhelmingly, the Western Australian community supports a container deposit scheme—published research shows this. WA Labor has long championed it. Indeed, I acknowledge the extensive work done by my predecessor, Hon Sally Talbot, and the former Leader of the Opposition, Hon Eric Ripper. In 2011, they presented a very similar bill to the thirty-eighth Parliament, only to find that their efforts to make container deposit schemes law were thwarted by the conservative Liberal and National Parties. At the time, the main argument of the Liberal and National Parties was that we should wait for a national scheme. That approach taken by the Barnett Liberal–National government failed. Now the government says that it supports a WA CDS. Here is the opportunity for the Liberal and National Parties to show that they are genuine. The Liberal and National Parties must support this legislation or stand accused of putting no substance behind last week’s media announcement.

Without a container deposit scheme, Western Australia’s current waste management system is failing us. The WA Treasury announced recently that household recycling rates had dropped by one per cent in the 12 months to 30 June 2016, down to 40 per cent. This is 20 per cent lower than the 2015 target set in the Western Australian waste strategy. According to Clean Up Australia, Western Australia’s bushland is the most littered in Australia, impacted by 21 per cent of the state’s total litter. Beverage containers accounted for 26.9 per cent of the litter collected in WA on Clean Up Australia Day 2015, with beverage containers and their associated components claiming six places in the top 10 list of individual rubbish items collected that year.

Part of the problem is attributed to the introduction of non-refillable beverage containers in the 1970s, signalling the end of an era in which drinks were sold in refillable bottles. Adopting a polluter-pays principle, South Australia’s Beverage Container Act 1975 was enacted in 1977 to address an increase of beverage containers in the litter stream, and as a response to the failure of beverage companies to act on the consequences of their changed production systems.

South Australia’s record over four decades clearly demonstrates the benefits of a container deposit scheme, having consistently reported return rates of around 80 per cent and low levels of beverage container litter. A similar benefit is being reported in the Northern Territory. The Northern Territory government implemented container deposit legislation in 2012. Between 2011 and 2015, beverage container return rates increased from nine per cent to 52 per cent—a rise attributed directly to the application of a 10c deposit. This is despite the Northern Territory having “not yet developed the conventions and cost efficiencies that currently operate in South Australia”.

In contrast, other Australian states, including Western Australia, have found alternative approaches inadequate. Beverage container litter is generating small-scale problems ranging from high clean-up costs for councils, strain on landfill capacity and the associated toxic threat, through to much larger issues such as depleted global resources and marine plastic pollution. A recent report of a Senate standing committee, “Toxic tide: the threat of marine plastic pollution in Australia”, cites that beverage container waste is the largest contributor to marine plastic pollution and represents 60 per cent of all plastic rubbish recovered from waterways and beaches. The operation of a CDS results in a drop in plastic pollution by a factor of three.

On 8 May 2016, the New South Wales government, having faced similar issues as WA has for decades, and in response to the visual, environmental, resource, economic and human impacts of littering, confirmed the 2017 commencement of a state-based container deposit scheme. The Queensland government has also confirmed the commencement of a comparable scheme in 2018.

Based on the available evidence, and consistent with the guiding principles of Labor’s 2007 waste avoidance and resource recovery legislation, the bill I am introducing today provides for a container deposit scheme that will be
established and administered by the Waste Authority. We have very deliberately adopted an approach that ensures openness and accountability in the way the scheme operates. South Australia has an industry-controlled system, and that scheme certainly produces satisfactory recycling levels. However, various studies indicate that industry-run schemes do not necessarily provide the most transparent, open and accountable mechanisms to govern and track the movement of deposit moneys and quantities of recycled materials. The Boomerang Alliance’s 2008 report on container deposits states that industry-run schemes have “limited transparency and a poor audit trail.”

An obvious question to ask is: what containers will be covered by the legislation? The most littered products by volume are beer, water, sports drinks and soft drink containers. The containers targeted in the South Australian scheme range in size from 100 millilitres to three litres, with some exclusions. It is proposed that the scope of beverage containers included in the scheme should replicate that of the South Australian, Northern Territory and New South Wales schemes—that is, those identified as most prevalent in the litter stream. Adopting the same scope of approved containers across states will minimise costs to industry and the need for different labelling, and will reduce community confusion. The scheme established by this bill includes empty plastic and glass bottles, aluminium cans, liquid paperboard, and composite cartons that have contained soft drink, juice, water and alcohol. The refund is set at 10c, as it is in other states. The bill provides for the amount to be increased in the future. The term “recognised jurisdiction” is used throughout the bill to open up the possibility of the scheme operating across state borders.

The model provided for by the bill is colloquially known as hub and spoke, with the spokes consisting of reverse vending machines in places such as supermarkets, service stations and convenience stores. Reverse vending machines scan container barcodes and perform materials separation and crushing, and issue a receipt that can then be redeemed for cash or in-store purchases. RVMs also collect financial and product data, adding to the efficiency of the system. Large transfer stations or collection depots are referred to as hubs. Hubs will accommodate beverage containers from RVMs, kerbside collections, litter clean-ups, the commercial sector and events.

Infrastructure provided to consumers will vary depending on population size and locality. Regions in which high levels of beverage consumption occur will require a combination of reverse vending machines and larger collection depots. Remote regions or those with smaller populations may elect to adopt a manual system of collection. The option to discard beverage containers in kerbside recycling will remain. Container deposit schemes complement rather than compete with kerbside and other established recycling systems. Councils will generate income through redemption of beverage containers found in kerbside recycling bins. In addition, by removing most of the glass currently present in commingled recycling bins, it will dramatically reduce the contamination of recyclate, particularly cardboard and paper, which often requires expensive decontamination processes or is rendered unusable. Indeed, the quality of all beverage container materials can be improved thereby increasing the value of the recyclate.

The organisational model proposed in this bill is superior to the scheme in South Australia, where the beverage industry operates a limited number of collection points that are often located more than five kilometres from points of sale, and no RVMs are located in convenient drop-off places like supermarkets. It is expected that at some point over the first three decades of a CDS, the 10c deposit will need to be increased to reflect inflation and to respond to a fall in redemption rates. However, South Australia has had to implement only one increase in 40 years, lifting the deposit amount from 5c to 10c in September 2008. The Western Australian scheme would be governed by a scheme administrator responsible for the integrity of the scheme and for mandating the redemption rate targets. Compliance breaches would be the domain of the Waste Authority.

A CDS that is principled around the use of RVMs and collection depots will be cost effective and convenient for consumers, will offer major fundraising opportunities for the charity sector, and will increase commercial and industrial beverage container recycling while imposing negligible cost per container onto consumers. Beverage containers from clubs, pubs, restaurants, entertainment and sporting venues will be redeemed when they may otherwise have been littered or landfilled.

An outline of the operation of the system and some of its key elements are as follows. A beverage container deposit and recovery scheme will be established. It will be administered by the Waste Authority. The Waste Authority will impose a levy on producers and importers of beverage containers. The levy will be 10c for every unit sold, the levy must be paid within days of the product being sold and beverage containers must be labelled as refundable in Western Australia. The money will go into a beverage container environmental levy account. The system will use community recycling depots and reverse vending machines. Various premises can be authorised as a transfer station or a community recycling depot. An authorised collection depot or transfer station that accepts the return of an unbroken empty beverage container must pay the person who returns it the refund amount. The collection depot is entitled to draw an equivalent amount from the beverage container environmental levy account. Ownership of the recyclable material and the right to sell it rests with the community recycling depot.
There is widespread community support for a container deposit scheme. It will have significant environmental and social benefits and it will demonstrate how effective extended-producer responsibility schemes can be. I commend the bill to the house.

Debate adjourned, on motion by Mr D.A. Templeman.

BAYSWATER WETLANDS — PROTECTION

Motion

MS L.L. BAKER (Maylands) [4.13 pm]: I move —

That this house condemns the Liberal–National government for its poor management of the Skippers Row wetlands area in Bayswater and for failing to protect vital urban wetlands through either planning or environmental legislation, and calls for the urgent protection of the remaining Bayswater wetlands known as Carter’s block, which is still currently at risk.

I want to start by acknowledging the Minister for Environment and thanking him for being in the chamber. I also acknowledge the Parliamentary Secretary to the Minister for Planning who has come into the house. I thank those members for being here.

This issue was first brought to my attention a month ago by a fairly shocking phone call from a small community group that is located almost on the banks of the Swan River and almost on the edge of the Eric Singleton Bird Sanctuary. It has its eyes on the sanctuary and the adjacent wetlands at all times; its offices are right on the border of the two. The group called me to ask whether I would come down to have a look at what had happened in the last 24 hours to a very precious part of the wetlands. I will talk a bit about where that is located in the hope that members who are in the house who have not been to see the wetlands—I am very cognisant that particularly the Minister for Environment and the parliamentary secretary have not seen this or been physically at the premises —

Mr A.P. Jacob: I have.

Ms L.L. BAKER: The minister has—well done. When did the minister do that?

Mr A.P. Jacob: I will say that in my speech.

Ms L.L. BAKER: Okay, I will wait with bated breath.

Environment House organised for a number of members of the community and community leaders to go and have a look at what had happened. I will describe the geography to members. At the end of King William Street, there is a little cul-de-sac with some parking and a walkway that heads towards the Swan River and Riverside Gardens, which is a bit of reclaimed riverbank, I suppose you could say. If I was arguing for the conservation value of it, I would probably pull the lawn out and plant proper species on the riverbank, but that is a discussion for another day. It is a very big open area that is used extensively at all times of the day. Many of us who walk our dogs or go and have coffee or just take some recreation on the Swan River as it runs through my electorate are very familiar with Riverside Gardens and what it offers for recreation and tourism. It is a very good spot to wander through the very beautiful Eric Singleton reserve. The walkway that runs between the end of King William Street and the Swan River is about 400 metres or 500 metres at most in length. The abutment that people walk along is about the width of two of our stations in this chamber. On one side, people can walk through the very beautiful Eric Singleton reserve.

If I were to talk about the contribution that this state government has made to the Eric Singleton wetland, I would say that it is certainly very well acknowledged by the community that there has been a significant contribution of up to $3 million into restoring that very valuable wetland, which is a breeding habitat for some rare and endangered species and some rare flora as well. I will go into some detail about that during the course of my speech. That wetland was recognised by the City of Bayswater a long time ago, and now by the state government, as a very valuable piece of wetland. Indeed, I remember hearing the Minister for Environment talking with great pleasure about the investment that this government has made into restoring that wetland. That is acknowledged and deeply appreciated by everyone. The efforts made to restore what are basically the lungs of the river cannot be underestimated. Anytime we have wetlands on the banks of the river, we have a place where the water that comes off the land can be filtered before it gets to the river. If the correct species are in place, they can take out some of the nitrate and phosphate chemicals that would otherwise flow straight into our Swan River. It makes a lot of sense to start with the lungs of the river—the wetlands—when trying to ensure the health of the Swan River. Over successive years, many governments have realised that. I acknowledge the money that was spent on restoring the Eric Singleton wetlands. Shortly, I will talk a little about the categorisation of wetlands.

When I went down to the wetlands on that Thursday afternoon and walked down the abutment along a narrow stretch of walkway—the Eric Singleton bird sanctuary runs all the way down the side—I looked to the right between King William Street and the river and saw two blocks of land that have collectively formed another wetlands. The wetlands are separated from Eric Singleton bird sanctuary by 15 feet of gravel, basically, with
a walkway on it. A number of species in the wetlands have been identified in some detail. I will list them shortly. When I and a number of members of the community and councillors arrived there, we saw that half of the wetlands area had been bulldozed. Frankly, it was absolutely devastating to see what had happened. I know that during the bulldozing, some locals physically took baby tortoises—the wetlands are home to some rare oblong tortoises—that would otherwise have been crushed by the bulldozers working on this land. The little baby tortoises were trying to escape from what was being done to their home. They were in danger of being crushed. I cannot imagine how many thousands of these creatures were killed during this process. That is just one part of the story.

Some of the established paperbarks are very valuable for the lungs of the river. All those trees were habitats. They formed environmental oases for the creatures that lived in them, some of which are rare and endangered species. I stood on the edge of the wetland with the beautiful Eric Singleton Bird Sanctuary behind me, along with 50 or 60 other members of the community, and looked at these massive D9s parked on top of a pile of debris about the height of the wall behind me that was previously a wetland. It was just a huge expanse of rubble and bricks. All sorts of things had been dug up and were lying exposed because of this work. Trees had been knocked over and just left after this clearing. Quite frankly, it was really horrific. Anybody who cares the slightest bit about our environment, about how we treat our environment and about the value of urban wetlands in the metropolitan area would have been horrified by what they saw. It was very disturbing. I know that the Minister for Planning saw it and was also deeply disturbed by what she saw. The Speaker of the house has also seen what has happened. I believe that he and his wife walk their dog down there quite often. He saw what had happened, and, without putting words into his mouth, he appears to be as horrified as the community and the users of this part of our metropolitan wetlands network.

For people who do not know about wetlands, I am not an environmentalist or an expert in wetlands but I have said that they are the lungs of the river; they serve a specific purpose of filtering out any chemicals that flow from the urban habitat in which we live into the Swan River. Wetlands are also interconnected so when we do something to one wetland on the river, if the wetland is close enough, it is likely that it will impact another wetland somewhere nearby. These systems are interconnected. There is a great deal of evidence around this. I will leave that for someone more knowledgeable to talk through.

I wanted to talk about the two blocks specifically and what has happened. We need a bit of history to understand this. I think there is misinformation. I am hoping that is why the environment minister has made an error of judgement in refusing to look at this area again. I am hoping it is just an omission, not a deliberate ignorant reaction to the destruction of urban wasteland. I am hopeful that he and the planning minister will take a more positive direction when they understand what has happened.

These two blocks are called Skippers Row and Carter’s block. That is the generic term we use. We call them the two super blocks. Several years ago—as early as 2010—the Skippers Row side of these two blocks was bulldozed. That is the one closest to the river. Effectively, by bulldozing this land and cutting the water supply from the river, we are still waiting to find out what will happen to the remaining wetland without having that extra area in the Skippers Row block. Both these blocks are privately owned. I think that is one of the areas in which the outrage started. The community was not generally aware that these two blocks were privately owned. I would go so far as to say that people were not aware that the blocks were not in the possession of the City of Bayswater and were not an automatic reserve with the proper planning protections around wetlands. People were shocked and quite taken aback. I am sure that the many people who live outside Bayswater and Maylands who come to use Riverside Gardens —

Ms J.M. Freeman: I saw it. I was very shocked. It suddenly seemed like it ripped up a lot of land very quickly.

Ms L.L. BAKER: Thank you, member. I think the people who exercise their animals or drop in as tourists would have had no idea that the land was not safely preserved for the future as a wetlands. What happened was devastating to everyone who walks past that area and to people in my electorate. The broader Western Australian community would be horrified to see the pictures of the destruction as well.

The two super blocks were offered to the City of Bayswater in about 2010. Quite recently, as a result of pressure from members of the community, some of whom are in the gallery this afternoon, the city council passed a motion to release some of the paperwork, which was previously confidential, around the history of the applications to develop these two blocks. I think as early as 20 July 2010, the council was considering whether it should acquire the land to expand the Eric Singleton bird sanctuary, to rehabilitate the natural water course on the site, to contribute towards improving the water quality of the Swan River, to provide additional habitat for flora and fauna and to improve the amenity of the surrounding residential area while expanding the amount of local parkland. This was back in 2010. In the first paperwork that was provided to council, the officers did a good job of explaining the economic, social and environmental benefits of preserving this wetlands. No-one is saying that the council should not have bought the land back then; no-one is saying that the council is blameless in this activity. During the past 20 or 30 years, one of us could have intervened in a number of areas and we would not be in this situation. Through a series of issues that I will refer to in a minute, that did not happen. We
are now having this discussion about the destruction of this wetland because nobody foresaw this level of devastations and nobody was brave enough to step up and purchase the land so that it became a protected public reserve. Maybe Judy Edwards should have done it when she was in government pre-2008, but I go so far as to say look at when this wetland was originally classified—it was done under the Court government in 1996. We are all part of the problem. It is not a blame game; it is about solutions. I urge the minister to focus on solutions to this problem.

The City of Bayswater looked at the environmental benefits. In 2010, the environmental benefits were listed as —

The lot is uniquely located adjoining the Eric Singleton Bird Sanctuary which covers approximately 17.96 hectares. The sanctuary is an artificial wetland, established by volunteers in the 1970’s and has since grown to become an important stopover and breeding site for migratory birds. The subject lot has remnant natural vegetation providing high value habitat to numerous species of native and exotic birds, and therefore has potential to expand the Eric Singleton Bird Sanctuary.

I need to make it clear that this is not necessarily about direct impacts on Eric Singleton Bird Sanctuary. There will of course be indirect impacts—through the clearing—on the animals that frequent it. Some take their babies across the road when they have had them. They raise them on the wetlands instead of Eric Singleton reserve. The opposite also happens—flora that is pushed from one side to the other by the wind will go. There will be issues around habitat and environment that must logically follow through this work.

I now quote the social benefits —

The surrounding area is mostly residential with the exception of Riverside Gardens and Hinds Reserve. There is also a retirement village nearby. To this end, the existing tracks and walkways along the boundary of the sanctuary are used for passive recreation and have the potential to be expanded along the boundary of the subject lot adding to the social amenity of the area.

Economic Benefits

The lot has potential to increase the number of visits by the local community who use the area … and international visitors who come to watch the many native species of bird. The economic benefit in terms of developing a unique tourist destination will be greatly enhanced …

That is if the wetlands were added to the Eric Singleton Bird Sanctuary.

It is now a matter of history that that proposal was originally seen as positive for council. The council called for a number of things to happen when the officer’s report was given to it, including the background to the block to look at what would need to happen if the council were to move ahead and purchase the block. Eventually a decision was made that funding should be sought from the federal government through the Caring for our Country program that was then operating so that some work to buy the block could go ahead. The paperwork shows that the council met again on 28 September 2010 to discuss the potential purchase of these blocks. Reference is made to a development “since the July report”. I will read through this because I think it is important in considering where we are now. I quote from a report dated 28 September 2010 —

The selling agent also advised that since the July report there have been two interested parties …

This is from the confidential paperwork that has recently been released. The first prospective purchaser was a developer. After geotechnical reports were produced, the developer decided not to proceed with the offer they had made. This is extremely important, Minister for Environment, Minister for Planning and parliamentary secretary: the council was advised that the geotech reports on the site revealed —

(a) the site has a high level of Dieldrin;
(b) the site has a high level of asbestos; and
(c) the site has acidic soil.

We have also been advised that the remediation process would take up to three years, which was the reason that the offer was withdrawn.

These are the facts from the confidential report. The minister is probably not aware of this stuff. I thought it was really important that he understands the depth and complexity of this issue. People have looked at this land previously and turned away from it because of its dreadful contamination.

The minister mentioned recently that the acid soil testing is a condition of the development. I will refer to that in a minute when I approach the conditions of the development. When the environmental assessments were done, there was no mention of any of this being part of it. As far as I can see, the reason these two blocks did not warrant any more investigation was that way back in 1996 a government made a decision to blanket a number of
wetlands as fairly low level wetlands. That was 20 years ago. Yesterday, the Minister for Planning was asked some questions in the upper house. She was asked by Hon Lynn MacLaren —

(1) On what basis did the departments of Parks and Wildlife and Environment Regulation decide that no further assessment of the site was required when the WAPC approached them for advice about the development?

The minister answered —

(1) The following factors were considered when the Department of Parks and Wildlife assessed the proposed subdivision and provided advice to the Western Australian Planning Commission that it did not object to the proposal —

The minister knows what these conditions are. The answer continues —

(a) the land proposed for subdivision was private property zoned for residential development;

Tick—yes. I have no argument with that —

(b) the proposed subdivision was not within, or abutting the Swan–Canning development control area; and

I understand the land that the Swan River Trust would normally consider under its remit is within only 10 metres—in fact, it may be even less distance—from this site. I know boundaries are put there for a reason and if someone is one side of the boundary, it is bad luck. I am explaining to the minister that this area is extremely close to where it would have come under the remit of the department. The third part of the Minister for Planning’s answer was —

(c) the wetland mapped as occurring over part of the site was classed as a multiple-use wetland which does not preclude development of this nature.

This is the point I am referring to. It was 20 years ago that that site was classified as a multiple-use wetland and it did not attract the attention of the department. I have been trying, and the community has been trying, to get the attention of the Minister for Environment and the Minister for Planning to say that was 20 years ago! A lot has changed. Pacific Islands have almost been sunk and we have had a thing called climate change! The world is a different place from 20 years ago. The Swan River is a different creature from 20 years ago. Indeed, the wetlands are different from 20 years ago. Anyone who understood this would have taken the necessary steps to investigate whether that categorisation of the wetland was still relevant. There is no way that this community can see that that categorisation should still be the same. This is not a community of uninformed people—it comprises scientists, researchers, professionals, experts in environmental issues and biotechnology. I can refer to some of the work that has been done by the community in trying to show the minister that this is more than just a multiple-use wetland.

While I am on the minister’s response yesterday, I will raise another point. In response to the question, “On what basis did the Department of Parks and Wildlife say it was not interested in this”, the minister said —

In November 2015, the Department of Environment Regulation provided technical advice on WAPC … indicating parts of the subject area were mapped as having a high risk of acid sulphate soils within three metres of natural soil surface.

I reinforce that by referring to the Geo-Tech report, which was done previously. It is not just the acid levels; it is asbestos, dieldrin and other fairly heinous things that are in the ground—I might remind members that that is in the ground that has just been completely dug up by a bunch of workers who would have had no understanding that this was a site that had dieldrin and asbestos on it. That land is now being churned up and left open, so if asbestos and dieldrin have been identified on that site, I would hate to be in the minister’s shoes. The minister’s response continues —

In this instance, the Department of Environment Regulation recommended application of an acid sulphate soil condition on the planning approval.

Yes, quite correct; it did. I have no problem with that. I just want to correlate that response with the response that the Minister for Environment gave yesterday when he was contacted by the media about this issue. He stated —

“The Liberal National Government has delivered a completely restored Eric Singleton Bird Sanctuary …

Tick—it has; there is no problem with that. The minister went on to say —

... and has imposed a number of strict conditions on the private development to ensure there are no negative impacts on it.
That is, the sanctuary. The only condition in the Western Australian Planning Commission condition specifications that cover this development is the acid testing. There are a number of conditions and I could read them, but I will not, because we will be here all night if I read them. However, I can give members an example of some of them. The first is that all streets within the local subdivision should be truncated in accordance with the Western Australian Planning Commission’s Liveable Neighbourhoods policy. The next one is about engineering drawings and specifications to be submitted and approved in accordance with the plans for a subdivision. The next is about street lighting and the next one is about a temporary turning area being provided for the subdivisional roads. This is not about the environment; these are not conditions that will protect either the wetland or the impact on the Eric Singleton reserve. I understand that the acid sulphate testing is to be done before subdivision. What we have now is pre-works that the commission has approved. I want to know how the hell the Planning Commission approved pre-works on this wetlands when there is a history of asbestos, dieldrin and other fairly heinous products on the land, and it is adjacent to a very, very delicate bird breeding sanctuary. How did this state government allow that to happen? This is just completely beyond my understanding. How could the Minister for Environment let this happen? How could he do this? Condition 9 states —

An acid sulphate soils self-assessment form and, if required as a result of the self-assessment, an acid sulphate soil report and an acid sulphate soils management plan shall be submitted and approved by the Department of Environment Regulation …

That is all well and good. In the meantime, this block has been completely ripped apart. All of what was in the soil is now not in the soil; it is in the open. It is there for anyone to breathe in or see. The conundrum is that the way the government’s system is set up at the moment allows an urban wetland to have this kind of work done on it under a heading of pre-works. It is not the subdivision; this is pre-works.

I also want to point to one of the other conditions that the Planning Commission has put into the paperwork for this development. It is important that both the minister and the parliamentary secretary understand why this other condition is of such concern to the community. This is point 2(iv) under the heading “Advice”. I am going to read it to the house.

The ACTING SPEAKER (Mr I.M. Britza): Member, excuse me. Members, the conversation is distracting. This is important and I think we need to hear it in as much silence as possible.

[Quorum formed.]

Ms L.L. BAKER: Thank you, members, for coming into the house. I was referring to point 2(iv) under “Advice”. I will read this. It is very short so members do not have to listen for too long. One of the requirements is that the landowner is advised to provide the temporary cul-de-sac heads within lot 14. Members have to understand that this is two lots. That clause means that for this subdivision to go ahead, there must be a cul-de-sac head coming out into the adjacent wetlands. At the moment that has not happened because we are in pre-works, but the Planning Commission has written in black and white that there has to be this temporary cul-de-sac pushed out and taking more of what is left of this very delicate piece of wetlands. The subdivision cannot continue without further desecration of what is called the “Carter’s Block”, no matter what happens at the moment. Although I acknowledge the minister’s response to the media yesterday that he knew that conditions were imposed, the only condition that impacts on the environmental damage that this will cause is a cursory response around acidic soil testing. I do not think that is in any way, shape or form enough.

I have spoken at some length about why I suspect this problem has happened, and that is that the categorisation of the wetland was simply wrong at the start and that no-one has taken the time, the effort or spent the money to change the categorisation of this wetland. That is why we have this problem. The City of Bayswater has been approached recently. In 2013, it was again approached by the landowners. I must put on the public record that it is not the landowners’ fault that this has happened. They purchased two blocks that they wanted to make a lot of money out of. That was their choice and that is what they did. We are the ones to blame for letting this happen because we have allowed the laws to be so eroded around the environmental conditions for wetlands in urban areas that they can no longer protect this delicate area. We are the ones to blame and we have a responsibility to try to fix this and stop any further desecration. I wanted to read from council minutes on 23 February 2016 about why this categorisation is wrong. The council was offered the land again in 2013. That was, I believe, a very disappointing administrative problem within council. It appears, from what I can work out, that the offer of sale of the blocks came into council at a time when the mayors were changing and there was a bit of a power gap, so the staff at the City of Bayswater did not pass this further on or keep it in the view of council when the new council and mayor came in. They let it go; in fact, they wrote back and said, “Thanks for your offer but, no, we’re not interested.” That was another opportunity for this to have had a much, much better outcome, and another opportunity missed.

On 23 February 2016 the council was deciding how it could possibly fix the problem on its plate. It talked about the Eric Singleton Bird Sanctuary. I am reading this particularly for the benefit of the Minister for Environment, because in his response yesterday he also said that the relevant environmental agencies within his portfolio were
consulted on the proposal and raised no environmental objections, and that the Eric Singleton Bird Sanctuary would not be impacted by the development; he was very clear in his response. I completely reject that, albeit that I am not a scientist, but I will read from the ordinary council meeting minutes of 23 February. It states, in part —

The primary consideration in relation to this application is the visual and environmental impact the proposed subdivision would have on the ESBS and Riverside Gardens.

The City in partnership with the former Swan River Trust invested $3 million into the revitalisation of the Eric Singleton Bird Sanctuary (ESBS). The ESBS is now a healthy wetland for flora and fauna, and will prevent 1.3 tonnes of nitrogen —

The minister has read this in —

200kg of phosphorous and 40 tonnes of sediment and other rubbish from entering the Swan River each year.

That is phenomenal; we could not do that if we had bulldozers working on the riverbanks all year. Further along, the minutes continue —

The ESBS is a manmade wetland which was in ecological decline. There was a decrease in diversity and number of birds within the wetlands, due to high nutrients, algal bloom and recorded bird deaths.

The project which has recently been completed has restored the health of the bird sanctuary, which has increased bio-diversity and decreased the amount of unwanted nutrients entering the Swan River from the Bayswater Brook. Bird species within the sanctuary have increased and the community commonly use the area for passive recreation uses.

The City is currently requesting the Department of Parks and Wildlife to consider reviewing the existing classification of this wetland to ‘Resource Enhancement’ to reflect the post restoration amenity and environmental values now demonstrated at the wetland.

I turn now to the reasons why I am convinced that these wetlands are valuable. I have in front of me a report by consultant botanist Malcolm Trudgen from 31 July. I do not know if the minister has seen this; again, there is missing information that he really needed to see. The document is headed “Remnant vegetation in Maylands adjacent to Eric Singleton Bird Sanctuary (known locally as Carters Swamp)”. I beg the indulgence of the house; I have to read some of this because it is way too technical for this chick! It states —

Areas of remnant vegetation such as this tend to be written off as small and degraded and therefore not worth preserving. This is an error of assessment as all areas of remnant vegetation should be assessed both for intrinsic worth and as part of the wider environment.

To the unsympathetic human eye they appear to be cut off from other bushland, not pristine and therefore not of value. However, if one looks and thinks a bit more deeply, one can see a range of connections and values.

The connections are twofold. One is that the native flora species remaining and the landform they are surviving in are habitat and food sources for a range of animals. This includes waterfowl and other bird species that are either locally resident, or are transient relying on a sufficient number of such small remnants to be able to move from place to place with adequate shelter and food resources. Secondly, the native flora species present are connected as part of wider populations through wildlife (especially nectar feeding birds) spreading pollen to other areas and thereby maintaining gene flow between the area and nearby areas with the same species.

Just to sub-bracket that: Eric Singleton Bird Sanctuary, minister. The document continues —

Waterfowl are also great spreaders of seed, and are likely to spread seed of aquatic flora species to and from the area.

The remaining tree species a Paperbark … Marri … and Flooded Gum … provide food, nesting and resting resources for bird species. They also provide such resources for a range of smaller wildlife: small reptiles … and insects. The latter of course becoming a food resource for some of the former as well as for birds.

The wetland areas, with stands of native Bulrush … also provide food resources for wildlife, especially waterfowl, but also a range of smaller organisms. The latter would include frogs as well as insects. Other aquatic native flora species could also be present, but are small and observation from the footpath would not detect such species. If present, these would only be found through detailed survey of the area.

In summary, the remnant vegetation present has significant local value for the species present and this value has not been fully documented. It also has value as part of the wider system of remnants along the Swan River that support the native wildlife and flora of the river borders.
I take members back to the comment that wetlands are the lungs of the river and they are interconnected. The document continues —

Such fragmented systems are particularly vulnerable to being reduced in viability by the “death of a thousand cuts”; that is the loss of seemingly unimportant small areas that collectively support the viability of the native flora and fauna of the system. Destroy enough of these small areas, and the system collapses.

That is from a biologist who has kindly donated his time and efforts at the behest of one of our volunteers; I thank Mary van Wees and Environment House for that.

Staying on the subject of why these wetlands are valuable and are not low-level wetlands that should be discarded so easily, I refer to a document by consulting ecologists M.J. and A.R. Bamford from Kingsley titled, “Rapid Assessment of Fauna Values; Carter’s Block in the City of Bayswater”. This is a lengthy document and I do not intend to read all of it, but there are some points that need to be put on the record.

Mr J. Norberger: Are you happy to table it?

Ms L.L. BAKER: Yes, I am more than happy to table it to save a bit of time, but I would like to read a couple of bits, starting with a section headed “Site description”. It states —

Carter’s Block supports a Paperbark Swamp that was flooded at the time of the visit, with some higher areas of landfill covered with weeds on the southern side of the block. There is some bulrush under the paperbarks. The swamp extends into an area of council land, with this council land having some upland vegetation of native … Marri … and introduced trees with a weedy understorey. Carter’s Block and its wetland are separated from the Eric Singleton Bird Sanctuary … by an earthen bund that provides pedestrian access. There is apparently limited hydrological connection between the two wetlands and the hydrology of the two differs; Carter’s Block swamp is seasonal and follows a natural fill and dry cycle, while the wetland of Eric Singleton Bird Sanctuary has manipulated water levels. It is also connected to the river.

This is really important. The document continues —

The Eric Singleton wetland has extensive open water, areas of rushes and planted riparian and upland vegetation, but lacks large, old paperbark trees at least in that part of the wetland adjacent to Carter’s Block.

Eric Singleton Bird Sanctuary and Carter’s Block form part of a network of urban wetlands linked to the Swan River.

In the conclusion that I will refer to in a minute, it is very clear that these two types of wetlands are interdependent and each is essential for the other’s survival.

Mr C.J. Tallentire: Complementary.

Ms L.L. BAKER: Complementary is a good word; I thank the member. It is far less than I used. The report continues —

**General fauna assemblage**

The fauna assemblage of the area incorporating Carter’s Block and the Eric Singleton Bird Sanctuary is likely to be typical of the region.

… BirdLife Australia… records from 48 bird surveys conducted from 1975 to 2016… a survey recently conducted by 360 Environmental, observations from the site … on 1st August, and observations… along a nearby section of the Swan River in 2014.

Invertebrates. Some common species noted by 360 Environmental. A species of daphnia (‘water flea’) noted in Carter’s Block swamp on …

It goes on to discuss fresh fish and frogs —

Frogs. Four species reported by 360 Environmental and three additional species noted on 1st August. One of these, the Quacking Frog … is restricted to few wetlands on the coastal plain in the Perth region, including Bennet Brook in Whiteman Park …. Seven species probably represents the complete frog assemblage of the site. Interestingly, on 1st August most frog records were of calling animals in Carter’s Block Swamp with only one species, the Clicking Frog… calling from Eric Singleton.

It probably could not get a word in edgeways, I suspect, with all that other noise going on. It continues —

Reptiles. … four species noted by 360 Environmental and two of these also observed on 1st August. The reptile assemblage is probably depauperate due to the lack of upland environments but an assemblage of 10–15 species could be expected. All are common in remnant native vegetation … but the presence of the Long-necked Tortoise is of interest as while widespread, it appears to be declining due to breeding failure related to Fox predation on females and lack of nesting sites.
I want to underline that. I know the minister will be back in a minute. If we just think about all these little creatures that live in the wetlands and on Eric Singleton reserve, if we bulldoze it, subdivide it and build a whole series of two-storey and three-storey buildings there, will we ban cat ownership? Will we ban dog ownership? People walk their dogs through that area all the time. If people move into this neighbourhood with cats, which are predatory by nature, it will further impact the long-necked tortoise, which, as I have said already, is declining due to breeding failure from predation by foxes, cats and the like. It continues —

The BirdLife Australia records include 105 species …

The splendid fairy-wren was seen and noted. They have declined in the Perth area so again, that is another precious species. It continues —

Waterbird … probably do not distinguish between the two wetlands.

So, of course, they will be on both sides. It continues —

The bird assemblage includes records of small numbers of a few migratory species. The Birdlife records include sightings of both Carnaby’s and the Forest Red-tailed Black-Cockatoos.

God knows that we need to preserve habitat for both of those very rare birds. Not a lot of information on mammals was able to be collected. It continues —

The Fox, and domestic pets, may pose a risk to waterbirds and tortoises. BCE has recorded the native water-rat …

I assume he has a friend so there are probably two of them, or there might be more because they might like each other and they might breed some more. It continues —

There are likely to be some bat species that visit the site and roost under bark amongst the paperbarks. The Marri trees are generally too small to provide hollows for bats. Introduced mice … and rats … are very likely to be present.

**Significant species**

Some bird species of high conservation significance …

I have already mentioned the Carnaby’s and Forest red-tailed black-cockatoos. Migratory shorebirds and the rainbow bee-eater are also part of these wetlands. It continues —

Of more interest in a conservation sense are locally significant species that persist as resident populations in the region because of habitats within the site. This includes the Quacking Frog, which may be confined to Carter’s Block swamp and the swamp on the council land, and several bird species that survive in the urban landscape only where there are patches of remnant native vegetation. These include Splendid Fairy-wren …, Yellow-rumped and Inland Thornbills, and Rufous Whistler …

And the rakali may be there as well —

Two other frog species, the Banjo Frog … and the Moaning Frog … may rely entirely upon the Carter’s Block Swamp because their breeding biology relies on predictable seasonal water level changes.

Again, when there is seasonal water change and the two halves of these wetlands are interdependent, it is really important that they are retained. It continues —

Carter’s Block is dominated by a Paperbark Swamp with some areas of Bulrush and flooded grass… For fauna, it is the wetland area that is of most interest and this will support frogs, waterbirds …, the Long-necked … and a range of aquatic invertebrates.

…

What is important with respect to assemblage organisation is that Carter’s Block and its swamp differ from Eric Singleton Bird Sanctuary in several ways: Carter’s Block is continuous with some existing native upland vegetation on the Council land, the swamp includes old Freshwater Paperbarks and Carter’s Swamp has a natural hydrological cycle that includes seasonal drying. The swamp also lacks the open water and shallows of the Eric Singleton wetland. These differences mean that Carter’s Block swamp and the Eric Singleton wetland complement each other.

They complement each other, so I fail to see how it is possible for a department of environment to be able to say that the removal of the wetlands that is called Carter’s Block will not impact on the Eric Singleton Bird Sanctuary. That is sheer fabrication, if not malicious ignorance. I cannot believe that. It continues —

Carter’s Block swamp can be expected to support more frogs and is probably essential for the Quackking, Banjo and Moaning Frog populations in the area, and it can be expected to be very important for foraging by some waterbirds and especially young ducks … Carter’s Block Swamp is therefore also
likely to be more important for aquatic invertebrates in their own right compared with Eric Singleton. The juxtaposition of Carter’s Swamp and upland native vegetation gives a greater range of vegetation structure for bushbirds compared with the surrounds of Eric Singleton.

Indeed, this is the location where the bush birds were concentrated when these measurements were done —

In contrast, Eric Singleton Wetland has extensive open water and shallows, attractive to many waterbirds, but at least some of these are likely to breed, or to take their young, into Carter’s Block swamp. Fringing wetland and upland trees around Eric Singleton tend to form a narrow belt of vegetation composed of young trees with less structural complexity than around Carter’s Block and the Council land.

I am happy to table this report and the other one, if members will excuse the scribbling all over them. I will just read the report’s conclusion —

**Conclusion**

Carter’s Block and particularly its distinctive seasonal wetland contribute to biodiversity in the area by being different from and thus complementing the recognised values of Eric Singleton Bird Sanctuary. The separation of the Carter’s Block wetland from the Eric Singleton wetland ensures a natural seasonal hydrological cycle that supports several frog species and a rich aquatic invertebrate fauna, with the latter likely to assist waterbirds that breed at Eric Singleton. Similarly, the large and old Paperbark trees of Carter’s Block complement the remnant upland vegetation of the adjacent council property and this combination may help to support bushbirds in the area even beyond the boundaries of Eric Singleton and Carter’s Block.

The hydrological cycle of Carter’s Block swamp is very important for its ecological function and any development, on adjacent sites or even across part of the Carter’s Block, would need to consider hydrological impacts.

I am happy to table these documents.

**The ACTING SPEAKER (Mr P. Abetz):** Member, you cannot table them; you can only lay them on the table for the remainder of the day’s sitting.

**Ms L.L. BAKER:** I can lay them on the table for three and a half minutes, so I am happy to do that.

**Mr R.F. Johnson:** You table them for the balance of today’s sitting.

**Ms L.L. BAKER:** I will table them for the balance of this day’s sitting.

[The papers were tabled for the information of members.]

**Ms L.L. BAKER:** To both the minister and the parliamentary secretary, when they respond to me on this motion, and to others who wish to speak on the subject of urban wetlands, particularly in Bayswater, I want to go back and say that the Minister for Planning has, in the view of the community, two important contributions to make. The first is that she can place a planning control area on this land. It is within her power; it is one of the few powers that she is currently able to exercise under the changes made by the government. She can come in and say that this area will be better protected than it has been, and then the issue of compensation will need to be dealt with. I suspect the minister does not want to do that, because it means that the state will have to pay the compensation. If the government blames it all on the City of Bayswater, and tries to get it to change the zoning and the like, the city will have to pay compensation.

Seriously, this is about the retention of native species, and a very delicate wetland. It is not a subject on which the City of Bayswater or any state government should be at loggerheads about who is going to pay the bill. This is about the future of our wetlands, the health of the Swan River, and a huge community asset. On behalf of the community I restate that we are asking the Minister for Planning to do two things: place a planning control area on the remaining area, and deal with the City of Bayswater and the owners of Carter’s block to make arrangements to ensure that they are adequately compensated. This should have been done six, 10 or 20 years ago, and was not done. I will give the minister any help she needs to convince her government that this land acquisition is absolutely worth making, and to contact LandCorp to have discussions about this. I know that there is money in the land acquisition budget for LandCorp and the like. The government can find the money. It is simply a matter of will, and I am not seeing that the minister is publicly stating that she is committed to either of those two courses of action.

We are asking the Minister for Environment to step up and understand that the nonsense about the Eric Singleton Bird Sanctuary not being impacted by the desecration and obliteration of the remaining wetlands is not a fact. We have scientific evidence that makes it very clear that these two wetlands are complementary and interconnected, and both contribute massively to the health of the river. The government has already spent $3 million on the Eric Singleton Bird Sanctuary, so how stupid would it be to not put in a bit of extra money to
make sure that the sanctuary can stay healthy, and indeed to expand it a little bit? The City of Bayswater wants to have conversations that will result in that area being built in as an extension of the wetlands at the Eric Singleton Bird Sanctuary.

We have lost half of this area; it has gone. We have lost in perpetuity half of the precious wetlands because of the ignorance and the silo mentality of government departments, be they local or state governments. This is not something that can afford to wait any longer. The Minister for Environment has a role. He has more than a role; he stands on the balance of making this fact, and stopping the community from having to continue with this campaign, to try to save some native species and some precious flora and fauna in a very delicate wetland and a very popular part of our community. I ask the minister to take a stand and re-categorise this wetland so that it can be preserved, in a real reflection of its value to the Western Australian community.

MR C.J. TALLENTIRE (Gosnells) [5.14 pm]: I rise to support the motion moved by the member for Maylands, condemning the Barnett Liberal–National government for its mismanagement, and in this case the destruction, of wetlands in Bayswater. When I first heard about what had occurred in Skippers Row, I was alarmed and I wanted to know why the Minister for Environment had not reached for one of the pieces of legislation in his legislative arsenal to go out and pursue the damage that had been done. I visited the site; the last time I was there was on the day of the arrival of the Avon Descent participants. I know how strong the community support was for the preservation of the remaining environmental values, and also how great was the sense of outrage about what had happened—that sheer disappointment that an area of great amenity value had been desecrated in this way.

I wondered what legislation the minister had at his disposal. Of course, he has the Wildlife Conservation Act. This act is long out of date and is being revised. We are hoping that perhaps amendments to the new act will be acceptable to improve it for the future. However, the existing Wildlife Conservation Act makes it an offence to take another species. “Take” is a bit of a euphemism, but it means to destroy. In this case it is undeniable that species were taken without any authorisation, and without approval under the Wildlife Conservation Act. In other words, did we ask the people paying the wages of those driving the D9 bulldozers for their permit to kill an oblong tortoise, or to smash through the nesting area of the rakali, or water rats, that might be there? Where is their permit for the destruction of the banjo frogs and the moaning frogs? These are all native species, and to take any one of them, a person is supposed to have a permit. In this case, no such permit exists. No-one even sought one. There was no desire on the part of the contractors to get such a permit.

I know that the minister is inclined to talk about removing red tape and green tape. Indeed, over the course of the past couple of years, while the minister has been in his position, we have seen the removal of some very important environmental policies that have teeth and provide some level of protection. In fact, more than 50 pieces of environmental policy have been removed, archived or cancelled, even though many of them were created after months of community consultation. The minister saw fit to just remove them with the stroke of a pen. He cancelled the environmental protection policy for the lakes of the Swan coastal plain. He saw fit to downgrade the role of the Swan River Trust, and here is a sad example of what happens when we do not have a Swan River Trust with the autonomy and power to be out there as an active advocate. Instead, the Swan River Trust now has 60 staff working in the rivers and estuaries division of the Department of Parks and Wildlife, who have to report to the director general of the Department of Parks and Wildlife, who then reports to the minister. There is no autonomy there, as we had previously with the Swan River Trust.

This motion before the house reflects exactly the problem we are facing across the Perth metropolitan area and the state of Western Australia. There is a complete disregard for environmental regulations. We heard mention yesterday in the Legislative Council of an excuse being offered that we could not do anything because it is privately owned land that has been zoned residential. I will come to why that does not stack up. We also heard that the land is just outside of the Swan and Canning Rivers protection development control area. That does not stack up either, and I will come to why that is the case. We also heard from the minister that the wetlands had been mapped as an inferior category for multiple use, and I will come to why that is not valid.

It is clear that the government does not care about protecting the environment and environmental values. The government is all about facilitating development at any price. The government does not want to make sure that the areas that people value are protected. It does not want to make sure that, where necessary, negotiations are undertaken with private landowners to achieve an outcome that does not compromise what is precious to the broader community, just to benefit a few people who have had a windfall because their property has been rezoned and the price has skyrocketed. We do not look to tax people who get a windfall profit as the result of a rezoning. However, we are always totally spooked by what is known in the development industry as a down-zoning. If a person’s land is zoned residential and can be sold at a high price, and it is changed to a zoning that does not allow for the same amount of profit to be made, that may be just the luck of the draw, just as it is the luck of the draw if a person’s land is rezoned for residential development and becomes very valuable. That is something that we need to deal with.
We have in place, obviously, our environmental protection laws. I have mentioned the Wildlife Conservation Act 1950. That act would have provided some level of protection. As old as that act is, it requires that permits be issued, and that was not done. We also have the Environmental Protection Act, which contains our native protection laws and our environmental harm laws. The minister has not sought to use any of the powers contained in those acts.

I turn now to the 10 principles for the clearing of native vegetation. Before the minister or his delegate—the chief executive officer or whomever in the Department of Parks and Wildlife—may issue a clearing permit, he or she needs to have regard for these 10 clearing principles. If a farmer on a property somewhere made an application to clear native vegetation on their property, their proposal would be judged according to these 10 principles. Most of the people in rural Western Australia are law-abiding citizens. They would submit an application before they got out the bulldozer, because they know that their proposal will be judged against these 10 principles. If a proposal to clear native vegetation offends against any one of these 10 principles, the proposal should not go ahead. The first principle is that native vegetation should not be cleared if it comprises a high level of biological diversity. The minister for Maylands has gone through the reports from 360 Environmental and Bamford Consulting Ecologists. It is pretty clear that this native vegetation has a high level of biological diversity. Therefore, it stacks up on the first principle.

The second principle is that native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna indigenous to Western Australia. We have heard of some of the species that rely on this habitat. The third principle—there may be a question mark about this in this case—is that native vegetation should not be cleared if it includes, or is necessary for the continued existence of, rare flora. We will leave that one aside. The fourth principle is that native vegetation should not be cleared if it comprises the whole or a part of, or is necessary for the maintenance of, a threatened ecological community. We have not had the level of study necessary to determine whether this is a threatened ecological community, so we will possibly leave that aside also. The fifth principle is that native vegetation should not be cleared if it is significant as a remnant of native vegetation in an area that has been extensively cleared. No-one can deny that the urban area of Perth—the metropolitan area—has been extensively cleared. Therefore, clearly this native vegetation is a remnant of an area that has been extensively cleared.

The sixth principle is that native vegetation should not be cleared if it is growing in, or in association with, an environment associated with a watercourse or wetland. That is clearly the case here. The seventh principle is that native vegetation should not be cleared if the clearing of the vegetation is likely to cause appreciable land degradation. That will absolutely occur. We know the risk of acid sulphate soils. We know that all sorts of nutrient releases and all sorts of degradation and soil sediment mobilisation will occur. The eighth principle is that native vegetation should not be cleared if it comprises a high level of biological diversity. The member for Maylands has gone through the reports from 360 Environmental and Bamford Consulting Ecologists. It is pretty clear that this native vegetation has a high level of biological diversity. Therefore it stacks up on the first principle.

The clearing of this native vegetation offends against at least eight of these 10 clearing principles. As I have said, any person who presented a proposal to clear native vegetation on a rural property in this state, or on any land in this state that had not been zoned residential, would be required to demonstrate that their proposal did not offend against any of these 10 principles before that clearing would be allowed. I know in truth that the minister has been incredibly lax on this issue. The minister has allowed the destruction of native vegetation in rural areas when that clearing has offended against about five of those principles. I have seen those sorts of cases. The aim of the legislation was that there would not be any destruction of native vegetation if it offended against any one of these 10 principles. However, with this particular episode in Maylands, we have destruction that offends against at least eight of these 10 principles.

That demonstrates how missing in action this minister is. The minister needs to get hold of his agencies and make sure that they are involved in looking at these things. We have heard that the Department of Parks and Wildlife had issued advice saying it did not think there was any problem. We can only conclude that the department just did some sort of desktop analysis of things.

[Interruption from the gallery.]

The ACTING SPEAKER (Mr P. Abetz): People in the gallery, you are welcome to listen but you are not allowed to make any comment or noise. Thank you.
Mr C.J. TALLENTIRE: Thank you, Mr Acting Speaker. We can understand the outrage of people who live in this area and who frequent it and love it. It is part of their lifestyle to be able to enjoy this area. It makes people very angry and upset to see their native vegetation destroyed and to realise that the minister has failed to make sure that his agency has the staff, the capacity and the expertise to see what is at stake before this sort of destruction occurs. It makes people realise that the Barnett Liberal–National government is letting them down when it comes to protecting our environment. It is absolutely outrageous.

We have seen a failure by the Department of Parks and Wildlife in the administration of the Wildlife Conservation Act, a failure by the Department of Environment Regulation in the administration of the Environmental Protection Act, and a failure by the Swan River Trust in the administration of the Swan and Canning Rivers Management Act and in being a fearless advocate for the wellbeing of the Swan and Canning Rivers and the whole of the estuary. What happens in the catchment impacts the river. We cannot have a strong and fearless Swan River Trust if it does not get involved in what is happening in areas that “abut” the Swan and Canning River development control area. That is the word that is used by the minister who said that he was not interested in this, and that the area did not actually abut the Swan and Canning development control area. How many metres area are we talking about? When talking about environmental systems, something that occurs 50 metres or 100 metres away will impact on the system. How ridiculous does the minister want to be? Does it come to just drawing lines on maps and saying that an area is just out of it, so we need not worry? I would argue that the definition of “abut”—if that is what the minister wants to have a debate about—was breached here. This land, in an environmental systems sense—as an environment minister, one would think that is what the minister cares about most—does abut the Swan and Canning development control area. Therefore, this subdivision proposal should have had the most rigorous of assessments and attention applied to it, and it would have been knocked out and perhaps some other means would have been found to compensate the landholder.

This wetland was once looked at in, I think, 1996 and assessed as being in a condition that meant that it was not in the conservation category wetland level—that is said to be the highest level—but in a multiple-use level. That process has to be looked at in context. In 1997, the then Court government published a strategy in its “Wetlands Conservation Policy for Western Australia 1997”, which referred to the significance of remaining wetlands and stated that we have to protect those that remain. The Environmental Protection Authority has since confirmed the scarcity on the Swan coastal plain, stating that we have lost about 80 per cent of what was there previously. In fact, before white settlement, white colonisation, the Swan coastal plain was a succession of wetlands. Along with the rivers, it was the great defining feature.

Mr C.J. TALLENTIRE: The defining natural feature of the area was the chain of wetlands and the different habitats it provided. But we have seen massive destruction of that with urban development. In some ways, all of us are beneficiaries of that and we are all partly responsible. That means that those bits that remain are more precious than ever; they are incredibly precious. If those bits that are left are properly managed and near areas like the Eric Singleton reserve, they are a real jewel and a great asset. We heard about the $3 million of public money that has gone into restoring the Eric Singleton reserve area, and the 170 000-odd plants planted there to help act as nutrient filters and the very clever engineering works that have gone on. They are doing a job filtering relatively small but significant amounts of nitrogen and phosphorus. That will have a positive impact. When we go to the trouble to do that, we can expect to see other areas slowly regenerate. The regeneration of this wetland along Skippers Row had been occurring well before the revegetation and restoration works at Eric Singleton. It was a matter of leaving an area aside and letting nature take its course. Slowly, a suite of animals had moved in and made it their home, and the area had become, in a biological sense, more and more productive and more and more precious. When we have lost so much, it makes it all the more essential that we protect these areas and allow them to regenerate.

I suppose it is very confusing for people and completely misleading to say that this was only multiple-use category and therefore not significant. It gets to the heart of the problem of agencies not having the resourcing, the skill base or the capacity to review things. The minister has allowed his agency to shed expertise and staff so the skills are not in the agency to realise that what may have been categorised as wetland multiple use in 1996 is now something quite different—something that is much more sophisticated and much more precious and valuable to the community.

We know that the government has an agenda for wetlands and conservation, and we have seen that with the demise of various important policies. For the benefit of those listening to this debate, environmental protection policies have the force of law and are as powerful as regulations. They take a long time to bring into effect. The current minister said that we do not need the Environmental Protection (Swan Coastal Plain Lakes) Policy anymore, but he did not bring anything else into Parliament that is better. I agree with him that it was probably a piece of black-letter law that was getting out of date. I know that the previous Labor government had attempted to revise and update it. Until that work was done, the minister should have left the 1992 black-letter law in place.
and waited for the new stuff to come in. But that is not how this minister behaved. He got rid of it and we got nothing in its place. I put to the house that had we done the job properly and properly gone through the task of upgrading the environmental protection policy for all the wetlands on the Swan coastal plain, this land may well have fallen under it and been protected. That is what we should have aimed to do. Instead, this minister is all about getting rid of anything that is protection, when we should be about gathering more and more policies and laws necessary to add to environmental protection.

The EPA has written extensively on the importance of wetlands and wetland areas. I commend to the house a position statement that it put out in 2004. I believe this position statement is still valid, because, as I have said, this minister has a track record of dismissing these position statements. With the stroke of a pen, we find that they have just gone—vanished. Even though probably years of consultation and officer time in preparation went into these position statements, guidelines and regulations, they have just disappeared. They are all archived, so members of the public can go to the EPA’s website and view the list. My count is that about 52 pieces of environmental policy, regulation or position statements have been withdrawn in the last two and a half years. To my knowledge, the EPA’s position statement on wetlands remains in force. I read a passage from the position statement that the EPA has commented on —

An ecosystem management approach acknowledges that the current level of knowledge and models of ecosystem function may be incomplete, evolving and subject to change as more information comes to hand. Management approaches must be viewed as hypotheses to be tested by research and monitoring programs. Consequently, management practices should be adaptive and promote continuous environmental improvement.

That is not what we are seeing here. On the contrary, we are seeing the exact opposite. We are seeing environmental destruction where we should be seeing environmental protection. That is why the member for Maylands’ motion before the house is very accurate and at the same time very sad. It reflects what is going on across the Perth metropolitan area. The member for Maylands spoke about the possible need for land acquisition. I think that is something that could be contemplated, and I note that the Parliamentary Secretary to the Minister for Planning is in the chamber. The parliamentary secretary would know better than I how much money is in the metropolitan regional improvement fund. Last time I looked was at the budget estimates hearings, and I think it was well over $300 million. I do not understand why that money is not being used for land acquisition of vital environmental assets. What is that money there for? It is gathered by government through land tax mechanisms, and it just sits on the government’s balance sheet. It is not being expended for the acquisition of important environmental assets. I hope that the parliamentary secretary addresses that when he responds to this debate. There is a need for areas like Eric Singleton reserve to be restored.

There is great enthusiasm in the broader public for restoration projects. I do not think a negative comment was made about the need to spend $3 million on Eric Singleton nature reserve. There was great support for it. Restoration works cannot go on when the government is missing the opportunity to protect existing environmental assets. This Liberal–National government has a track record of playing God. We talked about that with the biodiversity conservation legislation. It wants the right to send species into extinction. We can do a pretty good job of restoration, but we cannot do as good a job as nature can. We cannot play God. That is why we should aim to protect existing areas. We should enhance them and let nature take its course. That is what happened, until it was destroyed. It was good quality, native wetland vegetation. It was a valuable habitat; yet bulldozers were allowed to go in and they caused terrible destruction. They destroyed a suite of habitats that were perfectly complementary to the vegetation across the other side of the walkway, in the Eric Singleton reserve.

This motion has my full support. I know that every member on this side of the house will support the motion. The government should be contrite about what has happened. It should be embarrassed and ashamed. It exposes this government’s flaws in its policy agenda, which is all about getting rid of protections. I know they need strengthening but this government wants to get rid of everything and prides itself on getting rid of red and green tape. That is getting us into these kinds of situations. Western Australians want better—they want our environmental assets to get the very best protection so that disasters like this cannot happen. I commend this motion to the house.

MR A.P. JACOB (Ocean Reef — Minister for Environment) [5.42 pm]: Thank you, Mr Acting Speaker, for the opportunity to address this motion. I will flag that I am not the lead speaker; the Parliamentary Secretary to the Minister for Planning is the lead speaker on this motion.

I do not think anyone can doubt the appreciation and significance of Eric Singleton Bird Sanctuary in the eyes of this government. As members have outlined, this Liberal–National government invested heavily in the restoration of what was a very, very degraded wetland site. It was a site that had been neglected for many years. It had been neglected through the two previous terms of a Labor government. I will come back to that. I will stress the significance that the Liberal–National government has placed on Eric Singleton Bird Sanctuary. That is not just backed up with words; that is not just strong statements made in this place or outside—it is backed up
with action. Anyone who has been there can see it. Some $3 million has gone into the site. It has radically changed from what it was. It will flourish in future years. In fact, the diversity of species had plummeted under the previous iteration of that wetland. It obviously performs two roles; it cleans up the waters that flow into the river from a significant tributary, stripping out very large amounts of phosphorous and nitrogen, and it also has an important ecological role to play in attracting fauna to the site. We believe that not only oblong tortoises and other fauna but also bird species will return to that site in the numbers they used to have.

Looking at the history of Eric Singleton reserve, we see that it is a heavily modified landscape. It was named after the late Eric Singleton because of his commitment to that site. Much of it was a tip in years gone by. A range of uses have existed on that site since European settlement. Obviously, it sits on the banks of the Swan and Canning Rivers. From memory, within walking distance of that site is the oldest olive tree in the state. It is 150 years old. It has over a century of varied human use, from agricultural use and simply using it as a landfill site to now a restored, albeit not restored to its original site, representation of what a natural wetland would look like. That is representative of the surrounding area.

The funding the Liberal–National government has put into that nutrient-stripping wetland project is part of its $7 million investment into six large-scale, nutrient-stripping wetlands on key tributaries into the Swan–Canning river system. The main focus is to reduce nitrogen and phosphorous inflows into the Swan–Canning Rivers. Of those, in my view Eric Singleton reserve is one of the best because of the amount of nutrients, let alone the tonnage of sediment that it removes from the water that flows through that site. Compared with some of the others, it is one of our most effective but it is also very important because it is gravity-fed. The Ellen Brook nutrient-stripping wetland, for example, relies very heavily on pumped infrastructure. It is artificially pumped through that wetland. It is an effective nutrient-stripping wetland, but Eric Singleton is one of the better designed ones. I might add that the government did that in partnership with the City of Bayswater. I do not think the state government can claim more credit by any means. The City of Bayswater well and truly came to the party with the restoration of the Eric Singleton reserve. As I said, it is perhaps one of the most effective.

I am glad to see that the member for Gosnells, after some earlier comments in this place, has come around and is now supporting nutrient-stripping wetlands. When I was announcing the achievement, the member did not seem particularly happy about it.

Mr C.J. Tallentire: I asked you what the overall percentage was.

Mr A.P. JACOB: I do not have that off the top of my head. I know I have answered it in this place in previous questions.

Mr C.J. Tallentire: When you look at it in that context, it is relatively small.

Mr A.P. JACOB: From memory, Eric Singleton was the highest performing in terms of percentage. That was the point that I was —

Mr C.J. Tallentire: It is 1.3 tonnes of nitrogen and 200 kilograms of phosphorous.

Mr A.P. JACOB: Now the member is not so keen on nutrient-stripping wetlands, but we will not go back to that.

Mr C.J. Tallentire: That is not what I said at all. I am just putting it into context.

Mr A.P. JACOB: The $7 million that this Liberal–National government has put into nutrient-stripping wetlands is in addition to the more than $16 million it has invested in 192 restoration projects across the Swan–Canning Rivers, particularly through our Riverbank program. This is timely because today I announced a further $2 million in Riverbank funding. It is always done in partnership with local governments. It is on a minimum match-funding basis. The $16 million the government has spent to date has unlocked $28 million of local government investment. The outcomes we get along that riparian edge of the river also work on tributaries. It can be done in partnership with local governments, particularly local governments that have more capacity as many of the ones that we partner with on the Riverbank program do. That is where we start to see really good outcomes. The Liberal–National government will continue to build on its conservation achievements for this state.

I can match this government’s track record in conservation to members opposite any day of the week. It is easy to talk a big game out there; it is even easy to talk a big game in here, but results and outcomes are what matter. When it comes to delivering results and outcomes in the environment, when it comes to delivering results and outcomes for the health of our river system and when it comes to delivering results and outcomes for areas such as Eric Singleton reserve, it now stands as a built monument to the fact that this government delivers. It is not making symbolic gestures or passionate speeches but it delivers.

Mr C.J. Tallentire: You are not interested in protection.

Mr A.P. JACOB: I will come to the point of protecting it, member for Gosnells. The member for Maylands asked if I had recently been to the site. I have been to the site recently. The member for Gosnells might be
interested to know I was at the site the same day that he was there. The member mentioned he was there for the completion of the Avon Descent. I was also there for that. I might take a moment to mention that my brother and his sons actually won the Avon Descent.

Mr C.J. Tallentire: I didn’t see you there.

Mr A.P. JACOB: I saw you, member for Gosnells!

Mr C.J. Tallentire: I was there for four hours; it must have been a fleeting visit.

Mr A.P. JACOB: That is the wrong time to interject, member for Gosnells. I admit that I was not there in my capacity as Minister for Environment; I was there as part of the support crew for my brother.

Ms L.L. Baker: Did you see what has happened there?

Mr A.P. JACOB: Yes, I did, member for Maylands. I will come to that.

My brother has long been a paddler in the Avon Descent. This was the year he was determined to win his category, and he did win his category. I might send him *Hansard* of that one; but that is neither here nor there.

Mr C.J. Tallentire: Perhaps you could spend time talking to people about the destruction.

Mr A.P. JACOB: Absolutely, member for Gosnells. I was there on that day. The member actually walked directly past me. I was the person taking very keen photos of Eric Singleton reserve. I was on the footpath as the member was walking away with his pull-up banners over his shoulder. I did not realise it was the member until he had walked past me, because I was engrossed in looking at the works we had done in the Eric Singleton reserve. I was not the only one there; members of my family were there.

Several members interjected.

Mr A.P. JACOB: I do not take interjections from members in the gallery.

The ACTING SPEAKER (Mr P. Abetz): Members, let us settle down a little.

Mr A.P. JACOB: I am not for a second going to be critical of members in the gallery. I saw many volunteers putting in a lot of work on the site on that day. I recognise the passion that members of the local community have for this issue. I recognise that the member for Maylands is seeking to represent her constituents by bringing it to this place. I do not trivialise that for a second. But I cannot take comments like those that the member for Gosnells has made and I cannot take the wording of this petition, or the wording of this motion, without putting a bit of perspective on the vast gulf between talking a big game and actually achieving environmental outcomes.

On the day, at the completion of the Avon Descent, many volunteers were collecting signatures from people for the petition. Obviously, as a family event for us, several members of my family were approached. I have a copy of the petition. I note that because it was nonconforming, the member for Maylands could not table it. I am happy if she wants to use this as an opportunity to call for me to table this document. One of them managed to get me a copy of the petition. This is the clause that I want to draw attention to, because this is where there is a gulf; they have all care and good intention but are not actually prepared to engage in delivering outcomes. The final clause of the petition reads —

"Finally we ask the State Government to urgently strengthen environmental conservation laws for the protection of WA’s unique wildlife and ecosystems ..."

I could not agree more. I have put three and a half years of work into doing exactly that to bring forward for the first time legislation that protects critical habitat, that protects threatened ecological communities —

Mr C.J. Tallentire interjected.

Mr A.P. JACOB: Why did the member for Gosnells vote against it?

Mr C.J. Tallentire interjected.

Mr A.P. JACOB: Rubbish! Why did he vote against it?

Several members interjected.

The ACTING SPEAKER: Members, just settle down.

Mr A.P. JACOB: The member can talk a big game, but he cannot get away —

Several members interjected.

The ACTING SPEAKER: Members, I am on my feet. Let us just settle down a little bit. The minister has the call.

[Quorum formed.]

Mr C.J. Tallentire: You don’t even want to use your Wildlife Conservation Act.
The ACTING SPEAKER: Member for Gosnells! The minister has the call.

Mr A.P. JACOB: The Wildlife Conservation Act does not have provisions to protect critical habitat.

Mr C.J. Tallentire: Yes, it does—taking of animals, taking of fauna.

The ACTING SPEAKER: Member for Gosnells, I am going to have to call you in a moment if you do not desist. I appreciate your passion.

Mr A.P. JACOB: Nor does it have provisions to protect threatened ecological communities. The member for Gosnells has a lot to answer for.

Mr C.J. Tallentire interjected.

The ACTING SPEAKER: Member for Gosnells, I am going to have to call you. Is this the first time you have been called today? I cannot find you on the list. It must be the first time.

Mr A.P. JACOB: I was not necessarily going to go there, but I will regale the member with a conversation I had with one of the volunteers. As I said, I recognise that they are passionate individuals and they are doing a good job in representing their community. I drew attention to that clause because I saw a number of Labor Party people running around supporting the petition and supporting what was sought to be achieved. I asked one of those people—they did not realise at the time that I was the environment minister—why the Labor Party voted against the bill and that clause. They were a very informed person.

Mr C.J. Tallentire: Will you take an interjection?

Mr A.P. JACOB: No; I did not interject on the member.

Mr C.J. Tallentire: You’re too scared to take an interjection.

The ACTING SPEAKER: Member for Gosnells! Mr A.P. JACOB: All right; go on.

Mr C.J. Tallentire: Why are you not insisting that your agency use the requirement in the Wildlife Conservation Act that you have a permit to take fauna? You’re not even using that. That’s existing legislation that’s in play now. The BC act is down the track. You’re failing to use the Wildlife Conservation Act now. Why are you failing to use it now?

Mr A.P. JACOB: That is a very misleading interjection.

Mr C.J. Tallentire interjected.

The ACTING SPEAKER: Member for Gosnells, you have had your interjection. Allow the minister to respond.

Mr A.P. JACOB: In case anyone tries to get me on relevance, the simple fact of the matter is that the motion before us states —

That this house condemns the Liberal–National government for its poor management of the Skippers Row wetlands area in Bayswater and for failing to protect vital urban wetlands through either planning or environmental legislations, …

We cannot say that our management of the Eric Singleton reserve has been poor, because no-one has done what we have done there, and the member for Maylands gave due credit to that. I am trying to do environmental legislation. I am trying to do the legislation that the Labor Party committed to that has all the clauses that it sought to have but never did, and because of sheer petty jealousy, they voted against it in this place. They tried to send it to a committee of the upper house until November and now they are filibustering on it. The clause that the member went on about in his speech, which is why I have come back to this —


Mr A.P. JACOB: Shoosh!

The ACTING SPEAKER: Member for Gosnells!

Mr C.J. Tallentire interjected.

The ACTING SPEAKER: Member for Gosnells, I am going to call you for a second time. Please desist.

Mr A.P. JACOB: The member for Gosnells can talk a big game but these are the facts. He called us out on a clause in that bill, which he continues to call the “God clause”, that he says allows the minister to approve taking to extinction. The clause does not allow the minister to take —

Mr C.J. Tallentire: That has nothing to do with this.

Mr A.P. JACOB: The member mentioned it in his comments. Stop making silly interjections.
Mr C.J. Tallentire interjected.

The ACTING SPEAKER: Member for Gosnells, please!

Mr A.P. JACOB: I am going to put this on the record, because the member is again misleading the people in the gallery and he is misleading the people outside. That clause never allowed the taking. The power exists now under the Wildlife Conservation Act to take to extinction. Under the existing clause, there is no check and balance. It does not allow for public notification. I can do it. I do not need to come into this house under the current act. Those clauses were not put in the bill to give me more power; those clauses were put in the bill to put an accountability mechanism around the minister of the day. Does the member know where I got the idea from for those clauses? They were in the Labor Party’s draft bill when it went out for public consultation.

Mr C.J. Tallentire: That’s not relevant, minister.

Mr A.P. JACOB: Now it is not relevant! The member has been running with this for four months. They are the facts of the matter. The member for Gosnells just spoke for half an hour on it. He cannot get away from the simple fact that the clauses that he opposed in that bill were extra accountability mechanisms, not what he made them out to be, and he knows that. Secondly, they are clauses that we got from the Labor Party; they are clauses that the Labor Party proposed to put in its bill.

Mr C.J. Tallentire interjected.

The ACTING SPEAKER: Member for Gosnells, I appreciate your passion about this thing but I have called you twice. I will call you a third time if you do not desist.

Mr C.J. Tallentire: He is misleading Parliament.

The ACTING SPEAKER: You have had your chance. Now it is his turn to speak.

Mr A.P. JACOB: I am just sick to death, quite frankly — Several members interjected.

The ACTING SPEAKER: Members! This is sufficient. I will not allow any more interjections. The minister has the call. Minister, please direct your comments to the Chair.

Mr A.P. JACOB: I am trying to direct my comments to the Chair.

Ms L.L. Baker: Are you going to do anything about the wetlands?

The ACTING SPEAKER: Member for Maylands!

Mr A.P. JACOB: I will, member for Maylands. I will seek an extension so that I have time to get to those. These are the points that were made during the debate.

Ms L.L. Baker interjected.

The ACTING SPEAKER: Member for Maylands, have you been called today?

Ms L.L. Baker: No, but go ahead.

Mr A.P. JACOB: I seek an extension, Mr Acting Speaker.

[Member’s time extended.]

Mr A.P. JACOB: These are the points that were raised during the debate and I think it is time that we exposed them for what they are.

Mr C.J. Tallentire: Which debate, minister?

Mr A.P. JACOB: It was during the member for Gosnells’ comments; they were only half an hour ago.

Mr C.J. Tallentire interjected.

The ACTING SPEAKER: Member for Gosnells, I am now going to call you for the third time. If you insist on persisting, you may be heading home a little earlier than planned.

Mr A.P. JACOB: Frankly, I am a little sick of the chest beating and grandstanding on environmental issues by the Labor Party. When it comes to crunch time, they vote against key measures —

Mr C.J. Tallentire: You’re being deceitful, minister. This is an outrageous act of deceit.

The ACTING SPEAKER: Member for Gosnells!

Mr A.P. JACOB: The member for Gosnells does not like being called out. When it comes to achievement, all I need to do is point to Eric Singleton reserve, the more than $40 million of investment in riverbank funding and the achieved outcomes under this government to say that we achieve.

Ms L.L. Baker: And the large pile of rubbish that has been perpetrated on my community.
The ACTING SPEAKER: Member for Maylands!

Mr A.P. JACOB: I will come to that. Members cannot try to bring in all these other matters. They cannot deceive people in the gallery who are just passionate about their area and try to make out as though the Liberal–National government does not care about them.

Ms L.L. Baker interjected.

The ACTING SPEAKER: Member for Maylands!

Mr A.P. JACOB: We care more about the environment than any members opposite. We do not grandstand about it. We just get on with the job.

Sitting suspended from 6.00 to 7.00 pm

Mr A.P. JACOB: Before we went into the break, I was addressing some of the member for Gosnells’ comments, particularly those that pertained to the Biodiversity Conservation Bill and also the motion itself, which purports to criticise the government for failing to act on environmental legislation. I was at the community event down at the foreshore on the riverbank, as was the member for Gosnells, and I think I saw the member for Maylands going around.

Mr C.J. Tallentire: But you didn’t want to talk to people in an official capacity.

Mr A.P. JACOB: No.

Mr C.J. Tallentire: You wanted to go under the radar.

The ACTING SPEAKER: Member.

Mr A.P. JACOB: Yes, I was there as a support crew member for my brother who was competing in the kayak event of the Avon Descent. As I said, he won —

Mr C.J. Tallentire: Why would you miss the opportunity to talk people?

The ACTING SPEAKER: Sorry, member for Gosnells —

Mr C.J. Tallentire interjected.

The ACTING SPEAKER (Mr I.C. Blayney): Member for Gosnells, I am on my feet. You have been called three times. It may well be the case that you become the first person whom I eject from this chamber. Thank you.

Mr A.P. JACOB: Mr Acting Speaker —

Several members interjected.

Mr A.P. JACOB: It was quite a significant event for my family and me. We quite enjoyed the day down there. I have quite a large family and I am entitled to spend some time with them. Having said that, I did use the opportunity to wander over and have a look at not only how Eric Singleton wetland is progressing with the significant upgrades that this government has put into it, but also to use the opportunity to walk past the sites in question. The site had been cleared and, in fact, that is where I parked for the event. I had a good look at the site while I was there. I was not there in an official capacity, but I had a good look. However, I ended up with the opportunity to speak with one of the people who were collecting signatures for the petitions. This individual was very well informed about current events.

Mr C.J. Tallentire: Did you declare who you were?

Mr A.P. JACOB: No, I did not.

Mr C.J. Tallentire: You didn’t declare who you were?

Mr A.P. JACOB: They did not ask me. They approached me as just a member of the public and they were producing these —

Mr C.J. Tallentire: I think that’s deceitful, minister.

Several members interjected.

Mr A.P. JACOB: Anyway, the individual in question was very pleasant and very passionate about what they were doing. It was really good to have a little chat. I asked about the final clause in the petition. There were Labor members of Parliament and clearly some Labor supporters—I am not saying all the community members are in that camp, by any means—who also supported the petition, which gave me occasion to ask about the final clause. It states —

Finally we ask the State Government to urgently strengthen environmental conservation laws for the protection of WA’s unique wildlife and ecosystems …
I asked the individual whether they were aware that the state government has indeed brought in a new Biodiversity Conservation Act. They were aware. I then asked whether they knew why the Labor Party had voted against the bill. The person said that they thought the Labor Party wanted more than what is in the bill. My question then was, “They may well want more, but doesn’t this bill improve on the Wildlife Conservation Act in every measure?” They acknowledged that it did. They knew enough about the bill to acknowledge that it did improve it in every measure. I then asked this person —

Mr C.J. Tallentire interjected.

Mr A.P. JACOB: When I asked this person why the Labor Party voted against the bill, they made a very interesting comment—quite a disparaging comment—about the member for Gosnells. It was essentially that the Labor Party should have voted for this bill —

Mr C.J. Tallentire interjected.

Mr A.P. JACOB: I do not think the member’s supporter base necessarily support the opposition of the Biodiversity Conservation Bill to the level he thinks they do.

Ms L.L. Baker: Excuse me, minister. We have been listening to the minister for a long time. You have not mentioned Carter’s block more than once in your whole speech. I have had to listen to you haranguing the shadow minister. I get that, but there are people here who have waited to hear what you are going to do to address the desecration of this wetland—not Eric Singleton, but Carter’s block.

Mr A.P. JACOB: I thank the member for Maylands for the interjection. I still have 11 minutes to address the item. I am directly addressing the motion before the house, because the motion seeks to condemn the government for failing to protect vital urban wetlands through environmental legislation, and I am not only highlighting to the house an attempt by this government to bring in that exact environmental legislation to protect critical habitat, but also I am very much underlining for the house, member for Maylands, the fact that you voted against it, too—as did all your colleagues. There is no getting away from that. The member cannot bring in motions —

Ms L.L. Baker: Minister, would that have solved the problem with Carter’s block?

Mr A.P. JACOB: The member should not have let the member for Gosnells lead her by the nose, perhaps, on that one.

Ms L.L. Baker: You need to answer whether it would have stopped the desecration that has happened with Carter’s wetlands.

Mr A.P. JACOB: Member for Maylands, my reply is not so much directed towards your comments as it is to the comments of the member for Gosnells, who chose to make these issues front and centre in his contribution to the debate in talking about the government’s track record. Let me correct the record on this government’s track record, because it stands next to any prior government on any measure. It stands next to any prior government on environmental policy in legislative reform and Conservation and Land Management Act amendments delivered. They were sought for 25 years.

Mr C.J. Tallentire: You got rid of 50 policies.

Mr A.P. JACOB: That is not even true, and the member knows it.

Ms L.L. Baker: Minister, would that have solved the problem with Carter’s block?

Mr A.P. JACOB: I come back to addressing the motion, as written, from the member for Maylands, which directly links back to the petition on this matter. I am addressing both of those issues in terms of environmental engagement. The member for Maylands knows very well, as does the member for Gosnells, that this issue as it currently stands is largely a planning matter and that is why it sits with the parliamentary secretary as the lead speaker in this house to address the issue. This is a matter for the Minister for Planning and the WA Planning Commission. I can confirm, as the member has, that relevant environmental agencies were engaged. They were consulted, and no environmental objections to this development were raised from those agencies. That is part of the process, and that process has been followed. The comments that the member for Maylands is bringing up—I think she knows full well—pertain to the parliamentary secretary.

Mr C.J. Tallentire: Got rid of 50 policies.

Mr A.P. JACOB: I come back to addressing the motion, as written, from the member for Maylands, which directly links back to the petition on this matter. I am addressing both of those issues in terms of environmental engagement. The member for Maylands knows very well, as does the member for Gosnells, that this issue as it currently stands is largely a planning matter and that is why it sits with the parliamentary secretary as the lead speaker in this house to address the issue. This is a matter for the Minister for Planning and the WA Planning Commission. I can confirm, as the member has, that relevant environmental agencies were engaged. They were consulted, and no environmental objections to this development were raised from those agencies. That is part of the process, and that process has been followed. The comments that the member for Maylands is bringing up—I think she knows full well—pertain to the parliamentary secretary.
anywhere near stacking up to this government. I have been sitting here for three and a half years now and members oppose talk about very lofty aspirations, and I do not disagree with those aspirations, but when it comes to crunch time to deliver, not only has the Labor Party got extensive history of failing to deliver—CALM act reform and biodiversity conservation reform—but we get to the absurd level, member for Gosnells, that the opposition votes against it in this house and he purports to vote against it.

Mr C.J. Tallentire interjected.

Mr A.P. JACOB: No! I am not being rude. I am addressing—

Mr C.J. Tallentire interjected.

Mr A.P. JACOB: Stop trying to interrupt! Here is the key point, which the member cannot dodge. The opposition votes against things that it purported to support, year after year, and government after government.

Mr C.J. Tallentire: You gutted the Biodiversity Conservation Bill. You know it, and I know it.

Mr A.P. JACOB: That is a clause that the member’s side had proposed.

Mr C.J. Tallentire interjected.

The ACTING SPEAKER (Mr I.C. Blayney): Member, this, I am afraid, is your very last warning. You may actually want to be thrown out on this legislation, and I will oblige if you continue to interrupt.

Mr A.P. JACOB: Thank you, Mr Acting Speaker. I will go back through it again. The opposition has had these aspirations, year after year, government after government, going back to the 1980s and 1990s.

Mr A.P. JACOB: You have a right to speak, and I have a right to respond.

Mr C.J. Tallentire: Stop trying to deflect. Stop trying to bring in other matters. The member is pinned. History will take him down on this one, and he cannot dodge it. This is what the opposition did.

Suspension of Member

The ACTING SPEAKER (Mr I.C. Blayney): I genuinely regret this, member for Gosnells. I call the member for Gosnells to order for the fourth time. As the member has been called to order more than three times, I now suspend the member from the service of the house until the adjournment of today’s sitting.

[The member for Gosnells left the chamber.]

Debate Resumed

Mr A.P. JACOB: As I said, for the member for Maylands, I was addressing the issue before us, but I will finish on the line that I was pursuing. It is important that members opposite understand what happened a few weeks ago in this place. When we brought in the biodiversity conservation legislation that has been sought for so long, members opposite voted against it. In interjecting on the member for Maylands in the third reading debate, I asked whether she could name a single area in which the Biodiversity Conservation Bill does not improve our ability, through legislation, to manage the biodiversity conservation of this state.

Ms L.L. Baker: I didn’t.

Mr A.P. JACOB: No, because the legislation improves every area, and on any measure, yet the opposition still voted against it. The reason the opposition gave for voting against it was a clause that the opposition itself had sought to include in a previous aborted attempt to bring a bill before this house.

Ms L.L. Baker: I don’t think I spoke to that clause.

Mr A.P. JACOB: I know; that was the member for Gosnells. He kept interrupting me. I know that the opposition hates me making this point, but that is what members opposite did. That is symbolic of every measure in the environment portfolio. The opposition is so caught up with grandstanding and perpetuating the mythology that Labor is better at the environment, that it is actually now hindering the outcomes that the Liberal–National government is achieving, such as the investment of $103 million in the Kimberley science and conservation strategy. It seems like members opposite hate that. We have the Parks for People program and nutrient-stripping wetlands, and I still get interactions criticising that as a program. The Eric Singleton Bird Sanctuary stands as a monument for generations of what is delivered by investment in outcomes.

Ms L.L. Baker: Didn’t I say that?
Mr A.P. JACOB: Yes, the member did. I am not seeking to have a crack at the member for Maylands on that at all, and I acknowledged that several times in my speech.

Skippers Row is a private land development on residential zoned land. The issue is a matter for the Minister for Planning and the Western Australian Planning Commission, as it stands under current legislation. That is not something new, and it is not even something that we as a government brought in. It is a continuation of a system that has existed for many years in Western Australia. I recognise that the member for Maylands is standing up for her constituents, and I respect that. It is my job to point out that this is a planning matter.

[Interruption from the gallery.]

Mr A.P. JACOB: Yes, and I am delivering way more than that lot ever did. That individual is not too keen on our achievements either, but they will stand the test of time.

Most importantly, the Eric Singleton Bird Sanctuary will not be impacted by this development and the WAPC has imposed a number of strict conditions on the private development to ensure that there are no negative impacts on the Eric Singleton Bird Sanctuary. To address the substantive theme of the amendment, my colleague the Parliamentary Secretary to the Minister for Planning will lead the government in the debate on this matter. I will not be supporting the motion as it stands. Obviously, a motion that seeks to condemn the Liberal–National government’s efforts in environmental legislation would not stand up to any scrutiny. It is incredibly ironic that such a motion has been moved by the very people who voted against our attempts to bring in legislative recognition of critical habitat and threatened ecological communities.

MR P.C. TINLEY (Willagee) [7.15 pm]: I would like to make a contribution to this motion moved by the member for Maylands about the Skippers Row wetlands area. It is particularly important for a range of reasons, the first of which is the substantive issue as noted in the motion, which states —

That this house condemns the Liberal–National government for its poor management of the Skippers Row wetlands area in Bayswater and for failing to protect vital urban wetlands through either planning or environmental legislation, and calls for the urgent protection of the remaining Bayswater wetlands known as Carter’s block, which is still currently at risk.

Much of the contributions of other members in this place have been circulating, not unreasonably, around the particular areas of the Bayswater wetlands and Carter’s block. I think it is very important in these debates to highlight the wider issues. There is a much wider issue here, not to diminish in any way, shape or form the substantive matters that I have just read out about Carter’s block and the Bayswater wetlands more generally. I refer to the part of the motion that refers to “failing to protect vital urban wetlands through either planning or environmental legislation”.

Failure to protect urban wetlands, as I said, is the area on which I would like to focus my short contribution to this debate, simply because we cannot look at the Bayswater wetlands in isolation. As we know and environmental legislation seeks to achieve in all its forms to understand, any point on the map or any constituent part of an environment or ecosystem is connected to every other part of our wider ecosystem. The biggest footprint left on that environment is the human footprint.

The Bayswater wetlands sit nested inside a much wider chain of wetlands on the Swan coastal plain. It is very important that we understand that the protection of the Bayswater wetlands is not disconnected from the protection of every other wetland across the Swan coastal plain. For the benefit of members who are unaware or did not do a basic geology unit, as I did, we have to transect the Swan coastal plain to understand its true nature and its unique position in the Western Australian and Perth environment specifically. The Swan coastal plain contains the Swan River as it travels west to the Indian Ocean, as we all know. But there is much more to it. It continues well beyond the boundaries of the Swan coastal plain and its tributaries and it creates a geological and biological zone called the Interim Biogeographic Regionalisation for Australia region. The IBRA is a particularly important area that goes on the national register and is one of the distinct physiographic provinces of the larger Western Australian Shield, as it is called. A lot of this stuff refers to the geomorphic presentation of the state of Western Australia as we come to find it and on which we impose urbanisation and human footprints.

The Swan coastal plain, of which the Bayswater wetlands is a part, is an almost 30-kilometre-wide strip of wetlands on the Indian Ocean coast, as we know, directly west of the Darling Scarp. Therefore, we cannot think of these wetlands in isolation to that particular pocket. I draw the attention of members to places such as Lake Monger, the Wanneroo wetlands, and the Beeliar wetlands in my area and beyond. All those wetlands form part of the aqualung—as it has come to be known by some people—that runs across the Swan coastal plain and is vitally important to the flora and fauna of our ecosystem on this side of the Darling Range.

This motion refers to the protection of vital urban wetlands through either planning or environmental legislation. It is important that we understand that there is much more to environmental protection and preservation than just legislation. We need to move beyond preservation and talk about enhancement of the environment and creating a thriving ecosystem, in which we participate as humans, across that whole area through things other than
legislation. We talk about government policy. It is important that in this place we make a distinction between policy and legislation. Governments come to power with the ambition of achieving a particular mandate or agenda that they presented to the people of Western Australia at the election. Governments can then say at some point in the future, when they walk away from government, after typically two terms, that they made a contribution not just in one specific area, but on a range of policy fronts and with a range of intentions to enhance what it is to be Western Australian and to enhance the natural environment in which we live. The natural environment is particularly important. We often talk in this place about the economic environment and the quality of life that is delivered through a thriving and diverse economy as it surges forward into a new and uncertain future, with this state sitting on the edge of the Indian Ocean and moving into a changing region.

However, we cannot divorce one ambition from the other. It is vital that we protect our wetlands, particularly when we live in the most urbanised part of Western Australia. I remind members that 79 per cent of the population of the state of Western Australia lives in the greater Perth metropolitan area. Therefore, it makes even more sense to ensure that our natural environment is protected. The very point that there is much more to a wetland than the body of water that resides within it. We all know that—or I hope we all know that. The wetlands, as they break out from the deep south in the estuary area around the Peel and go further north, bring with them a range of other benefits to the flora and fauna within the Swan coastal plain, as I have said.

It is also important to understand that this is a very fragile environment. This is a geomorphic presentation in Western Australia that was formed in the last ice age. It has taken millennia to achieve what we, as in the human inhabitants of the Swan coastal plain—of course I am talking about a 40 000-year history as well—found when we settled and operated on the Swan coastal plain. The other shape on the Swan coastal plain is the steepness and orientation of the Darling Scarp. All the water courses run generally east–west, and when they reach the Swan coastal plain, they encounter a very deep set of two particular obstacles. The first is the permeable soils that we all know; that classic hungry sand that is particularly found in the eastern city. It is highly permeable and a lot of water leaches through to the aquifers, which of itself is not great. Much of the flow is lost in those particular water courses, and the consequence of the north–south orientated dunes is to create an obstacle to the further wester flow of water as it comes off the escarpment during the wet periods. As a result, a lot of the water courses end up turning left and right. The Swan coastal plain and the wetlands are created as the east–west flow of water comes off the escarpment generally. It runs into a series of ancient dunes, which the Swan coastal plain is constructed of, which force the water to go north and south. In the lowest points of that action in the littoral zone, a chain of wetlands is formed. If anyone has taken a flight over Perth, they will see those wetlands extend all the way from the estuaries in the south right through to the far north of places like Ellenbrook and beyond. When it comes to talking about the value of these wetlands and how we look after them and make them thrive, it is important to also note that it is more to do with policy than law. When we have to rely on legislation to achieve a particular societal outcome—in this case, ecological protection—the government has failed in its leadership to drive and create the consensus and allow the community to understand the wider ambition.

We find no better example of the corruption of that responsibility to create the consensus for a thriving ecosystem and ecology of the wetlands of Western Australia, particularly the Swan coastal plain for successive generations, than in the Beeliar wetlands. The Beeliar wetlands has suffered under the environmental cloak, if you like, of this government as it attempts to drive what can only be described as a reckless economic plan in the form of the Perth Freight Link. For many years there has been a name that sends shivers down the spine of all of my constituents who care about this matter—that is, Roe 8. If you say “Roe 8” in the suburbs of Bibra Lake, North Lake, Coolbellup, Hamilton Hill, Spearwood or Hilton Park, a general sense of alarm will be found amongst the constituents who I represent about how their way of life will be irrevocably changed by the development of a six-lane scar through their community. We will not know what form the PFL will take in its ultimate iteration until the government makes up its mind.

Dr K.D. Hames: I think your debate has been hijacked again, member for Maylands.

Mr P.C. Tinley: The member might say that, but I would have thought that the member would be very keen to get to his feet and represent his constituency about the wider issues I just raised about the wetland. It involves far more than the concerns around the Bayswater wetlands, because they are not unlinked. How can the member possibly say that this debate is hijacked when the motion is about the failure to protect vital urban wetlands, which presupposes a wider debate than the Bayswater wetlands, through either planning or environmental legislation? This government is planning to build the Perth Freight Link through what is commonly known by a lot of people as the Kings Park south of the metro area—that is, the Beeliar wetlands. It is a significant piece of
the aqualung that, over the years, has survived a landfill site on its western boundary and thrived despite that through a lot of work and a lot of help from local communities. It is now trying to see off hopefully the last of the threats imposed on it through the planning intention of this government and a reckless economic plan that does not attend to the inbound and outbound strategic freight network of Western Australia.

I remind members that Roe 8 will extend the Roe Highway, with six lanes coming off that highway through a wetland that the Environmental Protection Authority itself initially assessed in 2003. It never changed that assessment, I might add, of the ecological values of North Lake and Bibra Lake, which make up the Beeliar wetlands. It stated —

... the EPA concludes that any proposal for the construction of the alignment of Roe Highway Stage 8 through the Beeliar Regional Park would be extremely difficult to be made environmentally acceptable. 

... However the EPA is of the opinion that the overall impacts of construction within the alignment, or any alignment through the Beeliar Regional Park in the vicinity of North Lake and Bibra Lake, would lead to the ecological values of the area as a whole being diminished in the long-term. 

If this place is for anything, it is for the long term. It is for the successive generations of Western Australians for whom we would like to leave a better place. I reiterate —

... would lead to the ecological values of the area as a whole being diminished in the long-term. 

It goes on to state —

Every effort should be made to avoid this. 

It continues —

It is recommended that other alternatives to direct freight through the general area, which do not involve the clearing and filling of the wetlands within the Beeliar Regional Park, be pursued.

That was from 2003 EPA bulletin 1088, which highlights the ecological values of North Lake and Bibra Lake. This highway provides no particular benefit to the people of those localised communities. I understand that successive state governments have to think in strategic terms of the long-term economic and environmental values that are in the best interests of future Western Australians. As a local member, I have to identify the impacts on the constituents whom I represent that are directly affected. The residents of the suburbs of Bibra Lake, South Lake and North Lake will get no benefit from Roe 8 because they will have no access to it. They will have to endure the degradation of their local parkland, the Beeliar wetlands. If it ever comes to pass, they will also have to endure the traffic and the diesel particulates that have been shown to be carcinogenic, particularly when we look at the load ratings for the roads in the state. It is all linked to the wider Perth Freight Link. Residents will have significant health issues in those near environments around the roads. There is nothing in this. It does not make their travel easier and it does not stop the congestion for those getting out of the suburbs of Bibra Lake and North Lake in my electorate any easier by putting a six-lane privatised road through the wetlands.

[Member’s time extended.]

Mr P.C. TINLEY: It does nothing for the wider state of Western Australia, both economically and environmentally. Economically, Western Australians do not benefit from it. No matter what construction method one talks about, it will drive a leaching of the soil. Leaching will occur through construction, let alone the knock-on impacts from diesel particulates. It will also impact environmentally; I am talking about endangered species. The Carnaby’s black-cockatoo is one such thing that cannot be overlooked. A lot of people say, “You want to talk about cockatoos! You’re worried about one thing; you’re stopping progress.” These are the people who say that we are in the road of progress. True environmentalists are good economists. Good strategic economic thinkers understand the instilled value of the natural environment and the natural endowment as creating a quality place to live from which an economy can be grown. If it is a sea of asphalt and concrete, I am not too sure too many people would find it an enjoyable place to live and work. They are not unlinked. Everybody knows a Carnaby’s cockatoo, or Carnaby’s black-cockatoo as it is known from time to time, resides in a very unique area in the south west of Western Australia. It is also internationally unique. Its habitat has gradually been destroyed; again, largely through a lot of infill of the wetlands and other locations, and a general drying of the environment has diminished their natural habitat naturally, as well as man-made consequences.

I will quote from the Save Beeliar Wetlands website. I did not have time to find the wider reference, but I think it can be reliably used. Its website states —

Sadly, the gradual destruction of their natural habitat had seen the number of Carnaby’s Cockatoos in WA decrease by at least 50% over the past 45 years.

That is in my lifetime. In the majority of members’ lifetime, there has been a reduction by half in the Carnaby’s cockatoos’ flock in Western Australia. The quote continues —

Now the Great Cockey Count of 2011 has produced the devastating news that their numbers have decreased even more—by one third compared to last year —
That was in 2011 —

at roost sites across the Greater Swan Region.

The point I make about Carnaby’s cockatoos would be the natural rebuttal to what would be the fact—particularly with Perth Freight Link or Roe 8—that where detailed road planning has occurred, offsets for Carnaby’s cockatoo nesting sites will be provided. That was one of the conditions of the Environmental Protection Authority’s approval, which was later rebutted in an appeal to the Supreme Court. We note the jurisdictional and legal framework that has occurred. The quotes goes on —

Carnaby’s have at least 12 known roosting sites within 6km of the planned highway.

That will be impacted by noise and light and of course by diesel fumes that will impact on the useful roosting sites, as they are called, within the foraging areas.

When 249 potential nesting trees are cleared as a result of Roe 8, that valuable resource cannot be replicated by a land offset—it cannot be done. Carnaby’s cockatoos have a set number of roosting sites in Western Australia. Just because a piece of dirt is preserved and the government says that is compensation, in roost terms, that is a false economy. There is only a finite number of roosting sites for Carnaby’s cockatoos. That is it; there are no more. Every time a piece of that is taken away, no matter what is done, it cannot be replaced. When Carnaby’s cockatoos fly into the Beeliar wetlands for their roosting season, will they find the Minister for Transport there waving them off saying, “This is not the nesting site you’re looking for. We’ve reserved a piece of dirt over here for you over this way” with a couple of paddles? “No, black cockatoos; go that way. This is not the nesting site you need because they’re not here anymore. Two hundred and forty-nine nesting trees are gone, but by the way, we’ve prepared something earlier that is your roosting sites over here.” Actually, they are already taken, because the Western Australian flock of Carnaby’s cockatoos knows that those trees are there; they use those trees. Preserving a piece of dirt for them does not make it any easier. All the government is doing is reducing the number of roosting sites for Carnaby’s cockatoos. It does not matter what it does. If it takes these 249 potential nesting sites out of the Beeliar wetlands, that will be it. We can expect a concomitant reduction in Carnaby’s cockatoos. Half of them have been lost as at 2011. Goodness knows how many more we have lost since then.

People might say, “That’s the price of progress. We all have to fit on this thing called the Swan coastal plain. If we’ve lost half the flock, get some advice about how many more we could lose without it going into extinction. That’s not really something we want to happen; let’s not do that.” What is just above extinction? That is what we are talking about here. What line does the government want, because it is more than just the Carnaby’s cockatoo? Of course it is. The Carnaby’s cockatoo does not occupy its piece of the ecosystem in isolation. We all know that. There are other sources reliant on their participation in that ecosystem. We know that if they are taken out, it will have a natural knock-on effect. If a piece of flora or fauna is taken out of the ecosystem, the community needs to understand that will be an impact on it. Is that acceptable? We have lost half the Carnaby’s cockatoos and all the other interrelated multipliers, if you like, in the ecosystem. Are we prepared to lose any more? What do we say to our kids? What do I say to my 10-year-old and my six-year-old? How do I articulate a future that they can believe in and a Western Australia that they want to participate in so that they feel like they are in a vibrant, thriving, natural and artificial community? I cannot.

The other birdlife in the wetlands that will be impacted on is not insignificant either. The nesting and wading birds and so on will be impacted on. No matter how the government constructs this thing across the Beeliar wetlands, it will create tunnels. Whether that is done by pylons—we understand the pylon method—it will create narrow points, or choke points, between Bibra Lake and North Lake through which a lot of fauna will have to pass. That will be a natural place for the congregation of predators. The Environmental Protection Authority report does not model the predatory impact across the food chain, particularly from introduced species such as cats and dogs, on the natural environment of the Beeliar wetlands. It cannot possibly do it. It is enough to say that it is simply going to channel the native birdlife and the native fauna and create an absolute smorgasbord for peak carnivores. It is as simple as that.

There is a choice for the people of Western Australia that this motion particularly refers to, and it goes beyond the legislation. Legislation is only as good as the policy and the leadership that delivers it to the community. In this case, across the Swan coastal plain and the 30-odd kilometres of wetlands or, as they say, the aqualung of the Swan coastal plain, it is fundamentally important that we understand that we are doing irreparable damage to the whole ecosystem by not attending to the remaining Bayswater wetlands and the particular issues around Carter’s block. I would be very interested in the parliamentary secretary’s view about the detailed issues around Carter’s block that the member for Maylands articulated in her motion and her speech. I hope he can make some contribution so that the community of Maylands can understand the cost and opportunity of doing that.

More broadly, the Perth Freight Link is an ecological and economic disaster. I will not go into that too much, and I have avoided the economics of the Perth Freight Link and the wider inbound-outbound freight strategy for Western Australia because I did not want to detract from the good work done by the Save Beeliar Wetlands Campaign and other participants that resist Roe 8 and will continue to resist Roe 8 for as long as is humanly possible to ensure that we have a future that our children can believe in, in the natural environment.
DR K.D. HAMES (Dawesville) [7.45 pm]: I have to say that in this debate, I feel sorry for the member for Maylands. As usual, she produced a very passionate and compassionate speech that was very well constructed in support of the people of her electorate. I thought she did a very good job. Sadly, I think the member has been somewhat hijacked in this debate, firstly, by whoever wrote the petition in the first place, and I suspect that the extra line at the bottom of the petition probably came from the member for Gosnells or someone of his ilk. That really detracted from focusing on the issue here, which is Skippers Row. I enjoyed the member for Willagee’s speech; it was very well constructed. I did not agree with most of it; nevertheless, it was a well-constructed speech. Again, however, it had nothing to do with Skippers Row. I know members opposite got cross with the Minister for Environment during this debate, but he was dealing with environmental issues raised by the member for Gosnells. I enjoyed the speeches by the members for Maylands and Willagee; I did not enjoy the member for Gosnells’ speech, but then I seldom do.

Ms M.M. Quirk interjected.

Dr K.D. HAMES: He probably feels the same about me.

I want to talk specifically about Skippers Row. I probably have a little authority on the history of this area. I was a local council member representing this area from 1985 to 1993, when I was elected to Parliament. I remember very well going down to that area. The little road that is now a walkway was a road at the time—the extension of King William Road, which went down next to what is now Eric Singleton Bird Sanctuary. On the other side was land that I think was owned at the time by the former Labor member of Parliament, John D’Orazio. All the land behind there belonged to the D’Orazio family, and John was a very good friend of mine. We were together on Bayswater council, with him as mayor and me as councillor and occasionally deputy mayor in exchange with Hon Adele Farina, who was otherwise deputy mayor on occasions! We were part of a factional group that had both Liberal, Labor and others. We were passionate about that area. It had been a rubbish tip—not the Skippers Row bit; that had been resolved before I became a councillor—and I am fairly sure that the rubbish tip was to the east of the King William Road extension, and where Skippers Row is now was partly farmland. In fact, it was all farmland at one time; the whole area was part of a farm. It had been made into a rubbish tip on the King William Road side and then that was filled in and an artificial wetland was created, which is now the Eric Singleton Bird Sanctuary. In fact, our council gave it that name, after Eric Singleton, a fantastic guy. His son, incidentally, is also a fantastic guy. Members might remember having seen his picture on billboards around town for the “See the Person, Not the Disability” campaign. He has severe cerebral palsy and is an amazing guy; I digress—but he got university degrees with a severe level of cerebral palsy. We named it the Eric Singleton Bird Sanctuary and we did a lot of work to prepare it as a wetland, with a particular focus on the birds in the area. I remember going down there as part of a busy bee on one occasion, pulling out the castor oil plants that were growing profusely around the bird sanctuary. There was a group called Bayswater Greenwork. I was a GP in Inglewood at the time, and I gave up the back half of my block for them to grow plants to plant in that wetland area, around the whole area and up the Bayswater main drain.

When I was Minister for Water Resources, I established the Bayswater Integrated Catchment Management Group, and made Hon Judy Edwards chair of that catchment management group. I worked very closely with the Bayswater Integrated Catchment Management Group and Bayswater Green Works, which was the group growing the plants to make sure we did our best for the environmental management of that area. My recollection of Skippers Row is not very great. It was part of a paddock; it got wet in winter and dried out in summer, as lots of paddocks do in areas where the watertable is very high. We have to understand that the watertable in this area is extremely high. There are huge areas of wetlands to the north, in Maylands, upstream from Garrett Road Bridge, and to the south. I well remember as a councillor, the area where Moojebing Reserve is in Moojebing Street, Ashfield. It needed me, as Minister for Water Resources, to get the infill sewerage into that area even before blocks could be developed because the watertable was so high that all that area was flooded in winter. The Bayswater drain, as many will know it, drains the whole area through Bayswater, Morley, Noranda and even Dianella. That huge area was once wetlands, member for Maylands. The same sort of wetlands she spoke about were all through that area. I moved into Dianella in 1963 and the whole area where The Strand and Dianella Plaza are was wetland. We chased frogs and caught taddies in that area. It was all wetland. The Bayswater main drain drained that whole area and allowed the land development of that area. We would not have half of Noranda, Bayswater or Morley if it were not for that main drain that comes out at exactly that spot.

Ms L.L. Baker: Now called Bayswater Brook.

Dr K.D. HAMES: It was the Bayswater main drain at the time. When I was Minister for Water resources between 1997 and 2001, I had responsibility for the Swan River Trust and we did a lot of work in that area because one of the major sources of phosphate going into the Swan River was the Bayswater main drain. Hardies in Bassendean had the phosphate works there and a lot of that phosphate was being washed down through that main drain, plus people were putting phosphate on their lawns. Seventy tonnes of phosphate a year were coming through that Bayswater main drain into the Swan River. We did a lot of work to change that and
worked with Bayswater Green Works and Judy Edwards with the Bayswater Integrated Catchment Management Group trying to get rid of all that phosphate going into the river, and it worked. There was a major reduction over about five years of phosphate entering the river.

What does that have to do with Skippers Row? It is hard to tell really. I heard the description from the member for Maylands of what is there. Farmers who have areas of paddock, as did the original farmer there, experience wet areas every winter where the water comes up. People cannot get in there so they do not bother clearing the trees and that little corner where the trees are standing was just too wet for farmers to use. That is why it was left. What role does it play in the Eric Singleton Bird Sanctuary and its drain? I think the member described it very well. It has a role. It plays a part and even though they are intermittent wetlands, they are an additional water source for birdlife, frogs and the like.

What action as a government should we take? The sad thing is that it is private land; it is owned by private individuals, the same as any other private land in this state. We have an internationally recognised system that recognises the right of private ownership of land. Once an individual, a company or whoever has paid their good hard-earned dollars to buy it, and they have a planning scheme over it, they have the right to develop it. That is the inalienable right of the western system. The Australian system allows people to buy land and build a property. It should be sacrosanct. It would not be fair if someone bought a block of land and everyone else who lived around that block, who used to have trees on their land but who have cleared them to build houses, to say, “No, you cannot do that,” because they like the block opposite that has trees on it. For the people who live in this area, their land was once wetlands maybe 50 or 100 years ago, and now they are looking at this nice block and are saying, “We want to keep that. We think that’s pretty good.” As the member for Willagee said, we increasingly recognise that wetlands are the lungs of the city. Bushland is critically important. We now have a tough choice between the inalienable right of a developer and the more modern desire—it is the same with forests around the world—to protect what we have left of our bushland and wetlands and to preserve it the best we can.

The member for Maylands, this matter reminds me of a problem that arose in my electorate. There was an osprey nest in an old tree near the river, a few hundred metres from the big bridge in Dawesville. Just over the bridge, there were only two options: the state government or the council would have to buy the land. We considered both options, but the block of land was worth $650 000 and it was out of the reach of anyone. I do not know what the land sold for before, and it is a shame that the council did not buy it when it had the opportunity, but it was a prime development piece of land.

Ms L.L. Baker: It was $2.73 million when it was offered to council, but that was on the proviso that they thought it was developable.

Dr K.D. HAMES: I remember John D’Orazio, when they owned that land, and they were also keeping it as their nest egg. It was bought for the family to develop in the future to earn superannuation, if you like. That is what it was all about. I think if John D’Orazio were still around today, he would probably argue in favour of this: we own the land, we bought it, it is ours and it is our right to develop it. It is a shame that the land was not bought by the government.

What happened with that Dawesville block? The council or the government could not afford to buy it. We convinced the council to put a pole on the edge of the water, just outside the block. The whole tree was cut. The trunk was cut and all the branches were kept intact, with the nest in it, and we created a cage and moved it 50 metres into the water. Now the birds breed there beautifully.

It is clear we cannot do that with the wetlands. We cannot just up a wetlands and move it, but the reality is that unless someone buys the land, the developer has the same rights that anyone has on their property. If someone came and told a person what they could do with their land and their house, I think they would be pretty annoyed. People have an opportunity to buy the land, but it has to put into state government, into the total context of land that is available, preserving bushland and wetlands, preserving land across the state. It would be a massive investment to buy back bushland. There is so much bushland on private land and the state government would love to buy it, but it is the taxpayers who would buy it and there is limited capacity for that. We have to look at individual blocks. It is not permanent wetland; it is seasonal. It is an old paddock that gets wet in winter and dries out in summer. Should the government spend a couple of million dollars to buy it? Perhaps, it should not.

As an alternative, of course, we cannot suddenly put in old paperbark trees, but we could invest money in strengthening and lengthening the wetlands around the Eric Singleton Bird Sanctuary. There is a lot of land there. We redeveloped all that. It was all rubbish tip that was redeveloped mostly by local government. We developed the area along the foreshore as parkland. John D’Orazio was the main driver of developing
community areas, barbecue areas and areas where people could go. He kept things like Gobba Lake, which is a great little wetland just off to the side, and the Eric Singleton Bird Sanctuary, to make sure that there was a place for birds and animals to live.

Debate interrupted, pursuant to standing orders.

ROAD TRAFFIC LEGISLATION AMENDMENT BILL (NO. 2) 2015

Consideration in Detail

Resumed from 23 August.

Debate was adjourned after clause 27, as amended, had been agreed to.

Clause 28 put and passed.

Clause 29: Schedule 2 amended —

Mrs M.H. ROBERTS: Clause 29 amends schedule 2 of the Young Offenders Act 1994. Last evening, we had some discussions about the schedules, which I ultimately found on page 157 of the 9 October 2015 edition of the act. Schedule 1 of the Young Offenders Act lists the schedule 1 offences —

• for which a caution cannot be given, and
• which cannot be referred to a juvenile justice team, and
• for which a conviction will normally be recorded

Schedule 2 lists the offences —

• for which a caution cannot be given, and
• which cannot be referred to a juvenile justice team, and
• for which a conviction will normally be recorded, and
• which may lead to the application of the provisions relating to offenders who repeatedly commit offences resulting in detention

This is largely summarised in the explanatory memorandum. It advises that in this legislation we are inserting in schedule 2 a new offence for which a caution cannot be given. That offence is inserted by clause 25 of the bill, on which the member for Butler and I made some comments last night. It is the offence of “careless driving causing death, grievous bodily harm or bodily harm.” The explanatory memorandum also advises that an amendment is being made to the description in the schedule of the offence created by section 59 of the Road Traffic Act to bring it into line with the description of the offence of “dangerous driving causing death or grievous bodily harm”. This seems to apply the new careless driving penalty in full to young offenders without the ability to refer them to a juvenile justice team. Can the minister explain why that is desirable?

Mrs L.M. HARVEY: The decision was made to put this into schedule 2 because we feel the courts should be dealing with this offence, as the outcome has obviously been the death of or grievous bodily harm to a victim as a result of a careless driving offence.

Mrs M.H. ROBERTS: The member for Butler spent some time last evening talking about careless driving offences, and I think I said that one would anticipate, given a person needs to be 17 years of age to have a driver’s licence, that we are talking only about 17-year-olds, or is there a context in which it may apply to someone under 17—for example, a 14 or 15-year-old who happened to be driving without a licence?

Mrs L.M. HARVEY: All juveniles could be captured by this if they were driving a vehicle without a licence, so it could potentially capture a juvenile in a stolen vehicle or in any vehicle if their driving behaviour results in the death, grievous bodily harm or bodily harm of another individual and they are charged with an offence of careless driving.

Mrs M.H. ROBERTS: The penalty that was inserted at clause 25 was 720 penalty units, a fine of $36 000 or up to the three years in jail. Is someone demurring from that? Am I right in that or not? I am happy to take clarification by interjection.

Mrs L.M. Harvey: No, you are right.

Mrs M.H. ROBERTS: I think it was the member for Hillarys who raised the issue of what constituted careless driving and how the driver might be adjusting a radio or a child in the back of the car might be screaming out and getting the driver’s attention, or there might be some other circumstance. I am sure someone with a fertile imagination could come up with a lot of examples. I am borrowing a little from what the member for Butler said last night when he described a helicopter view, with someone looking at a vehicle from above and determining whether it was careless driving. There could be some incident—who knows, a spider dropping out of the visor, a child screaming, or something happening within the vehicle—that might cause someone to drive in what appears to be a careless way and that might be determined to be careless driving. Under this clause, could a person of 15, 16 or 17 years of age be subjected to up to three years’ imprisonment for that?
Mrs L.M. Harvey: My advice is that that could be the case, but they would still be subject to the conditions of the Young Offenders Act and the Sentencing Act, so the outcome could still be a youth community-based order or some other order given by the court in lieu of a sentence.

Clause put and passed.

Clause 30 put and passed.

Clause 31: Section 64AB amended —

Mrs M.H. Roberts: This clause deletes “4 hours” and inserts “4 hours, or 12 hours if the sample was taken under section 66(8B)”. I think a lot of people have been calling for this amendment for some years. Would the minister be able to explain the benefits of extending the period to 12 hours?

Mrs L.M. Harvey: This clause is also subject to the section 66 amendments in clause 34. Extending the time taken for obtaining a sample from four hours to 12 hours gives us the opportunity to take crash blood samples from people in regional and remote areas, and have them still able to be used for evidentiary purposes should there be grievous bodily harm or death as a result of that crash.

Mrs M.H. Roberts: Thank you, minister. I would like some explanation of the science here, if possible. We understand that in a breath analysis, the level of alcohol per hundred grams, or whatever the measure is, gives an indication of the blood alcohol reading. Presumably, if someone has a blood sample taken 10 or 12 hours after a crash, it would be at a lower level than it would have been at the time of the crash, or an hour after the crash. Can I ask whether calculations will be taken into account there?

Mrs L.M. Harvey: I am advised that this provision applies to blood and urine samples. Although the level of alcohol will still be declining, we can still have the ability to detect drugs in blood and urine samples over that period. That is the purpose of it. We can still get a valid reading for the presence of drugs and alcohol in the blood of those people who may have been driving a vehicle that has caused one of these crashes, which has them then falling into the crash blood provisions.

Mrs M.H. Roberts: Further on this, minister, I think it is well known that a drug such as marijuana stays in a person’s bloodstream and can be detected, potentially, weeks after use. Some other drugs are not readily detected even a day or two after use. Will the mere presence of marijuana be in any way indicative, when a person might say that they had smoked dope a week or 10 days previously and that is why it is still in their system? Is the test really going to be useful for marijuana, or will it be useful for just alcohol, and methamphetamine and maybe some other drugs?

Mrs L.M. Harvey: I am advised that the detection methods used can detect all drugs—cannabis and methamphetamine, as well as prescription drugs—and that expert witnesses can calculate back to determine when the drug was ingested and how much, according to the way in which it is metabolised in the system.

Mrs M.H. Roberts: Even for marijuana?

Mrs L.M. Harvey: Yes.

Mr J.R. Quigley: In the case of drugs, the offence is driving a vehicle whilst impaired to such an extent as to not be in proper control of the vehicle. Is that the case, minister? It is not an offence of mere presence; it is the offence of driving a vehicle whilst being so impaired by whatever drug?

Mrs L.M. Harvey: That is correct, yes.

Mr J.R. Quigley: The detection of a cannabinoid in the blood is not sufficient to secure a conviction. This is sort of directed at the question that the member for Midland asked. It would be confirmation that the person has ingested a drug, but objective evidence must be given by the apprehending officer that at the time the person was so impaired that they could not be properly in control of the vehicle, whereas with alcohol there is a level of presumed impairment after certain levels of blood alcohol content are recorded—.05, .08 and .15.

Mrs L.M. Harvey: My advice is that expert witnesses these days can give an opinion on the likely impairment of a person depending on the level of drugs in their system. Blood samples would be taken and the level of impairment at the time of the crash would be determined. The expert would determine whether the level of drugs in their system would constitute impairment for the purpose of prosecution under the act.

Mr J.R. Quigley: That is a very interesting answer because from my understanding of the literature, depending on body weight and body fat, which some drugs are stored in, a drug can be present in some people for longer than in other people. If experts can give an opinion on impairment from the level of cannabinoid or amphetamine in the blood, why do we not have in the legislation a threshold point at which impairment is presumed for drugs? Given that the minister is saying that the state of expertise is that an expert witness can give an opinion that at a certain blood alcohol content level a person would be impaired, why do we not have the same presumptive sections for drugs as we have for alcohol?
Mrs L.M. HARVEY: I thank the member. The member is correct in that some of drugs are stored in body fat. However, I am advised that we do not have in the legislation a prescribed minimum level of drugs in the system that constitutes impairment, because it is different for every drug and it would become overly complex to prescribe that in legislation.

Mr J.R. QUIGLEY: Surely that could be done with the common drugs such as cannabis, methamphetamine— I think ice and methamphetamine are the same?

Mrs L.M. Harvey: They are different forms of the same drug.

Mr J.R. QUIGLEY: With common drugs such as cannabis, methamphetamine, heroin and cocaine, the experts would know what level would render a person impaired to the extent that they are incapable of properly controlling a vehicle. Why do we not have it for those drugs?

Mrs L.M. HARVEY: I am advised that the thresholds for the different sorts of drugs can vary, and that it has not been determined that there is a specific threshold level that would constitute impairment; therefore, the expert witnesses need to take other factors into consideration when determining impairment as a result of ingestion of these drugs. With alcohol, the impairment has been determined, as the member knows, because that is a widely available substance, and it is consistent. With these drugs, there is an inconsistency across the broad spectrum of the range of drugs. I am advised that the ChemCentre has different levels that would constitute impairment in various circumstances, and that is the evidence that is presented to the court in determining impairment should a person be charged under section 64AC of the Road Traffic Act.

Mr J.R. QUIGLEY: This is a relatively new area of enforcement. I have two concerns. One is anecdotally-based, so I could not think the minister can take it anywhere. I am told anecdotally by people in the mining industry that people who go onto mine sites are regularly drug tested. I am told that amphetamines have a relatively short half-life, which I understand refers to the rate at which the drug is metabolised and dissipates out of a person, of less than 12 hours—the minister’s advisers might tell her differently—whereas a person might have a detectable quantity of cannabis days and days after they are no longer impaired. I am told that has the effect of pushing people in these industries to harder drugs because they can consume those drugs on the weekend and by Monday morning when they arrive at the mine site they will be relatively clean. Therefore, when we do not have levels in the legislation, I always worry that an unintended consequence may be to push drug users towards drugs that are less detectable. That is a comment. My concern, however, on an evidentiary basis from the answer the minister has given to the chamber this evening, and I do not think it can be resolved here, is that there are experts who can give evidence of impairment from detected levels of various drugs—cocaine, heroin or whatever these people are using—but we cannot include that in the legislation because it is so variable that that expert evidence itself might be questioned. Therefore, it really has to get down to, perhaps, the manner in which the person was driving and their capability to drive at the time as observed.

However, I have another question. The amendment in clause 31 to section 64AB does not replace just the four hours with 12 hours. It states —

In section 64AB(7) delete “4 hours” and insert:

4 hours, or 12 hours if the sample was taken under section 66(8B),

That will be the new section 66(8B). I have been trying to follow the scheme of that from the consolidated bill that the minister has kindly provided us with. I wonder whether the minister could explain to the chamber the circumstances under which the sample will be taken under what will be new section 66(8B). I will let the minister get the explanation. That is okay. I want the minister to be properly advised, because it is important. It is my understanding that it is only when the sample is taken under new section 66(8B) that the 12-hour proviso—the 12-hour testing time—will come in.

Mrs L.M. HARVEY: That is correct. In a crash occasioning serious bodily harm the sample can be taken within 12 hours.

Mr J.R. QUIGLEY: But not in other cases?

Mrs L.M. Harvey: That is correct.

Clause put and passed.

Clause 32 put and passed.

Clause 33: Section 65 amended —

Mrs M.H. ROBERTS: I have an amendment on the notice paper. I move —

Page 19, line 24 — Before “person” insert —

medically qualified
We had quite some discussion about this last evening. Clause 33 of the Road Traffic Legislation Amendment Bill (No. 2) 2015 states —

In section 65 insert in alphabetical order:

*prescribed sample taker* means —

(a) a medical practitioner or registered nurse; or

(b) a person prescribed for the purposes of the provision in which the term is used;

If this amendment is accepted it will read at proposed paragraph (b) “a medically qualified person prescribed for the purposes of the provision in which the term is used”. The explanation for clause 33 in the explanatory memorandum provided by the minister states —

The Road Traffic Act 1974 currently provides for blood samples to be taken by, and urine samples to be provided to, a medical practitioner or registered nurse.

It is desired to enable a broader range of appropriately qualified, medically trained personnel to take blood samples and to be provided with urine samples.

This clause amends the RTA section 65 by adding a new definition “*prescribed sample taker*” to provide that regulations may prescribe other appropriately qualified classes of person, such as phlebotomists, to be prescribed for this purpose.

My issue is that this clause proposes no qualification; it just states, “a person prescribed for the purposes of the provision”. We learnt with one of the earlier clauses that the Commissioner of Police will be the person who can prescribe who these people are by way of regulation or whatever. Sorry, is it the commissioner for road safety or the Minister for Police?

**Mrs L.M. Harvey:** The Minister for Road Safety.

**Mrs M.H. Roberts:** The commissioner for road safety?

**Mrs L.M. Harvey:** No, the Minister for Road Safety.

**Mrs M.H. Roberts:** So the future minister will determine who the qualified person is and table regulations before the house. Previously, that person was the chief executive officer of the ChemCentre of WA. In some circumstances the Commissioner of Police is inserted, in others it is the minister. The explanatory memorandum basically states that it is the intention to effectively have someone who is medically qualified and to broaden it to other people. It states —

a … range of appropriately qualified, medically trained personnel …

Last night, when I said that I may be moving such an amendment, I suggested the words “a medically qualified person”. If that term is not appropriate or if Parliamentary Counsel recommends a different term to achieve the same effect, I am very open to accept whatever that term is and to see it incorporated. I can see the reasons the government might want to broaden “prescribed sample taker” beyond just a general practitioner or nurse. Clearly, a phlebotomist is ideally qualified to take blood samples. I do not think just anyone should be “prescribed for the purposes”. It is not a matter of what the intention is or what the current practice is or what the intended practice is; it is always a matter of what the law states. I do not want members in this house in the future saying, “How did this person get prescribed when they do not have medical qualifications?”

**Mrs L.M. Harvey:** I understand the concerns of the member for Midland. However, I am advised that to insert the term “medically qualified” would potentially inappropriately narrow the range of people able to take a sample and would require us to consult various medical professionals, such as the Australian Medical Association, I presume, and others. I would be happy to amend the clause so it would read “appropriately qualified person” rather than “medically qualified” because that term limits the type of people who could be encompassed by this legislation. For example, phlebotomists are not necessarily medically qualified but they are appropriately qualified to take blood.

**Mrs M.H. Roberts:** I think that is a good idea.

**The Acting Speaker (Ms L.L. Baker):** Member for Midland, you need to withdraw your amendment and either the member or the minister will then move the new amendment.

**Mrs M.H. Roberts:** I withdraw my amendment.

**Amendment, by leave, withdrawn.**

**Mrs L.M. Harvey:** I move —

Page 19, line 24 — Before “person” insert —

appropriately qualified
Mrs M.H. ROBERTS: I think that is a step forward. I think it puts a further check in the bill. It does not specify a medical qualification or the like. I fully understand that that is the intention. I also fully understand that a phlebotomist is an appropriate person to take blood. Maybe the AMA or whoever judges these things may suggest that they are a medically qualified person but they would fit the definition of “appropriately qualified”. I do not think police officers would be lining up to take blood or would be given that role. Potentially, in the future, the Commissioner of Police might decide that a certain number of police officers or employees of the police force should get a qualification of some description. I think this places on the record the expectation that at least someone appropriately qualified and hopefully independent of the police service is able to take the appropriate samples. I support the amendment and thank the minister for her cooperation.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 34: Section 66 amended —

Ms M.M. QUIRK: The explanatory memorandum states —

The impetus behind the following amendments is a comment by the State Coroner, following inquiries into three incidents where passengers in a motor vehicle or by-standers have been killed.

The comment surrounded the alleged failure by police responding to these incidents to require the driver of the motor vehicle to allow a medical practitioner or registered nurse to take a sample of the driver’s blood for analysis, for the purposes of determining whether the person was under the influence of alcohol and/or drugs.

There is no legislative authority to do so where the timeframe for the imposition of the requirement has passed or where a breath analysis result indicated that there was no alcohol present in the driver’s blood and the police officer did not have the necessary reason to believe that person was under the influence of alcohol and/or drugs. I want confirmation that that also is an impetus for this set of provisions.

Mrs L.M. HARVEY: I am advised that the design of this is not for the purposes of necessarily a road safety research project; it is designed around ensuring that we can test the blood of drivers or suspected drivers who are involved in fatal or serious-injury crashes. That would be for evidentiary purposes for police to determine whether they were impaired by alcohol and/or drugs at the time of the crash. Some of his colleagues, for example, are reluctant to take blood samples if it is other than for clinical reasons. In addition to this forming part of the possible evidence or the prosecution brief, this requirement will assist the Road Safety Council and other researchers to understand the percentage of crashes that are influenced by the ingestion of alcohol and/or drugs. I want confirmation that that also is an impetus for this set of provisions.

Ms M.M. QUIRK: As I understand it, Dr Rao gave evidence to one of the parliamentary committees and he said that he had been involved in assisting in the drafting of these provisions. What I am trying to find out is: for the purposes of research, when will this evidence be available from the test? Will it be consolidated in the year, will information in each individual case be available to researchers, or will the response be that we can have that information once a prosecution is finished?

Mrs L.M. HARVEY: I am advised that the information could not be released in matters that are sub judice, but once a matter has been concluded by the court, under clause 16, which amends section 15 of the act, the commissioner can disclose that incident information for the purposes of road safety research.

Ms M.M. QUIRK: I am a bit concerned about this. In fact, I think the Community Development and Justice Standing Committee made a recommendation that such provisions be enacted. It seems to me that there is not going to be a system for the collective gathering of this information for statistical research purposes. As we know, it is a bit of a guesstimate at the moment. Although there might be an idea that someone is impaired and that that was a causal factor in a crash, we do not know with any degree of accuracy that that is the case; a lot of the time we are guessing. I am concerned that there may be delays in targeting other road safety strategies and that this information will not be in a form that can be readily collated and then used by the relevant authorities to target road safety strategies.

Mrs L.M. HARVEY: I am advised that, sadly, probably several thousands of these samples will be taken, and only the drivers or suspected drivers will be tested. Whether or not that driver or suspected driver then progresses
to be charged with an offence, I am advised that the data collected from that incident will still be available for research purposes. The only prohibition on the release of that information would be if a matter was before the court, but any other information would be available through the data management systems and the databases that are shared between the Department of Health, the Road Safety Commission, the Insurance Commission of WA and WA Police.

**Ms M.M. Quirk:** Can the minister tell me what substances it is proposed to test for?

**Mrs L.M. Harvey:** It is alcohol and prescribed illicit drugs and potentially some prescription drugs if it is suspected that that may be a factor in a crash. It is all illicit drugs such as heroin, cocaine and methamphetamine.

**Ms M.M. Quirk:** We are an ageing population and there is increasing concern, for example, that an incorrect combination of prescription medication may impair driving in some cases. I am concerned that it is almost like the chicken and the egg. The testing has to be done and the findings are the basis for forming a conclusion about what pharmaceutical or alcoholic agent caused the crash. What I am saying is: if there has to be some sort of suspicion before working out what we test for, are we going to get an accurate picture of the causal factors for an accident? As I said, although an incorrect combination of prescription drugs might not lead to criminal charges, does that information fall through the cracks or will that in some way combine with the other tests to make sure we get a complete picture of the status of impaired driving?

**Mrs L.M. Harvey:** I am advised that it is not a reasonable suspicion test. If it is suspected that any of these drugs may be involved in the crash, we will be able to test for a broad suite of prescription and other illicit drugs and alcohol.

**Ms M.M. Quirk:** This is probably not fair to ask of the minister’s advisers, but clearly testing for the full gamut of possibilities is an expensive exercise. I am trying to work out what the template will be for drug testing. Will we be testing just for the common illicit drugs or will it be sufficiently broad to potentially combine tests for, for example, prescription drugs? Will there be some clinical input from the doctor, saying, “Look, I think this person may be on cannabis”, or, “This person is elderly; they may well be on prescription drugs”? How will we inform ourselves on what to test for?

**Mrs L.M. Harvey:** I am advised that this will obviously form part of the investigative process. Even when we are testing for specific drugs, ChemCentre testing will identify if there are other elements in the blood sample or traces of other elements that could potentially be tested for. In addition, we can hold these samples for up to three months, and they can still be tested with a level of accuracy as to the toxicity results within the blood. Depending on where the investigation leads, for example, it may be that subsequent to a crash it is discovered that the person may be on a suite of prescription drugs, and testing could then occur for those drugs at a later time.

**Ms M.M. Quirk:** That brings me to my second point. I know that there are provisions elsewhere for sharing information, but it seems to me that there is often debate in the public arena about the impacts of drugs versus alcohol and the relative influence of one or the other. I am wondering whether there is any capacity in some way, perhaps within police or Road Safety Council annual reports, to publish tests as a collective lot rather than individually—for example, of those tested, 42 per cent tested positive for meth, or 60 per cent tested positive for alcohol and the relative influence of one or the other. I am concerned that it is almost like the chicken and the egg. The testing has to be done and the findings are the basis for forming a conclusion about what pharmaceutical or alcoholic agent caused the crash. What I am saying is: if there has to be some sort of suspicion before working out what we test for, are we going to get an accurate picture of the causal factors for an accident? As I said, although an incorrect combination of prescription drugs might not lead to criminal charges, does that information fall through the cracks or will that in some way combine with the other tests to make sure we get a complete picture of the status of impaired driving?

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**Ms M.M. Quirk:** That is probably not fair to ask of the minister’s advisers, but clearly testing for the full gamut of possibilities is an expensive exercise. I am trying to work out what the template will be for drug testing. Will we be testing just for the common illicit drugs or will it be sufficiently broad to potentially combine tests for, for example, prescription drugs? Will there be some clinical input from the doctor, saying, “Look, I think this person may be on cannabis”, or, “This person is elderly; they may well be on prescription drugs”? How will we inform ourselves on what to test for?

**Mrs L.M. Harvey:** I am advised that this will obviously form part of the investigative process. Even when we are testing for specific drugs, ChemCentre testing will identify if there are other elements in the blood sample or traces of other elements that could potentially be tested for. In addition, we can hold these samples for up to three months, and they can still be then tested with a level of accuracy as to the toxicity results within the blood. Depending on where the investigation leads, for example, it may be that subsequent to a crash it is discovered that the person may be on a suite of prescription drugs, and testing could then occur for those drugs at a later time.

**Ms M.M. Quirk:** That brings me to my second point. I know that there are provisions elsewhere for sharing information, but it seems to me that there is often debate in the public arena about the impacts of drugs versus alcohol and the relative influence of one or the other. I am wondering whether there is any capacity in some way, perhaps within police or Road Safety Council annual reports, to publish tests as a collective lot rather than individually—for example, of those tested, 42 per cent tested positive for meth, or 60 per cent tested positive for alcohol and the relative influence of one or the other. I am concerned that it is almost like the chicken and the egg. The testing has to be done and the findings are the basis for forming a conclusion about what pharmaceutical or alcoholic agent caused the crash. What I am saying is: if there has to be some sort of suspicion before working out what we test for, are we going to get an accurate picture of the causal factors for an accident? As I said, although an incorrect combination of prescription drugs might not lead to criminal charges, does that information fall through the cracks or will that in some way combine with the other tests to make sure we get a complete picture of the status of impaired driving?

**Ms M.M. Quirk:** That is probably not fair to ask of the minister’s advisers, but clearly testing for the full gamut of possibilities is an expensive exercise. I am trying to work out what the template will be for drug testing. Will we be testing just for the common illicit drugs or will it be sufficiently broad to potentially combine tests for, for example, prescription drugs? Will there be some clinical input from the doctor, saying, “Look, I think this person may be on cannabis”, or, “This person is elderly; they may well be on prescription drugs”? How will we inform ourselves on what to test for?

**Ms M.M. Quirk:** Proposed section 66(8B) reads —
If this subsection applies, a police officer may —

(a) require the person to do one or both of the following —

(i) allow a prescribed sample taker to take a sample of the person’s blood for analysis;

(ii) provide a sample of the person’s urine for analysis; or

(b) where the person is incapable of complying with that requirement—cause a prescribed sample taker to take a sample of the person’s blood for analysis.

Does the “or” relate to just proposed subsection (8B)(a)(ii); that is, the person is incapable of supplying their urine for analysis? It seems that under (i) “allow a prescribed sample taker to take a sample of the person’s blood for analysis” if the “or” related to that as well—if the person was incapable of allowing the person to take a sample of their blood for analysis, it would be difficult under (b) where the person is incapable of complying with that requirement—to cause the sample taker to take a sample of the person’s blood for analysis. Does the minister see what I mean?

Mrs L.M. Harvey: Not really, no.

Mr J.R. Quigley: Proposed paragraph (b) is the fallback position; that is, “where the person is incapable of complying with that requirement—cause a prescribed sample taker to take a sample of the person’s blood for analysis.” That is the fallback position when a person cannot comply.

Mrs L.M. Harvey: That is the unconscious person.

Mr J.R. Quigley: Now we are dealing with an unconscious person who cannot consent. We then come back to the amendment the minister moved earlier when she said that a prescribed sample taker will be appropriately qualified. There is an unconscious person. The minister said a prescribed sample taker will be a person prescribed by the minister.

Mrs L.M. Harvey: Yes. A prescribed sample taker is a medical practitioner or registered nurse or an appropriately qualified person prescribed for the purposes of the provision for which the term is used. It is either a medical practitioner, a registered nurse or a person prescribed in the regulations who is appropriately qualified to take that sample.

Mr J.R. Quigley: So will it be the executive that will then promulgate regulations as to who is an appropriately qualified person?

Mrs L.M. Harvey: Yes.

Mr J.R. Quigley: My first question then is: what does the minister envisage will be the appropriate qualifications of a person who will take bodily samples from an unconscious person? This will be an invasive procedure necessarily. I do not know whether the minister is contemplating that that person will be a trained police officer who is taught how to jab someone or an appropriately qualified person. For example, I know what an appropriate qualification is for taking a breath sample; that is, someone who has been trained and is certified to operate the equipment. However, what will happen when there is an unconscious person? There are two aspects to this. We have an unconscious person about to undergo an invasive procedure, so what does the minister envisage the appropriate qualifications will be for the person who takes the sample?

Mrs L.M. Harvey: It would depend on the circumstances, obviously, but we envisage that this would work when an unconscious person is presumably in the hands of medical professionals. According to section 65, a prescribed sample taker is a medical practitioner, registered nurse, or an appropriately qualified person. It could be a phlebotomist.

Mr J.R. Quigley: I do not know what they are.

Mrs L.M. Harvey: A phlebotomist is a person trained to take blood. A lot of hospitals, laboratories and places like PathWest employ phlebotomists, who are suitably trained to take blood from people. There is a qualification for it through the vocational education and training system.

Mr J.R. Quigley: As the minister who will have the task of putting forward the regulations, is the minister envisaging that person will be a phlebotomist or a nurse or a person who has been trained in an invasive procedure?

Mrs L.M. Harvey: Absolutely.

Mr J.R. Quigley: My second question is: when a person is incapable of complying with that requirement, the police do not request someone to do this, they cause them to do it—that is the language of compulsion—so how can a phlebotomist be compelled to take a sample? If a person is unconscious and in a dire circumstance, someone might be hesitant to interfere at all with their body. How will the bill cause, require or compel those people to do this?
Mrs L.M. Harvey: To be clear, this is not about forcing a medical practitioner or a registered nurse or phlebotomist to take a sample from a person, should they be uncomfortable or unwilling to do it. The cause in this comes in when the police by virtue of an instruction to a suitably qualified person request that they take the sample. The legislation empowers them to make that request. By virtue of making the request, it would then cause the individual to take the sample.

Mr J.R. Quigley: Would it not be more appropriate for the professionals to have the language of request—"we request that you comply"—rather than cause? The language puts the professional under the pump to do it at the police officer’s direction, which will perhaps override his or her own professional concerns.

Mrs L.M. Harvey: I disagree. My advisers say that this clause could not be construed in a manner to compel a medical practitioner or a suitably or appropriately qualified person to take a sample. We could only authorise and request that person to take the sample, which would then cause them to take that instruction. We can require them to take the sample under section 66 of the Road Traffic Act. I am also advised that this language already exists in that act.

Ms M.M. Quirk: That is the point I was making earlier. As Dr Rao has said on numerous occasions, he is not able to compel his colleagues to take blood samples for the purposes of gathering evidence or research if it is not clinically necessary. My understanding is that this provision is in the bill so that medical practitioners can effectively not refuse or, for example, they may not be able to prevent or impede an authorised person from taking a sample. While I am on my feet, I ask, firstly, will the provision occur in every case as a matter of routine; and, secondly, will testing be done for drugs and alcohol, or will a decision be made to test for one or the other?

Mrs L.M. Harvey: The reason the clause is worded this way is, obviously, if an unconscious person is incapable of providing a sample, the imperative of health professionals is to save their life. If the clinical management of the patient was such that the taking of a sample would interfere with the management of the patient or hasten an adverse health outcome, medical professionals in the hospital, for example, would be able to refuse to take that test until the person was clinically stable and it would not hinder the medical treatment that they receive. We expect a high level of compliance because there has been consultation with Dr Rao. His issue was that he was not authorised to take samples from people who may have been involved in a crash when driving a vehicle and there was an injury. Under the Health Act, he was permitted to take blood samples only to assist with the clinical management of patients. This provision would allow him to take samples for other purposes. It will clear the way for him to help us with our research into who these people are.

Mrs M.H. Roberts: Following on from the member for Butler’s questions, does this amendment provide for samples to be taken from deceased persons?

Mrs L.M. Harvey: No. Deceased persons are covered under the Coroners Act.

Mrs M.H. Roberts: I have a few other quick questions that the minister may be able to answer. In what percentage of fatal crashes, and separately, in what percentage of crashes that involve either grievous or serious bodily harm—whatever figures the minister can give me—are blood samples currently taken from the driver?

Mrs L.M. Harvey: It is not compulsory, so we do not have that information.

Mrs M.H. Roberts: The member for Girrawheen has raised this point, and other concerned parties have also raised with me that this information is not available. It would surprise a lot of people in the community to know that we do not know what percentage of fatal crashes in Western Australia involved alcohol. We know about some, because it may be that samples have been taken by the coroner, or police have attended the scene of a fatal crash and have breathalysed persons who are not deceased. We do not have an accurate picture for fatal crashes in Western Australia of whether the people involved in those crashes or who potentially caused those crashes were under the influence of alcohol or prescription or illegal drugs. The member for Butler referred to the issue of impairment, and people’s driving being impaired. I suspect there may be lots of people over recent and more distant years who got away without being charged with that impairment, or a range of other charges, because they were not tested for the presence of alcohol or drugs. It is definitely a step forward to be able to take samples. I would have thought this would benefit not only research but also the community. In talking to people about this in recent times, most people make an assumption that this is already in place and that if a driver is involved in a road crash and has a collision with another car and that causes somebody in the other car to be deceased, the police have the capacity to take, at the very least, a breath test and an accurate reading to assess the driver’s impairment from alcohol. In recent years I know that other states have been able to test for and assess the presence of drugs. This is a step forward and the opposition is supportive of it. The question that arises is whether it goes far enough on a range of fronts. I refer to the parts in the explanatory memorandum that state police officers “may” require a sample to be taken. On clause 34, the explanatory memorandum states—

A police officer may require any driver to provide a sample of breath for a preliminary test …
A police officer may also require a person he or she has reasonable grounds to believe was the driver of that vehicle to provide a sample of breath for a preliminary test.

Further down, it states —

In some circumstances, a police officer may require a person to provide a breath or a blood sample, …

Ms M.H. ROBERTS: Also, I do not think it should just be “may” for the purposes of the research that the member for Girrawheen was referring to. We are entitled to know as a community whether people involved in fatal crashes were under the influence of alcohol or drugs, and, if they were under the influence of drugs, which drugs. This is really useful information. I do not necessarily need to know, on a case-by-case basis, whether person A, B or C was involved in any of those things, but as a member of this community I am entitled to know what percentage of people involved in fatal crashes, or who were found culpable in fatal crashes, were under the influence of alcohol, what percentage had been using methamphetamine, and what percentage had been using a combination of meth and alcohol, or a combination of prescription drugs and alcohol. Without that, we do not have enough information on the factors involved in serious crashes. It may well be that some other external factor is involved. It might be that a kangaroo had hopped across a country road, or some other circumstance, such as poor weather conditions or a tree bough that had fallen across the road. That may be determined to have been the cause of the crash, but it still might be a crash that may have been avoided if the person was not under the influence of alcohol or prescription or illicit drugs. Sometimes there is more than one causal factor, and sometimes, even though there might be a primary causal factor, the fact that the person is under the influence of drugs or alcohol or some combination of both is relevant. If we want to reduce death and serious injury on the roads, we must have an idea of the kind and size of the problem we are dealing with. Effectively, I seek some clarification from the minister on why we are not making it a requirement to collect these samples from all fatal crashes and crashes that involve grievous bodily harm, rather than just giving the police a new power under which they may require that to be done.

Mrs L.M. HARVEY: There are a number of reasons for using the word “may” in the circumstances, rather than “shall”. If we were to compel testing in these circumstances, it may compel officers or medical practitioners to take a blood sample from a person when it could in fact cause the person’s death if they were fatally or critically injured. Police officers need to use the appropriate discretion. We expect that between 2,000 and 2,500 drivers will be tested each year under this scheme. This allows for the driver involved in any crash in which there is a serious injury or death to be tested. That has not been available in Western Australia before. With respect to the accuracy of our figures around the involvement of alcohol in crashes, although police have not had this capacity to take blood samples from every individual, particularly if they have been conveyed to hospital, for example, through their investigative techniques, police use other evidentiary means to determine whether alcohol may have been involved in the crash. This is a step forward, in that it enhances the ability of police to investigate and will reveal to us far more effectively the involvement of illicit drugs in these crashes. At present, police do not have the ability to test for that. They have not been empowered to test for illicit drugs. I would not consider changing the word “may” to “shall” in this clause because I believe it is appropriate for police officers to exercise their discretion. The commissioner’s guidelines will certainly be very clear in ensuring that we have an accurate snapshot of this cohort of drivers. I envisage that this testing would occur in all but very rare and exceptional circumstances.

Mrs M.H. ROBERTS: I think some of what the minister has said is valid, but we could easily get around some of it. The minister started off by saying that one of the reasons that we are not compelling police officers to ensure that samples are taken in every fatal crash in every instance in which there is grievous bodily harm is that if somebody is critically injured, the taking of blood could cause their death. I think that would be a very rare case, but, even so, I think it would be simple enough to put in at the appropriate points in each proposed subsection the words, “except when the taking of such samples could endanger the life of the individual from whom the sample would be taken”. Some form of words such as that could be drafted by Parliamentary Counsel to get around that. If there was any concern that taking a sample could endanger or harm the health of an individual, consideration should be given to that and a sample would not be taken. I think we could get around that.

I do not intend to dwell on this issue much longer. I agree with the minister that this is certainly a significant step in the right direction. I would be happier if I knew we were able to get samples from all fatal crashes and all
crashes that involve grievous bodily harm. Like the minister, I do not think that we should be taking samples if that would be injurious to someone’s health. There needs to be an exception, but I think we could have a general rule that police will do it. I also understand that the minister believes that the Commissioner of Police will effectively instruct officers that in most cases they should take samples. Hopefully, that will occur as a matter of policy. It is not set down in law as part of this legislation. But it is a step in the right direction and I expect over the next 10 years or so we will see further advances in the taking of samples. At least this is a start and a step in the right direction.

Clause put and passed.

Clause 35: Section 69 amended —

Mrs M.H. ROBERTS: Clause 35 seeks to amend the Road Traffic Act to provide that the sample that has been taken is effectively split in two. Clause 35(2) seeks to insert after section 69(1a) of the act the following new subsections —

(2A) The prescribed sample taker must ensure that both samples are delivered to a police officer.

(2B) One of the samples must be delivered, on behalf of the person from whom the samples were taken, to the Chemistry Centre (WA) by a police officer or a person engaged for that purpose.

Can the minister explain why the sample taker has to give both the samples to a police officer and can the minister also explain the qualifications of the person who could be engaged for that purpose of sending it to the ChemCentre? Are we talking about a courier or somebody else?

Mrs L.M. HARVEY: I am advised that the purpose of new subsections (2A) and (2B) is to ensure the integrity of the samples and that they cannot be tampered with. The two samples must be delivered to a police officer. One of those samples is conveyed by a police officer, or an appropriate courier company, for example, to the ChemCentre. The reason there are two samples is that the offender, who may be unconscious or intoxicated or whatever it may be, may wish to have the sample independently tested. The sample is held by an independent authority—the ChemCentre—and that provides that independence.

Mrs M.H. ROBERTS: I am well aware of why we need two samples. It provides for a separate analysis to be done on behalf of, let us call them, the defendant. I fully understand that. The minister’s explanatory memorandum makes reference to a period of three months in which some analysis can be taken. I assume that is already in the Road Traffic Act or whatever. I cannot read that in the clause itself. I assume it is in section 69 of the Road Traffic Act but perhaps the minister can clarify that for me. I will get back to my original question. Basically, the prescribed sample taker, who could be a general practitioner, a nurse, a phlebotomist or another appropriately qualified person, will take the sample and split it in two. If we are talking about independence and so forth, I am querying why both samples need to be given to the police. If the sample is taken from the sample taker or testing authority or whatever and given to the police, how can the defendant or their representative have confidence in the sample that is given to the police?

Mrs L.M. HARVEY: I am advised that both samples will be contained in evidence bags that have integrated tamper-proof mechanisms. Just to be clear, one of the samples is provided to the police, who then test that sample. The sample that is provided to the ChemCentre is kept at the ChemCentre on behalf of the offender should they wish to have the sample independently analysed. Both the samples will be in evidence bags. There are two separate processes. There are obviously certification requirements for whoever handles those evidence bags, from when the sample is taken, right through to court.

Mrs M.H. ROBERTS: I am dealing with the bill in front of us. At page 21, line 21, it states —

The prescribed sample taker must ensure that both samples are delivered to a police officer.

Can the minister explain that? It does not appear to me, from my reading of that proposed new subsection, that one sample is given to the police and one is given to the ChemCentre, but there may be an explanation for that.

Mrs L.M. HARVEY: They are both given to the police. The police keep one sample, and they give one to the ChemCentre to be stored on behalf of the offender.

Mrs M.H. ROBERTS: I will just finish off on that then. The minister said that the police keep one and they give one to the ChemCentre.

Mrs L.M. Harvey: Or have one couriered to the ChemCentre.

Mrs M.H. ROBERTS: I do not see why they would not give both samples to the ChemCentre, get one analysed themselves and get one stored for the other party.

Mrs L.M. HARVEY: I am advised that the investigating officer would receive both samples in separate evidence bags. They are then conveyed to the ChemCentre where one is stored and one is tested by the police. I hope that clarifies things.
Mrs M.H. Roberts: That is what I thought would happen. Thank you.

Clause put and passed.

Clause 36 put and passed.

Clause 37: Section 69B amended —

Mrs L.M. Harvey: I move —

Page 22, line 28 — To delete “prescribed sample taker” and substitute —

authorised drug tester

This amends section 69B of the Road Traffic Act 1974 to provide that if an authorised drug tester is of the opinion that a person’s oral fluid sample contains a prescribed illicit drug, the sample is to be divided into two parts and the samples of both are be handed to a police officer for subsequent delivery to the ChemCentre. The amendment to the Road Traffic Legislation Amendment Bill (No. 2) 2015 inserts subsection 69B(2), which mistakenly refers to a prescribed sample taker instead of an authorised drug tester. This amendment fixes the mistake.

Amendment put and passed.

Mr J.R. Quigley: When I read clause 37 and what preceded it, it was specific in that one of the samples would be delivered to the person from whom it was taken. Those words were deleted from the previous clause in which proposed section 69A (3) states —

One of the samples must be delivered, on behalf of the person who provided the samples, to the Chemistry Centre (WA) by a police officer or a person appointed or engaged for that purpose.

Can the minister take me to where it states the rights of the person from whom the sample was taken?

Mrs L.M. Harvey: Pardon?

Mr J.R. Quigley: Clause 37 amends section 69B, does it not?

Mrs L.M. Harvey: Yes.

Mr J.R. Quigley: Clause 37(2) states —

At the end of section 69B insert:

(2) The prescribed sample taker must ensure that both samples are delivered to a police officer.

Mrs L.M. Harvey: I am advised that the member is talking about the next clause. On page 22, line 28 —

Mr J.R. Quigley: Sorry, page 23 —

Mrs L.M. Harvey: No, we are on page 22 with this amendment.

Mr J.R. Quigley: Correct, but the minister said that the next clause covers what I am talking about, did she not? I am talking about what happens to the B sample.

Mrs L.M. Harvey: We cover that in the next clause. This amendment fixes a typographical error.

Mrs M.H. Roberts: We have put the amendment, have we not?

The Speaker: I am putting the clause now. The member for Butler stood up.

Mr J.R. Quigley: I am speaking to the clause itself. What is happening to the second sample—the B sample? In an earlier amendment, words to the effect of “one sample be delivered to the person from whom it was taken” were struck out.

Mrs L.M. Harvey: The member may not have been here when I was explaining that. The way it works is that two samples are taken and they are both sealed in evidence bags. Because the person from whom the sample is taken may be unconscious or drunk or otherwise unable to store the sample appropriately, the samples are taken to the ChemCentre. The B sample is held in the evidence bag on behalf of the offender, should they wish to have it independently tested. The A sample, which the member is referring to, is the one that the police would have tested to be used as part of the evidentiary procedures. That is explained in detail in clause 38 under proposed section 70A on page 23 of the bill.

Mr W.J. Johnston: I am interested in further exploring the question that is being raised. I was not here for all of my colleague’s questions. The minister said that there are two samples: sample A goes to the ChemCentre on behalf of the police and sample B is retained in the evidence bag for potential testing by the person themselves. The minister then said that the next clause we will deal with, clause 38, relates to the handling of the B sample but I am not quite sure that that is the case. It states that it has to be retained and appropriately stored by the ChemCentre. Clause 37(2) proposes to insert section 19B(3), which states —

One of the samples must be delivered, on behalf of the person who provided the samples, to the Chemistry Centre (WA) by a police officer or a person appointed or engaged for that purpose.
The authorised drug tester takes two samples and delivers them to a police officer.

**Mrs L.M. Harvey:** Under clause 37, a prescribed sample taker takes the samples. They hand them to a police officer, who puts them in two separate evidence bags. Those bags are then delivered by a method to the ChemCentre. The ChemCentre stores one sample on behalf of the offender so that they can access it for independent testing. The other sample is tested by the ChemCentre on behalf of the police for evidentiary purposes. In clause 38 we are inserting proposed sections 70A and 70B. Section 70A details the rules around the storage of the sample that is being held by the ChemCentre on behalf of the offender and the requirements of the ChemCentre and the rules around the ability of the person from whom the sample has been taken to request the sample to have it tested.

**Mr W.J. Johnston:** If the B sample goes to the ChemCentre on behalf of the person, where does the A sample go?

**Mrs L.M. Harvey:** I thought I was clear when I said the two samples go to the ChemCentre. One is held by the ChemCentre on behalf of the offender; the other is tested by the ChemCentre on behalf of police.

**Mr W.J. Johnston:** I understand exactly the answer the minister has given me, but I am not quite sure that that answer reflects the words. Proposed section 69B(1) tells us what happens to the sample. It states that if the authorised drug tester decides there are illicit drugs, it is divided into two parts. Proposed subsection (2), which is what will be inserted, states —

> The authorised drug tester must ensure that both samples are delivered to a police officer.

Subsection (3) states that one of the samples must be delivered to the ChemCentre by a police officer but it does not state what happens to what I will call the A sample.

**Mrs L.M. Harvey:** Can I explain?

**Mr W.J. Johnston:** Yes, the minister can. That is why I am trying to get it clarified.

**Mrs L.M. Harvey:** We need to go back to a couple of clauses ago. Clause 35 amends section 69(1). I refer to page 21, line 21, which states —

1. **(2A)** The prescribed sample taker must ensure that both samples are delivered to a police officer.
2. **(2B)** One of the samples must be delivered, on behalf of the person from whom the samples were taken, to the Chemistry Centre (WA) by a police officer or a person appointed or engaged for that purpose.

That is the offender’s sample. The other sample is then tested by the ChemCentre by police.

**Mr W.J. Johnston:** Where does it say that?

**Mrs L.M. Harvey:** It does not say that. One of them remains in the possession of police to be tested by the ChemCentre. I guess the important sample on behalf of the offender, who may be unconscious or inebriated or whatever, is held by the ChemCentre to ensure that it can be tested independently, should it be required.

**Mr W.J. Johnston:** Thank you. I appreciate that explanation. I think I understand what the minister is saying. We are prescribing that the sample, on behalf of the person who is alleged to have done whatever, is sent to the ChemCentre by police and held at the ChemCentre on behalf of that person so they can later have it tested. What happens to the original sample; the one that is retained by police? It may be that we do not need to specify what happens to it, which is cool, but it is noted that the minister is specifying what happens to what is called the B sample. I think my friend was pointing out he was surprised that there is not a provision that says what happens to the original sample. That is all we are asking. Yes, we understand the B sample is taken by police to the ChemCentre so that the person involved can get that separately tested. Given that the authorised drug tester has already determined that there is illicit material in the sample, is the minister saying she is not prescribing what happens to the part retained by police? She might not; I am not saying that she has to, but is the minister saying she is not prescribing what happens to the part that is retained by police?

**Mrs L.M. Harvey:** To clarify, two samples are taken at the same time and put in evidence bags. They are both conveyed to a police officer, who then ensures that one of them is dispatched to the ChemCentre to be held independently for the offender. The other one is retained by police for evidentiary purposes and goes for testing to the ChemCentre or some other place. The certification of whatever is found in that forms part of the evidence brief for police as part of a normal evidentiary procedure. One sample is held by police or on behalf of police, whichever is deemed appropriate, for evidentiary purposes, and one independent sample is held by the ChemCentre for the offender to access should they choose.

**Mr W.J. Johnston:** I appreciate that. I agree that that is exactly what is going to happen. All I am asking is: given we are prescribing what happens with the B sample, is there anywhere that specifies what happens with the A sample? Remember, it has already been tested. Proposed section 69B(1) of the blue bill states —

1. **(1)** If the drug testing of a sample of a person’s oral fluid … indicates, in the opinion of the authorised drug tester who conducted the drug testing, that the person’s oral fluid contains a prescribed illicit drug, the sample shall be divided into 2 parts, …
Does the minister see what I am getting at?

Mrs L.M. Harvey: No, member, I don’t understand what you’re getting at.

Mr W.J. Johnston: Let me put it in simple terms. One sample is taken from the person. That one sample is then tested and that regime is specified in proposed section 69B(1). Has the minister read that bit? I will read it out again. It states —

(1) If the drug testing of a sample of a person’s oral fluid under section 66D(4)(b) indicates, in the opinion of the authorised drug tester who conducted the drug testing, that the person’s oral fluid contains a prescribed illicit drug, …

That states that a sample has been taken and it has been tested and, in the opinion of the authorised drug tester, it contains a prescribed illicit drug. Then what happens? The sample shall be divided into two parts, each of which shall be deemed to be a sample of the person’s oral fluid for the purposes of the act. That is very clear. It is one sample. One sample is tested and then the fluid that was tested is divided into two parts. In part 3 of the bill, clause 37(2) states —

At the end of section 69B insert:

…

(3) One of the samples must be delivered, on behalf of the person who provided the samples, to the Chemistry Centre (WA) by a police officer or a person appointed or engaged for that purpose.

It is directing us that one part of that sample goes to the ChemCentre on behalf of the accused. But look at what proposed subclause (2) states. It states —

The prescribed sample taker must ensure that both samples are delivered to a police officer.

Let us have a look again. Proposed section 69B(1) states that the authorised tester has tested the fluid and determined that it contains an illicit drug, but they then divide that sample into two parts—we will call them the A part and the B part. It states that both the A part and the B part are to go to the police officer. It then states that the B part is to go to the ChemCentre. Nowhere in this clause does it state what happens to the A part. It does not have to, but if it does not do that, we want to know why it does not do that. It is not a complicated issue. It is just simply reading the words that the minister is asking us to support. I am unsure why the minister does not understand the words that she has asked us to support.

Mrs L.M. Harvey: I am advised that the sample that police retain for testing is then tested. We are not actually changing with this legislation the process for what police do with their samples; we are just inserting an extra process for how they deal with the sample that is taken and held independently on behalf of the offender. It is a mandatory process for the treatment of the independent sample. There is an entire process for the sample that police test to ensure that the sample is handled appropriately and that the testing of the sample is certified, and that forms part of the evidence brief that police put together when they are determining whether to prefer charges against the offender. The provisions for how police treat such samples are already covered under the Road Traffic Act.

Mr W.J. Johnston: Which provision of the Road Traffic Act does the minister say covers what we are calling the A sample—the sample obtained by the police? I point out to the minister that this is after the sample has been tested, not before. It is split into two parts only after it has been tested.

Mrs L.M. Harvey: No, that’s not the same.

Mr W.J. Johnston: I am sorry; I will read it out for the minister again. Section 69B of the Road Traffic Act states, in part —

If the drug testing of a sample of a person’s oral fluid under section 66D(4)(b) indicates, in the opinion of the authorised drug tester who conducted the drug testing, that the person’s oral fluid contains a prescribed illicit drug, —

That is what it states. It states that the authorised drug tester has conducted the drug testing. It states it there in the act. It has already been tested. Section 69B continues —

the sample shall be divided into 2 parts, each of which shall be deemed to be a sample of the person’s oral fluid for the purposes of this Act …

It is tested and then it is divided and then, under proposed subsection (3), we send one part—we will call it the B part—to the ChemCentre and we still have the other part that has already been tested and that the police retain. That is wonderful; I am not criticising that. That is not a problem. I am just asking, and my friend is asking: what is the procedure? Where is the procedure for the bit that is retained by the police? Where is that dealt with? It is not a complicated question.
Mrs L.M. HARVEY: If the oral fluid sample tests positive, it is split in two. One is then sent for further testing. If it is positive, it is split in two, and then one is held by the police and sent for further testing and one is —

Mr W.J. Johnston: Why? Why is it sent for further testing?

Mrs L.M. HARVEY: It is an evidentiary test to determine what was actually in it.

Mr W.J. Johnston: Okay, but where’s that specified in the act?

The SPEAKER: One member at a time!

Mrs L.M. HARVEY: It is specified under proposed section 69B(1), I am advised.

Mr W.J. Johnston: Why don’t you read 69B(1) out loud for me, minister, so we can get that clarification.

Mrs L.M. HARVEY: Member, I am sure you can read it yourself.

Mr W.J. Johnston: Yes, I have, a number of times, and it says nothing about testing it after it’s already been tested. After the authorised person tests it and determines that there’s something wrong, then it’s divided. It’s not divided first and then tested.

Mrs L.M. HARVEY: If the oral fluid tests positive, it is split in two. The prescribed sample taken must ensure that both samples are delivered to a police officer. One of the samples must be delivered on behalf of the person providing the samples to the ChemCentre WA by a police officer or a person appointed or engaged for that purpose. The other sample is held by police. Police may choose to conduct a further test to determine what else might be in the oral fluid and it is held under normal evidentiary procedures.

Mr W.J. Johnston: Is that specified in the act?

Mrs L.M. HARVEY: It is not specified in this legislation, but it forms part of the normal process with respect to managing evidence for the purpose of prosecuting people under the legislation.

Mr W.J. JOHNSTON: After all this time, the answer the minister is giving me, which is a great answer—I am not criticising it—is that other procedures not contained in the act deal with the A sample. Is that what the minister is saying?

Mrs L.M. HARVEY: It is held by police and it is not a prescribed procedure.

Mr W.J. Johnston: Did you say in a prescribed procedure?

Mrs L.M. HARVEY: I said it is not a prescribed procedure. It is held by police as evidence.

Mr W.J. Johnston: But it is not a prescribed procedure.

Mrs L.M. HARVEY: Correct.

Clause, as amended, put and passed.

Clauses 38 and 39 put and passed.

Clause 40: Various references to “medical practitioner or registered nurse” amended —

Mrs M.H. ROBERTS: I note in the explanatory memorandum for clause 40 at the top of page 26 that reference is made to clause 33, which is the one I proposed an amendment to. It states —

Clause 33 provides that regulations may prescribe other appropriately qualified classes of person, such as phlebotomists, who are to be allowed to take blood samples and to be provided urine samples, in addition to medical practitioners and registered nurses.

I note the words in the explanatory memorandum are prescient because they say “other appropriately qualified classes of person”. I think the explanation here fits with the amendment we made earlier tonight with the agreement of the minister.

Clause put and passed.

Clause 41 put and passed.

Clause 42: Part V Division 1A replaced —

Mrs M.H. ROBERTS: This clause takes us to part V and seeks to delete part V division 1A and insert new division 1AA headed “Division 1AA — Terms used in this Part”. Proposed section 49AAA. “Terms Used” states —

In this Part —

* grievous bodily harm* has the meaning given in The Criminal Code …

* instructor* means a person who may give driving instruction under the Road Traffic (Authorisation to Drive) Act 2008 section 10(2);
Is an instructor under this meaning a person who could be someone’s mum, dad, uncle, aunt, friend, neighbour or whoever holds a licence for the category of vehicle the person is learning to drive?

**Mrs L.M. Harvey:** That is correct.

**Mrs M.H. ROBERTS:** Under new part V, proposed section 49AA “Circumstances in which person taken to be instructor or in charge of motor vehicle” refers to the person seated beside the learner driver and so forth. Then the definition of a person understood to be in charge of a motor vehicle is changed. Could the minister explain what has driven this amendment? I understand, for example, that a person who happens to be giving instruction may not be aware that they are providing instruction in an unlicensed or stolen vehicle, or something of that nature, and that even though they are the instructor, they would not be deemed to be in charge of that motor vehicle. Is that part of the import of clause? Can the minister explain that further?

**Mrs L.M. HARVEY:** I am advised that the proposed section the member for Midland is referring to will provide that an instructor providing driving instruction to a learner driver is, for the purposes of Part V in the RTA, other than for sections 49AB and 66A, taken to be in charge of the motor vehicle driven by the learner driver. As “a person in charge of a motor vehicle”, that person in charge of the motor vehicle, an instructor, can then be subject to several provisions of that part; namely, section 57 “Owner et cetera of vehicle occasioning bodily harm to help police identify driver et cetera”; section 66 “powers to require breath, blood or urine sample”; and section 66C “Police powers to require oral fluid test”. It is described in that manner to enable police to interact with the instructor as though they were the driver or in charge of the motor vehicle.

**Clause put and passed.**

**Clause 43 put and passed.**

**Clause 44: Part V Division 2A inserted —**

**Mrs M.H. ROBERTS:** Proposed section 62B(1) states —

An instructor who provides driving instruction to a learner driver while having a blood alcohol content of or above 0.05 g of alcohol per 100 ml of blood commits an offence.

Then the penalty is listed, which is—again it is repeated in other proposed sections—a fine of not less than six penalty units or more than 10 penalty units. I have a couple of questions. I take it that this is just a fine and it does not involve the loss of any demerit points for the instructing driver. Can the minister clarify that and whether she considered the application of demerit points here? Why is there a variation between six and 10? How will it be determined whether someone is fined six penalty units, eight penalty units, nine penalty units or 10 penalty units?

**Mrs L.M. HARVEY:** A range has been put in the provision to allow the court to determine, depending on the circumstances and the level of danger, I propose, that the fine will be between six penalty units and 10 penalty units. No demerits are associated with this provision because the instructor is not driving. However, there is a fine.

**Mrs M.H. ROBERTS:** Can the minister clarify why this is not dealt with as just a simple infringement. If we are talking about just a fine and we are not talking about even the loss of demerit points, surely it would be more administratively efficient and cheaper to have a fine regime. If a driving instructor has a blood alcohol level over .05, a set fine could be dealt with by way of infringement; if they are over .08, they could be dealt with by way of infringement. However, if they are at some higher level, maybe there is a good cause to put the instructor before a court. I did not expect that these matters would necessarily consume court time. If someone is driving with a blood alcohol level of .06, as they may be at the moment, why would they not get just an infringement, like people would in other circumstances? Why does it need to go before the court?

**Mrs L.M. Harvey:** I am seeking some advice, member.

**Ms M.M. QUIRK:** I am interested in the member for Midland’s wise words.

**Mrs M.H. ROBERTS:** To put on the record of the house, six penalty units, which is the lower end of the fine that could be put in place by a court, is $300 and 10 penalty units is $500. Here we are talking about the penalty for people who have alcohol in their system above .05 grams of alcohol per 100 millilitres of blood. The penalty is between six and 10 penalty units, which is a fine of between $300 and $500. In the scheme of things, that is not a huge fine. Again, it is certainly an advance on the current situation in which there is no penalty for a person who has alcohol in their system while instructing someone in driving. The adjudged penalty here is between six and 10 penalty units. If we are talking about a fine of somewhere between $300 and $500, I query why that would not be dealt with just by way of infringement and the person would have the ability to challenge that in court, should they choose to do so. It seems to me that this will unnecessarily take up the court’s time and the magistrates’ time while they determine whether to give a fine at the $300 end or the $500 end. I have to say that I would be inclined to think it should be just a $500 fine by way of infringement and potentially the fine should be higher if it is challenged in court and the person is determined to be guilty.
Mrs L.M. HARVEY: I am advised that the penalty is set in the act and the regulations then prescribe the infringement. In effect, how this will work is police will issue an infringement for a penalty for the fine.

Clause put and passed.

Clause 45: Section 62B amended —

Mrs M.H. ROBERTS: I understand this clause deals with the alcohol interlock restriction. Can the minister advise the import of this clause?

Mrs L.M. HARVEY: When the Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act comes into operation, section 17 will insert provisions into the Road Traffic (Authorisation to Drive) Act 2008 that will empower the making of regulations providing for the creation of a framework under which persons convicted of certain drink-driving offences, who will be known as alcohol interlock offenders for the purposes of the regulations, will be subject to alcohol interlock restriction if and when they are subsequently authorised to drive. In effect, this clause amends the offence provision by the insertion of clause 44 to include persons with an alcohol interlock restriction and alcohol interlock offender as a specified person with a zero alcohol limit whilst providing driving instruction. It is a consequential amendment to section 12 of the interlock act and it must not commence until after that section has commenced. If section 12 of the interlock act is to come into operation before or at the same time as this clause, the amendments in this clause should be proclaimed to commence immediately after those proclaimed in clause 44. In effect, it inserts an alcohol interlock offender as a person who will have a zero alcohol limit. As I have stated, these clauses will need to commence at the same time as section 12 of the alcohol interlock act comes into operation.

Clause put and passed.

Clauses 46 to 51 put and passed.

Clause 52: Section 68A inserted —

Mrs M.H. ROBERTS: This clause inserts new section 68A after section 67A and deals with failure to comply with sections 66, 66C, 66D or 66E requirements for instructors. It refers to what I believe are new offences. Under this clause, or because of other clauses, is the person who is deemed to be the instructor of a learner driver now required to take a breath test and, potentially, have other bodily fluids sampled?

Mrs L.M. HARVEY: This clause effectively requires that an instructor is compelled by the provisions set out in sections 66, 66C, 66D or 66E of the Road Traffic Act, which are the provisions that compel a person to provide an oral sample.

Mrs M.H. Roberts: It effectively puts them in the same position as the driver of a vehicle

Mrs L.M. HARVEY: It does. For the purposes of drug and alcohol testing, it compels the instructor to comply as though they were the driver.

Clause put and passed.

Clause 53: Section 70B amended —

Mrs M.H. ROBERTS: The explanatory memorandum states that clause 53 provides for an evidentiary certificate. Clause 53 states —

In sections 70B(1) after “offence against section” insert:

62B, 62C,

The explanatory memorandum states —

Section 70B is to be inserted by clause 38 and provides for an evidentiary certificate relating to the delivery of the samples upon being handed to a member of the Police Force to be conveyed to the Chemistry Centre (WA) for analysis. Is this just more of the same? Does this just effectively subject the instructor to the same requirements as if they were the driver, in terms of an evidentiary certificate, or is there something more to it than that?

Mrs L.M. HARVEY: That is correct. It compels the instructor to behave as if they were the driver, and comply as if they were the driver.

Clause put and passed.

Clauses 54 to 58 put and passed.

Clause 59: Section 35 amended —

Mrs M.H. ROBERTS: Can the minister advise whether the term “driver identity request” is a new term used under the Road Traffic (Administration) Act; and, if so, why it is being inserted into the Road Traffic (Administration) Act?
Mrs L.M. HARVEY: This amendment effectively allows for the supervisor of a learner driver or the person who is deemed to be in charge of the vehicle at the time to comply with a request to provide their identity. Ordinarily, if they were the driver of the vehicle, it would be a driver identity request, but the clause amends that term to remove the word “driver” to compel an instructor to provide identity upon request.

Clause put and passed.

Clause 60: Section 109 amended —

Ms M.M. QUIRK: This clause allows for certain evidentiary averments for use in prosecutions under road law. For example, a certificate or an averment can be produced to say that the person is someone who is subject to a zero blood alcohol limit while driving a motor vehicle. I can understand that, but can the minister explain the other one that is mentioned in the explanatory memorandum, which relates to a vehicle being driven by a learner driver while the driving instructor is providing instruction? The memorandum goes on to state —

If the vehicle is specified in section 62B(5) of the RTA , a zero blood alcohol limit applies to the instructor.

What are the characteristics of the vehicle?

Mrs L.M. HARVEY: Section 62B(5) of the Road Traffic Act provides for a vehicle that is of 22.5 tonnes or more.

Clause put and passed.

Clause 61 put and passed.

Clause 62: Section 49 amended —

Mrs M.H. ROBERTS: Clause 62 amends section 49 of the Road Traffic Act. We are advised that section 49 of the RTA creates the offence of driving without authorisation, when the person is legally unentitled to drive for various reasons. I cannot actually remember whether it was this clause or another clause, but I was interested in raising at some point the matter of whether the instructor could be a person who is currently serving a driver’s licence suspension or not. What is the law regarding that, and does this bill make any change to it?

Mrs L.M. HARVEY: A person instructing a learner driver has to hold a valid licence. This amendment is not linked to that. This amendment cleans up a loophole in section 49 that creates an offence of driving without authorisation. The offence provides an increased penalty when a person is legally disentitled to drive for reasons including having been refused a licence, having been disqualified from holding or obtaining a licence, or having a licence that has been suspended or cancelled. An anomaly exists in this section whereby a person can be disqualified from holding or obtaining a licence by the court whilst not holding a licence that had been previously held. Someone could have voluntarily surrendered their licence and we cannot disqualify them for a period for offences under the act. It basically increases the penalty for those persons driving on a cancelled or disqualified licence. Instead of being able to hand in their licence and avoid being charged with an offence and receiving a period of disqualification, this allows us to impose that period of disqualification even if they did not hold a valid licence or their licence had expired.

Mrs M.H. ROBERTS: Is the minister saying that as the law stands somebody who does not hold a licence and commits an offence for which someone who holds a licence would get a disqualification period cannot effectively be given a licence disqualification period as a penalty?

Mrs L.M. HARVEY: In those circumstances, instead of receiving the higher penalty such as a disqualification period, they would be charged only with driving without authorisation, which is a lesser offence. This allows us to charge them with the appropriate offence and for them to receive the penalty that they should receive, rather than them being charged with the lesser offence of driving without authorisation.

Clause put and passed.

Clause 63 put and passed.

Postponed clause 6: Section 56 amended —

The clause was postponed on 23 August on the following amendment moved by Mr J.R. Quigley —

Page 4, after line 23, to insert —

(2) In sections 56(2) and 56(3) where the words “not less than 12 months” appear in 3 places, insert:

cumulative upon any other period of disqualification of the driver’s licence

Mrs L.M. HARVEY: An amendment to clause 6 was moved by the member for Butler and it is on the notice paper. I discussed this amendment with the member for Butler and I believe that there is some merit in it.
However, I have had insufficient time to progress the consequential amendments required to make it effective and consistent throughout the act. With the agreement of the member for Butler, I believe we have an agreement that he will withdraw this amendment and I have given an undertaking to the member for Butler that we will draft the necessary consequential amendments to enable his amendment to take effect and be introduced in the Legislative Council when it considers the bill.

Mr J.R. Quigley: I accept the undertaking given by the minister. However, before the bill leaves the chamber, I want to clarify the consequential amendment that the minister is proposing. Is this amendment the cumulative provision in relation to other offences; and, if so, for how many of those other offences? I specifically came up with this amendment because it is separate from the driving offence. After the person has finished driving, the person has an obligation to report; and, if they do not report, that is separate from the driving offence and should be cumulative upon other offences. I do not know what is on the minister’s mind in relation to the cumulative provisions.

Mrs L.M. Harvey: Just to clarify and remind members of what this amendment effectively does, for an individual who is charged with several offences that attract a like disqualification period, instead of those disqualification periods being served concurrently, we are saying they should be served consecutively or cumulatively. People may be charged with two offences under two or more sections of the Road Traffic Act—for example, section 54, section 56 or section 59. We want to make sure that if we are asking for cumulative disqualification periods to be recognised by the court, that is consistent with other areas of the act that provide for disqualification periods that could be cumulative. I need a bit more time for the Parliamentary Counsel’s Office to look at the drafting and make sure we get it correct. I have given an undertaking to the member for Butler that I will endeavour to do that. I understand the intent of the amendment and I think it has some merit. However, we have not had sufficient time, and in the interests of having this legislation passed through the Parliament, I will endeavour to get that amendment on the notice paper in the Legislative Council when it is debated in that place.

Amendment, by leave, withdrawn.
Clause put and passed.
Clauses 64 and 65 put and passed.
Clause 66: Section 117 amended —
Mrs L.M. Harvey: I seek leave to move the amendments detailed on the notice paper to clause 66 en bloc.
Leave denied.
Mrs L.M. Harvey: I move —
Page 42, line 14 – To delete “118A” and substitute —
“117A”

Mrs M.H. Roberts: I ask the minister to explain what the difference is. It might save time if the minister would, when moving each of these amendments, give us a brief explanation of why the amendment is necessary.

Mrs L.M. Harvey: These amendments on the notice paper are consequential amendments to the point-to-point amendments on the notice paper that follow. In effect, the point-to-point amendments insert a new section 117. These consequential amendments deal with references to section 117 that are yet to be debated as an amendment by this house.

Mrs M.H. Roberts: Can I inquire why these amendments were not part of the bill from the start? Why are they separate amendments on the notice paper? Why has this been discovered so late in the piece?

Mrs L.M. Harvey: Can I please bring in my adviser Mr John Pintabona for this section of the bill?

The Acting Speaker (Mr P. Abetz): Sure.

Mrs L.M. Harvey: I thank Sergeant Matthiessen for his assistance tonight. My adviser is John Pintabona from the Automated Traffic Enforcement program of Western Australia Police. I will explain to the house how these point-to-point amendments work and then I can clarify the reason that these amendments are placed in this way as part of that process. The government is currently running a point-to-point camera system trial. It allows for speed camera systems to measure average speeds between two or more cameras and it has the potential to produce a general effect beyond the localised single camera site. The published evaluation of these systems suggests that they are very effective at reducing speeds and casualty rates along the whole route upon which they are installed. The point-to-point trials have been implemented in New South Wales, Victoria, Queensland and South Australia. As part of the planned speed camera expansion, we will conduct a test along Forrest Highway. Amendments to the legislation are required to allow for the operation of point-to-point cameras as part of an overall speed enforcement strategy. WA Police currently operate speed-measuring equipment to determine the
speed at which a vehicle is travelling at a particular point in time. However, the proposed use of point-to-point technology would not fall within the scope of speed-measuring equipment or distance-measuring equipment that may be approved under this legislation. These amendments to the road laws will give effect to point-to-point operations in WA. They will provide for a definition of average speed and the equipment and systems needed to measure average speed as a concept; the ministerial approval of the types of devices and/or systems needed to ascertain the average speed of a vehicle between two points; a definition for the calculation of average speed over both single-speed zones and multi-speed zones; and a definition of a multi-speed zone for the purposes of average speed. The amendments also allow the average speed to be proof of actual speed in an average speed zone. They provide for evidentiary certificates to be issued on the aspects of testing and operation of average speed measuring and recording equipment and for a surveyor’s certificate to certify the shortest distance between the two cameras. They also provide for all drivers to be able to be held liable for the average speed offence in situations where drivers swap within an average speed zone. The point-to-point system will, hopefully, become fully operational at the completion of the feasibility trial, which we anticipate will be at the end of mid-2017.

The amendments on the notice paper effectively insert an additional provision into the Road Traffic Act to allow for point-to-point offences and clarify how that can occur. These amendments to clause 66, which are consequential amendments for references to the point-to-point trial, are required in order for the point-to-point amendments to make sense in the context of the sections within the Road Traffic Act.

Mrs M.H. Roberts: I thank the minister for that explanation. We are told that these amendments are needed for the point-to-point trial but we hope it will proceed to being more than a trial and that point-to-point cameras will be implemented in Western Australia, as they have been in all the states that the minister listed. That being the case, are these amendments sufficient to proceed beyond the trial?

Mrs L.M. Harvey: Yes, they are. These amendments will enable point-to-point to go live, if you like, and allow us to issue an infringement notice to motorists who contravene the law over a point-to-point section of road.

Mrs M.H. Roberts: The previous minister wanted to implement point-to-point cameras. I think the minister announced well over a year ago that point-to-point cameras would be trialled. Tonight we are still discussing legislation that will enable the trial to proceed. We are now specifically dealing with one of the amendments to this clause. I just asked as a generality why these amendments needed to be put on the notice paper. Why were they not incorporated in the bill when the minister presented it to the house given that she had already committed to moving towards a trial for point-to-point cameras when she introduced the bill?

Mrs L.M. Harvey: In effect, the amendments took a longer period to develop than we anticipated. It was decided that we would not delay the passage of the omnibus bill that we have been discussing over the last few days. We made a choice to put the point-to-point amendments on the notice paper rather than delay the introduction of the Road Traffic Legislation Amendment Bill.

Mrs M.H. Roberts: The specific amendment that we are looking at states —

Page 42, line 14 — To delete “118A” and substitute —

117A

What effect will that amendment have?

Mrs L.M. Harvey: It effectively introduces provisions in the Road Traffic (Administration) Act relating to the approval and operation of speed measuring and recording equipment. Similar new provisions are being inserted into clause 67 of the Road Traffic Legislation Amendment Bill relating to average speed detection systems, requiring a restructure of the existing clauses. Some minor consequential changes for consistency of language and operation between the different types of equipment are being made. This amendment, in conjunction with the introduction of a new clause 68, will also relocate all transitional provisions.

Amendment put and passed.

The Acting Speaker: Minister, you now need to move the next amendment.

Mrs L.M. Harvey: Is leave granted to move the rest of these amendments en bloc?

The Acting Speaker: Member for Midland, are you happy for the rest to be moved en bloc now or do you still want each one moved individually?

Mrs M.H. Roberts: I have already declined.

The Acting Speaker: I am just asking, in light of the explanation that has been given. That is fine; I am just asking the question.

Mrs L.M. Harvey: I move —

Page 43, line 10 — To delete “from” and substitute —

from,
Mr W.J. JOHNSTON: I see what is happening here. This is a very small grammatical correction. I wish my friend the member for Girrawheen was here because she is very good at grammar. I think two commas are needed to make this right. I understand the minister is trying to separate “retrieve data from” from “the equipment” so that there is a list. This could have been done by way of dot points of course or there could have been a semicolon and then a list at the end. The minister wants the subparagraph to state, “A person certified by the Commissioner of Police as being competent to install the equipment, to set up the equipment, to test the equipment or to retrieve data from the equipment”. I think another comma is needed after “test”; otherwise “test or retrieve data” becomes one activity because the minister proposes to put a comma after “from”. On the way the grammar is now constructed, a person would have to both test and retrieve the data. I think we also need a comma after “test”; otherwise it will read that each of those things is separate. “Test or retrieve” will be one item because the minister proposes to add a comma after “from”. We need a comma after “test” and a comma after “from”.

Mrs L.M. HARVEY: This is definitely one for the grammar Nazis! I am advised by Parliamentary Counsel’s Office that the comma is required to be inserted as anticipated on the notice paper. I am loath to insert a comma before “or”. I had an English teacher in primary school who would rap me over the knuckles for doing that. Whether or not that changes the context of “test or retrieve” and turns that into one action, I do not believe that is so. My interpretation from reading that is that it is “test or retrieve data from the equipment or produce images from the data”. Member, I do not propose to insert more than one comma. I am advised by PCO that this is a simple grammatical amendment and people with far better standards of English than I have arrived at this amendment.

Mr W.J. JOHNSTON: I do not intend to delay the house very long on this issue. I have seen a wonderful T-shirt that says “I’m a Grammar Nazi: I’m secretly correcting your grammar”! I understand the minister is saying that if the second comma does not go in, “test or retrieve data from” would be two separate tasks. The moment a comma is put in after “from”, because there is a comma in all those other places, it is “test or retrieve”—it becomes the one activity. Anyway, I look forward to the entertainment of seeing the courts trying to interpret it!

Mrs M.H. ROBERTS: As a former English teacher, I would point out that punctuation can change meaning. The minister has moved an amendment to change “from” to “from,” because the placement of a comma changes meaning. It is not just a matter of correct grammar; it is a matter of meaning. In this sense, when it is part of legislation, it is about legal meaning to be interpreted by the courts; so it is important to get it right. I think the member for Cannington may be correct, but it depends how the minister wants this clause to be interpreted. My suggestion is that we will agree to this tonight, and that perhaps those learned persons the minister refers to who are both excellent at grammar and fully cognisant of the desired meaning and how they want it interpreted by the courts could give this some consideration; and, if there needs to be a further punctuation change, it could be done in the upper house.

Amendment put and passed.

Mrs L.M. HARVEY: I move —

Page 44, line 18 — To delete “involving the driving of a vehicle,”.

Mr W.J. JOHNSTON: What is the effect of the amendment?

Mrs L.M. HARVEY: This is a consequential amendment that will change the sentence at line 18 on page 44 of the bill, which effectively deals with proposed section 117(6). It will then state —

In a prosecution for an offence under a written law evidence may be given of —

(a) the use of speed measuring and recording equipment at a particular location; and

(b) the identity of the vehicle as recorded by that equipment at a particular time; and

(c) the speed at which the vehicle was moving as ascertained and recorded by that equipment at that time.

This is a consequential amendment to ensure that the point-to-point amendments that follow make sense.

Mr W.J. JOHNSTON: Clearly, the minister is saying that she wants to remove the words “involving the driving of a vehicle”. Currently, the provision states —

In a prosecution for an offence under a written law involving the driving of a vehicle, evidence may be given of …

Now it will state —

In a prosecution for an offence under a written law evidence may be given of …

What is achieved by removing the words “involving the driving of a vehicle” when the provision in the Road Traffic (Administration) Act will be about speed measuring? I am not asking what the minister is doing, because we know that, but what is the purpose of it?
Mrs L.M. Harvey: The amendment effectively opens this up to any offence rather than an offence limited to involving the driving of a vehicle.

Mr W.J. Johnston: So what sort of offence?

Mrs L.M. Harvey: It is any offence.

Mr W.J. Johnston: Can the minister give me an example of an offence to which the use of speed measuring and recording equipment at a particular location would be relevant?

Mrs L.M. Harvey: We are allowing for any offence to be prosecuted, rather than those limited to involving the driving of a vehicle, with evidence from the use of speed measuring and recording equipment as outlined in paragraphs (a), (b) and (c) in proposed section 117(6). It is a consequential amendment.

Mr W.J. Johnston: Could the minister give me two examples of offences, other than a driving offence, in which the use of speed measuring and recording equipment at a particular location might be important?

Mrs L.M. Harvey: I am advised it could be stealing a motor vehicle. It does not necessarily involve driving a motor vehicle; so, something like that.

Amendment put and passed.

Mrs L.M. Harvey: I move —

Page 44, line 22 — To delete “the vehicle” and substitute —

a vehicle

Mr W.J. Johnston: What is the effect of the change?

Mrs L.M. Harvey: The effect of this change and the next proposed amendment is to amend the definition of “vehicle” from being a particular vehicle to being a vehicle. It is a consequential amendment.

Mr W.J. Johnston: I understand it is a consequential amendment and I understand that it is taking the specific word “the” and putting in the general word “a” —

Mrs M.H. Roberts: It’s replacing the indefinite article with a definite article.

Mr W.J. Johnston: Thank you very much, my schoolteacher friend!

That is what the minister is doing, but that is not what I asked. I asked: what is the effect of the change?

Mrs L.M. Harvey: It makes sense of the previous amendment, by which we deleted the words “involving the driving of a vehicle.”. We are now not referring to the driving of a vehicle; we are referring to evidence for any offence, and instead of identifying a particular vehicle, as was previously referred to in clause 6, it is now “a vehicle” rather than “the vehicle” that was being driven.

Amendment put and passed.

Mrs L.M. Harvey: I move —

Page 46, lines 1 to 21 — To delete the lines.

Mrs M.H. Roberts: Minister, why do lines 1 to 21 need to be deleted?

Mrs L.M. Harvey: These lines relate to transitional provisions, so this amendment deletes these provisions from this particular part of the legislation and we will be inserting them at a later point under new clause 68 on the notice paper.

Amendment put and passed.

Mrs M.H. Roberts: We are at the conclusion of the amendments to clause 66 and are dealing with it as a clause now amended. Can the minister assist me regarding clauses 66 and 67? The amendments on the notice paper have not been incorporated in the marked-up bill have they?

Mrs L.M. Harvey: No.

Mrs M.H. Roberts: That is okay; I wanted to clarify that. The explanatory memorandum contains quite a lot and clause 66 is a very long clause. I turn to page 45 of the bill, where at clause 66(10) it states —

Delete section 117(8) and insert:

(8) In a prosecution mentioned in subsection (4), (5) or (6), a certificate purporting to be signed by the Commissioner of Police certifying that a specified person is, or was at the material time, a person certified by the Commissioner as being competent to —

(a) use distance measuring equipment; or

(b) use speed measuring equipment; or
(c) install, set up, test or retrieve data from, speed measuring and recording equipment or
produce images from the data,

is prima facie evidence of the matters in the certificate, without proof of the signature of the
person purporting to have signed it or proof that the purported signatory was the
Commissioner.

It is getting very late. It refers to “a person certified by the Commissioner”. I cannot see the definition of
certified person. Who is a certified person, what are the qualifications of a certified person, and how are they
appointed?

**Mrs L.M. Harvey:** The definition sits under the definition of “authorised person”. An authorised person in
relation to distance measuring equipment means a police officer or a person certified by the Commissioner of
Police as competent to use the equipment. An authorised person is someone who has been certified by the
commissioner.

**Mrs M.H. Roberts:** Can the minister clarify whether a person who could be certified to use the equipment
would be an employee of WA Police? Obviously, police officers are. I am not querying police officers using the
equipment, their capacity or training or anything of that nature. I understand WA Police employ people who
deploy Multanova speed cameras and the like; they are not police officers, but do they fit into the category of
certified persons? Under this legislation or any other legislation, is it possible that those roles could be
outsourced to people other than people employed by WA Police?

**Mrs L.M. Harvey:** I am advised that at present police officers and other persons employed by WA Police are
authorised to operate the equipment. The commissioner has also authorised other people to be certified to use the
equipment, such as rangers in Kings Park. The owners and manufacturers of the equipment are also certified and
authorised to use the equipment.

**Mrs M.H. Roberts:** Proposed section 118A(2) states —

For the purposes of subsection (1), the certificate is a certificate purporting to be signed by the
Commissioner of Police, certifying that —

I will make some other points, but why is the word “purporting” included there? Either it is signed by the
Commissioner of Police or it is not, or either it is signed by someone on behalf of the Commissioner of Police or
it is signed by a delegated officer. Why is the word “purporting” used there? Perhaps it somehow broadens
the opportunities. Would the minister explain that? Paragraph (b) states —

The equipment was installed or set up by an authorised person, named in the certificate, in accordance
with the approved procedure on a day specified …

Paragraph (c) states —

The equipment was tested by an authorised person, named in the certificate …

And it continues. Those authorised persons named on the certificate might in fact be persons employed by the
equipment manufacturer or someone outside WA Police; is that correct? Could the minister answer my question about
the need for the use of the word “purporting” and what effect that will really have?

**Mrs L.M. Harvey:** I am advised that the certificate is signed by the Commissioner of Police but that the
signature is not verified, so the certificate is then purporting to be signed by the Commissioner of Police. That
language is used on page 48 in proposed subsection (7). To answer the member’s other question, yes, it includes
other people. The manufacturers of the equipment can be certified as authorised persons to use the equipment.

**Mrs M.H. Roberts:** I still do not get this whole “purporting” issue. Does that mean anyone can sign any
dodgy signature as long as it purports to be the signature of the Commissioner of Police? Could some senior
constable just write “Karl O’Callaghan” and purport that it is his signature and pop it on there?

**Mrs L.M. Harvey:** I am advised it means that it is the commissioner’s signature. It is taken to be his
signature unless it can be proved otherwise. Proposed subsection (2) states that for the purposes of proposed
subsection (1) the certificate is a certificate purporting to be signed by the Commissioner of Police certifying a
range of things. On page 49, proposed subsection (7) states —

In a prosecution mentioned in section 117(6), it is to be presumed, in the absence of evidence to the
contrary, that a certificate described in subsection (2) purporting to have been signed by the
Commissioner of Police was so signed, without proof of the signature of the person purporting to have
signed it or proof that the purported signatory was the Commissioner.

That is basically saying that the signature is the commissioner’s and that we accept it is the commissioner’s
unless someone can prove to the contrary that it is a signature other than the commissioner’s on the certificate.

**Mrs M.H. Roberts:** Why has the minister chosen to go this way and not potentially delegate the
commissioner’s authority to a range of senior officers, as often happens in other legislation?
Mrs L.M. HARVEY: I am advised that the purported signature does not prohibit the commissioner from delegating the authority. The commissioner can sign the certificate and the proof of the certificate’s authenticity can be delegated to another officer, but it can be approved under the commissioner’s signature.

Clause, as amended, put and passed.

Clause 67: Section 118A inserted —

Mrs L.M. HARVEY: I seek leave to move the amendments to clause 67 en bloc.

Leave denied for amendments to be considered together.

Mrs L.M. HARVEY: I move —

Page 46, line 23 — To delete “Section 118A inserted” and substitute —

Sections 117A to 117I inserted

Mrs M.H. ROBERTS: I advised the minister a short while ago that with respect to her amendments on the notice paper, we could save some time if we could get just a brief explanation of the meaning, import or necessity, or some explanation of the effect, of each amendment and why it is required.

The SPEAKER: Minister, would you like to explain the amendments as you go through? Member for Midland, it might be better if the minister explains the amendment in parts and if you want to say something, you can.

Mrs M.H. Roberts: Yes.

The SPEAKER: Does the minister want to start off?

Mrs L.M. HARVEY: Clause 67 introduces evidential provisions that relate to the use of images produced by speed measuring and recording equipment. The amendments to this clause introduce provisions to facilitate the approval, operation and evidence provided by an average speed-detection system. Once amended, clause 67 will insert new sections 117B to 117I into the Road Traffic (Administration) Act. In effect, the lines we are considering that delete the words “Section 118A inserted” and substitute “Sections 117A to 117I inserted” are a consequential amendment to enable us to make other amendments to section 117B after this amendment has been considered.

Mrs M.H. ROBERTS: There are quite a lot of amendments to insert proposed sections 117A, 117B, 117C, 117D, 117E, 117F, 117G, 117H and 117I, which take up quite a lot of our notice paper. I wonder why all this detail needs to be placed on the notice paper, rather than being included in the bill. The minister is deleting new section 118A from her own bill.

Mrs L.M. Harvey: We are effectively renumbering them so we can insert the provisions and make them fit.

Mrs M.H. ROBERTS: Is section 118A that is proposed to be inserted the same section 118A that is printed in the consolidated Road Traffic (Administration) Act?

Mrs L.M. HARVEY: No; the clause we are considering at present is deleting the words “Section 118A inserted” and substituting “Sections 117A to 117I inserted”. When we get further down in the amendments, the member will see that at page 48, after line 23, we will consider new section 117B, which has definitions for point-to-point cameras, and new section 117C, which details average detection systems. This amendment is effectively renaming a heading in the legislation so that the drafting is ordered.

Mrs M.H. ROBERTS: I am still seeking further clarity. The minister has moved under clause 67, at line 23 on page 46, to delete “Section 118A inserted” and substitute proposed section 117A. I am asking whether section 118A in this consolidated version of the Road Traffic (Administration) Act is the same section 118A that we are deleting.

Mrs L.M. HARVEY: No, member. This amendment we are considering deletes the heading and inserts a new heading.

Mr W.J. JOHNSTON: I think my friend wants to know why the minister is not proceeding to call it section 118A et cetera, but instead is calling it section 117A et cetera?

Mrs L.M. HARVEY: It is because subsequent amendments will renumber the sections as 117 and 118.

Mr W.J. Johnston: Why?

Mrs L.M. HARVEY: It is so that it makes sense and fits into the act.

Mr W.J. JOHNSTON: I cannot see the minister inserting anywhere in the bill proposed section 118A, which does not seem to exist anymore. There may be a good reason for not using 118A and for using 117A. I am just asking what is the good reason.
Mrs L.M. HARVEY: Section 117 of the Road Traffic (Administration) Act currently exists, and we are amending it. Section 118 is a section of the Road Traffic (Administration) Act and is not being amended. In order for this to flow effectively in the legislation, we are inserting proposed section 118A in between sections 117 and 118. It needs to be done in this fashion so we can have ordered consideration of the legislation and it fits with the appropriate format.

Mr W.J. JOHNSTON: I understand that a section 118A appears before section 118, because that is the way the legislation is drafted. At the moment, in the bill as presented, the minister is inserting section 118A after section 117. That means it is after 117, but before 118, which is the normal practice. The minister is now saying that after section 117, we will have section 117A and not section 118A. Instead of being before section 117 it is after 118.

Mrs L.M. HARVEY: It is because parliamentary counsel has changed the way it numbers, so it will be 117, and 118A will be replaced by 117A; it is just drafting. As I said, the amendment is changing the heading so that the drafting is consistent and makes sense.

Mr W.J. JOHNSTON: I agree. If that is the answer, that means that the bill as presented is not sensible and does not work. Does the minister see what I am saying?

Mrs L.M. HARVEY: That is not so, member. It has been subsequently amended, so it needed to be altered.

Mr W.J. JOHNSTON: Yes, but the minister said that the reason she was amending it from 118A to 117A was that calling it 118A does not make sense, but that is what she asked us to do.

Amendment put and passed.

Mrs L.M. HARVEY: I move —

Page 46, line 26 — To delete “118A” and substitute —

117A

Amendment put and passed.

Mrs L.M. HARVEY: I move —

Page 47, lines 7 and 8 — To delete “as defined in section 117(1)”

Mrs M.H. ROBERTS: Perhaps the minister would like to advise the house why the words “as defined in section 117(1)” need to be deleted.

Mrs L.M. HARVEY: With the consequential amendments, they are no longer relevant issues.

Mr W.J. JOHNSTON: At the moment, the legislation states “the equipment specified in the certificate was speed measuring and recording equipment as defined in section 117(1)”. Now it will be undefined. Is there a need for a substitution, because section 117(1) sets out approved procedures, and the legislation no longer refers to that. Is the minister saying that even if it is speed-measuring equipment but it has not been dealt with in accordance with the procedures, it is still acceptable as speed-recording equipment?

Mrs L.M. HARVEY: These words are being deleted because the reference does not need to be made here, and this is being defined further on in proposed section 118A. I am advised that parliamentary counsel has determined that it is no longer necessary to point out where it is defined, because the legislation defines it.

Mr W.J. JOHNSTON: Other things happen in section 117. It is also about the authorised procedure et cetera, and the authorised person. It is actually not just a definition; it is a procedure. Where are those procedures being placed, because otherwise it is stating that the speed measuring and recording equipment is specified in the certificate, but what is the approval procedure that led to this certification?

Mrs L.M. HARVEY: The definition that will be inserted eventually is that speed measuring and recording equipment means apparatus of a type approved by the minister under section 117(2)(c).

Mr W.J. Johnston: Where is that?

Mrs L.M. HARVEY: We will get to that when we amend section 117.

Mr W.J. JOHNSTON: Sorry; I did not hear the minister.

Mrs L.M. Harvey: It has a further amending clause that we will come to.

Mr W.J. JOHNSTON: Whereabouts?

Mrs L.M. Harvey: It is in the bill under clause 66.

Mr W.J. JOHNSTON: It still does not fix the issue that I am raising with the minister. I am raising a separate issue with the minister.
Mrs L.M. Harvey: What is the issue that the member is raising? I do not understand what the member is raising. If the member could explain the issue, I would really appreciate it.

Mr W.J. Johnston: Clearly, the minister does not understand. Excellent—for the third time I will say the exact same thing. The minister should read what she is deleting. Proposed section 117(1) is a procedure. It is a set of procedures.

Mrs L.M. Harvey: No.

Mr W.J. Johnston: I have it in my hand. It refers to certain measuring equipment. Proposed section 117(1) states, in part—

**approved procedure**, in relation to setting up, installing, testing or retrieving—

Et cetera. Proposed section 117(1) further states—

**authorised person** …

(c) in relation to speed measuring and recording equipment, means—

Et cetera.

It is a definition of not only an issue, but a procedure. This amendment deletes the reference to the procedure and not only the reference to the definition. That is the point I am making.

Mrs L.M. Harvey: I can understand the confusion. Proposed section 117(1) does not define a procedure. It is a definition section. Proposed section 117(1) has the definitions of “approved procedure”, “authorised person”, “distance measuring equipment” and “speed measuring equipment”. Those definitions are referred to subsequently in further amendments on the notice paper and further in the act.

Mr W.J. Johnston: Whereabouts?

Mrs L.M. Harvey: Throughout. Which definition? “Approved procedure” is referred to in this proposed section and proposed section 117A after the amendments are dealt with.

Amendment put and passed.

Mrs L.M. Harvey: I move—

Page 47, lines 18 and 19 — To delete “after the day on which the alleged offence took place;” and substitute—

before the day on which the alleged offence was committed;

Mrs M.H. Roberts: Why does the minister need to move that amendment? Why is she changing the day?

Mrs L.M. Harvey: The effect of this is that speed camera equipment was to be certified after an offence was committed. However, in keeping with other point-to-point legislation, it will now be certified before an alleged offence is committed. It guarantees a period in which the equipment has been certified before it is used.

Mrs M.H. Roberts: Therefore, minister, why does it not just say that it needs to be certified before it is used? The way it is now worded is, “before the day on which the alleged offence was committed”. It sounds to me as though the equipment cannot be certified in the morning for a person who committed an offence in the afternoon.

Mrs L.M. Harvey: This is equipment that is fixed. It is not necessarily touched. It will be tested, sometimes remotely. It is envisaged that the certification testing will occur annually. This is to ensure that a testing regime is in place and that that testing regime is certified so that we know that the equipment is operating as it is supposed to operate to ensure that any offences can be upheld.

Mr W.J. Johnston: I have two questions, but I will ask them separately. The first question is: given that the minister is going to prescribe a number of days, what is the intention for the number of days that will be prescribed?

Mrs L.M. Harvey: It will be in accordance with the manufacturer’s instructions, but for the equipment that we currently have, it is 12 months.

Mr W.J. Johnston: Thank you very much. The second question is: given that this legislation was approved by cabinet, why did cabinet give approval for testing of the equipment after the issue of an infringement? That would mean that at the time an infringement was issued, we would not know whether the infringement was valid. Why did cabinet agree to allow a situation in which the testing to see whether the issuing of the infringement was valid would occur only after the infringement was issued?

Mrs L.M. Harvey: There was to be a different regime for different equipment. We have undertaken that all equipment will be tested before it is used.
Mr W.J. JOHNSTON: Yes, but that is not the question I asked. The question I asked is: how come cabinet approved a regime that would have stated that the police were going to be issuing infringement notices and then testing the equipment, rather than testing the equipment and then issuing infringement notices? Under that regime, cabinet could have agreed to hundreds and hundreds of infringements that were issued for faulty equipment.

Mrs L.M. HARVEY: Member, this is just saying that the equipment would come certified before we use it and would be certified every year.

Mr W.J. JOHNSTON: I know exactly what it says.

Mrs L.M. HARVEY: It is a change in the regime—because the regime has changed with a different policy, we are changing the legislation.

Mr W.J. JOHNSTON: I will ask the question again. Let me make it clear. There is no regime. This is a bill, not an act, that the minister is seeking to amend. What I am asking is: what was in the mind of cabinet when it approved the procedure that infringement notices were to be issued and then the testing was to be done? Why did cabinet approve the words here, which create the bizarre situation in which hundreds and hundreds of infringement notices could have been issued that would never have been valid?

Mrs L.M. HARVEY: I am not going to discuss cabinet deliberations and why decisions were made. All I will say is that this is moving to a system in which we know that the equipment is certified and tested before we get it. We need to change these words to reflect what happens in practice, and that is what we are doing.

Mr W.J. JOHNSTON: Let me get this clear. I am not asking the minister what happened in cabinet. Did the minister ask cabinet to support a situation in which the certification is done only after the infringement notices are issued; and, if the minister did not do that, how did that get in the bill?

Mrs L.M. HARVEY: The member is fundamentally misunderstanding what I am saying, so I will just say that, yes, I have asked cabinet to approve all these amendments that sit before us.

Mr W.J. JOHNSTON: Is the minister saying that she did not ask cabinet to approve the bill?

Amendment put and passed.

Mrs L.M. HARVEY: I move —

Page 47, line 20 — To delete “day referred to in paragraph (c),” and substitute —

specified day referred to in paragraph (c) and on the day on which the alleged offence was committed,

Once again, this is a consequential amendment to ensure that the subsequent amendments on the notice paper flow appropriately.

Mr W.J. JOHNSTON: This is a very important amendment but it does not do what the minister says it does. This is about making sure that the equipment works at the time that infringement notices are issued. It is a very important amendment but it does not do what the minister says it does.

Mrs M.H. ROBERTS: The question is: why has the minister needed to change the day referred to in paragraph (c) and substitute it with another day? We realise it is a consequential amendment, but why?

Mrs L.M. HARVEY: We are bringing in a different system, a point-to-point system, so the language required to refer to that different system has changed. This amendment reflects that change.

Mr W.J. JOHNSTON: The minister has to actually work out what is happening. There is no point in just standing up and saying words. That is not what this amendment does. This is the minister’s bill. This amendment is not doing what the minister says it does. This amendment does not amend an act; it amends the bill. It does not amend a regime; it amends a proposed regime. As I say, it is a very important amendment but it does not do what the minister says it does.

The SPEAKER: Do you have anything to say, minister?

Mrs L.M. Harvey: I have nothing to add.

Amendment put and passed.

Mrs L.M. HARVEY: I move —

Page 48, lines 1 to 5 — To delete the lines and substitute —

(4) A certificate under subsection (2) is not admissible in evidence in a prosecution mentioned in section 117(6) unless a copy of the certificate and a copy of the relevant image are given to the accused at least 28 days before the day on which the proceedings begin or within a shorter period that is agreed by the accused.
Mrs M.H. ROBERTS: Why was this provision not included in the minister’s original bill?

Mrs L.M. HARVEY: It is in the original bill but it has been redrafted according to the provisions for the point-to-point system.

Amendment put and passed.

Mrs L.M. HARVEY: I move —

Page 48, lines 8 and 9 — To delete “or set out”.

Mrs M.H. ROBERTS: Again, the minister has provided no explanation of why the words “or set out” at lines 8 and 9 need to be deleted. Lines 6 to 9 state —

(5) If a copy of the image and the certificate have been given as required by subsection (4), the accused cannot challenge or call into question a matter certified or set out in the certificate unless —

Why does the minister want to delete the words “or set out” so that the proposed new subsection will just read “call into question a matter certified in the certificate”?

Mrs L.M. HARVEY: I am advised that it is not required because there is nothing set out; it is all certified.

Mrs M.H. ROBERTS: Why was that put in the bill in the first place?

Mrs L.M. HARVEY: As I have said previously, we have amended the legislation as we have gone through so that it fits in with the provisions of the point-to-point trial.

Mr W.J. JOHNSTON: What provision does the words “or set out” not comply with in the bill?

Mrs L.M. HARVEY: As I just said, the matters are certified so there is no requirement to have the words “or set out” in the bill.

Mr W.J. JOHNSTON: Yes, I heard the minister say that but I also heard her say that the words “or set out” are no longer necessary because of other proposed changes. All I am asking is: what were those other changes?

Mrs L.M. HARVEY: The words are just not required. That is why we are seeking to delete them.

Mr W.J. JOHNSTON: I just go back to the question that the member for Midland asked: why did the words end up in the bill if they are not required?

Mrs M.H. ROBERTS: I have not really received an answer to my question. Under an alternative regime in which we did not have point-to-point cameras, the words “or set out” were apparently required. Why were those words required and why, when we are now going to point-to-point cameras in a different regime, are those words now not required? I know the minister is saying that we are under a different regime and therefore they are not required but there are many components to this; we are not just dealing with point-to-point cameras. Why were the words “or set out” put in the bill in the first place? What relevance did they have to any previous regime and why do they no longer have relevance?

Mrs L.M. HARVEY: The advisers who have been involved in the drafting of this legislation have said that it has been redrafted a number of times and it was determined on the final draft that these words were not required so we are requesting that Parliament approve their deletion.

Amendment put and passed.

Mrs L.M. HARVEY: I move —

Page 48, line 12 — After “proceedings” insert —

Amendment put and passed.

Mrs L.M. HARVEY: I move —

Page 48, line 19 — To delete “described in” and substitute —

under

Mrs M.H. ROBERTS: Again, why is the minister deleting the words “described in” and why does she want to insert the word “under”? What effect will that have?

Mrs L.M. HARVEY: Once again, in one of the redrafts, it was determined by the drafters that the word “under” is better placed in the context of this legislation.

Mrs M.H. ROBERTS: Proposed new subsection (7) states —

In a prosecution mentioned in section 117(6), it is to be presumed, in the absence of evidence to the contrary, that a certificate described in subsection (2) purporting to have been signed by the Commissioner of Police was so signed ...
If we accept this amendment, it will state —

(7) In a prosecution mentioned in section 117(6), it is to be presumed, in the absence of evidence to the contrary, that a certificate under subsection (2) —

By deleting "described in", it would state “that a certificate under subsection (2) purporting to have been signed”.

Mrs L.M. Harvey: That is correct.

Mrs M.H. Roberts: It seems to me that there is little difference between those two things. I really question the need for the amendment.

Amendment put and passed.

Mrs L.M. Harvey: I move —

Page 48, after line 23 — To insert —

117B. Evidence of average speed as actual speed

(1) In this section and in sections 117C to 117I —

authorized person means —

(a) a police officer; or

(b) a person certified by the Commissioner of Police as being competent to install, set up, test or retrieve data from, an average speed detection system or produce images from the data;

average speed detection system means a system, comprising electronic equipment linked to an information technology system and computer programs, of a type approved by the Minister under section 117C;

carriageway means a portion of a road that is designed or ordinarily used for vehicular traffic;

detection points means the different points on a carriageway by reference to which the average speed of a vehicle is proposed to be calculated;

Minister means the Minister to whom the administration of the Police Act 1892 is committed;

shortest practicable distance, that could be travelled by a vehicle on a carriageway between detection points, means the shortest distance between those points that a driver of the vehicle could have used to travel between the points without contravening any road law applicable to the driver.

(2) In a prosecution for an offence under any written law evidence may be given of —

(a) the use of an average speed detection system in respect of a particular location; and

(b) the identity of a vehicle as ascertained by that system at a particular time; and

(c) the average speed of a vehicle between detection points calculated in accordance with section 117D.

(3) The evidence referred to in subsection (2)(b) is prima facie evidence of the identity of the vehicle.

(4) The average speed of a vehicle referred to in subsection (2)(c) is prima facie evidence of the actual speed of the vehicle between the detection points.

(5) In a prosecution mentioned in subsection (2), evidence of the matters referred to in that subsection may be given in the form of an image of the vehicle on which is recorded —

(a) the location referred to in subsection (2)(a); and

(b) the time referred to in subsection (2)(b); and

(c) the average speed of the vehicle between detection points calculated in accordance with section 117D (which may have been calculated using an average speed detection system).

(6) In a prosecution mentioned in subsection (2), evidence by an authorised person that a system used in respect of a particular location was an average speed detection system is prima facie evidence of that fact.
(7) In a prosecution mentioned in subsection (2), a certificate purporting to be signed by the Commissioner of Police certifying that a specified person is, or was at the material time, an authorised person is prima facie evidence of the matters in the certificate, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner.

(8) This section is in addition to, and does not derogate from, any other mode of proof of the speed of a vehicle.

117C. **Average speed detection systems**

(1) The Minister may, from time to time, by notice published in the Gazette, approve types of average speed detection systems for the purposes of —

(a) ascertaining the average speed of a vehicle between detection points; and

(b) recording —

(i) an image of the vehicle; and

(ii) the date on which the image was recorded; and

(iii) the time and location at which the image was recorded.

(2) The Minister may, by notice published in the Gazette, revoke an approval under subsection (1).

117D. **How average speed is to be calculated**

The average speed of a vehicle between detection points is to be calculated in accordance with the following formula and expressed in kilometres per hour rounded down to the next whole number —

\[
\frac{D_T \times 3600}{T}
\]

where —

- \(D_T\) is the total shortest practicable distance, expressed in kilometres and rounded down to 2 decimal places, that could be travelled by a vehicle on a carriageway between the detection points;

- \(T\) is the time, expressed in seconds, that elapsed between the vehicle passing the first and last detection points.

117E. **How average speed limit is to be calculated**

The average speed limit for a driver of a vehicle on a carriageway between detection points in circumstances where more than one speed limit applied to the driver between those points is to be calculated in accordance with the following formula and expressed in kilometres per hour rounded up to the next whole number —

\[
\frac{D_T}{\frac{D_1}{S_1} + \frac{D_2}{S_2} + \ldots + \frac{D_n}{S_n}}
\]

where —

- \(D_T\) is the total shortest practicable distance, expressed in kilometres and rounded down to 2 decimal places, that could be travelled by a vehicle on a carriageway between the detection points;

- \(D_1, D_2, \ldots, D_n\) are each part of the total shortest practicable distance \(D_T\) between the detection points, expressed in kilometres and rounded down to 2 decimal places, for the different speed limits \(S_1, S_2, \ldots, S_n\) that would have applied to the driver of the vehicle between the detection points;

- \(S_1, S_2, \ldots, S_n\) are each of the speed limits, expressed in kilometres per hour, that would have applied to the driver of the vehicle if the vehicle were travelling along the shortest practicable distance \(D_T\) on a carriageway between the detection points.
117F. Evidence of, proceedings for, certain matters related to evidence of average speed

(1) The following provisions apply in a prosecution mentioned in section 117B(2)—

(a) for the purposes of calculating the vehicle’s average speed and any average speed limit, the vehicle and any of its drivers are to be taken to have travelled between the detection points by means of the shortest practicable distance between those points regardless of the actual route taken by any of the drivers between the points;

(b) if more than one speed limit applied to a driver of a vehicle between detection points—

(i) the average speed limit for the driver on a carriageway between the points calculated in accordance with section 117E is to be taken (subject to section 117B(8)) to be the speed limit that applied to the driver at all times on the carriageway between those points; and

(ii) a driver of, and any responsible person for, the vehicle may be dealt with under a road law accordingly;

(c) if there was more than one driver of the vehicle between the detection points, each driver is to be taken to have driven the vehicle at the average speed of the vehicle calculated in accordance with section 117D, except as provided by subsection (2).

(2) Subsection (1)(c) does not apply to a driver—

(a) who satisfies the court that he or she did not, at any time whilst driving the vehicle between the detection points, drive at a speed that exceeded the speed limit applicable to that driver; or

(b) in prescribed circumstances.

(3) If there is evidence of the average speed of a vehicle between detection points calculated in accordance with section 117D, one or more drivers of the vehicle may be prosecuted for, and found guilty or convicted of, an offence in respect of which the evidence was given.

117G. Evidentiary provisions for images recorded by average speed detection systems

(1) If, in a prosecution mentioned in section 117B(2), evidence is given in the form of an image as described in section 117B(5) and the image is accompanied by a certificate under subsection (2), the image—

(a) is to be accepted as having been recorded as described in section 117B(5), unless there is evidence to the contrary; and

(b) is prima facie evidence of the matters shown in or recorded on the image.

(2) For the purposes of subsection (1), the certificate is a certificate purporting to be signed by the Commissioner of Police certifying that—

(a) the system, specified in the certificate, was an average speed detection system; and

(b) components of the system were tested by an authorised person, named in the certificate, in accordance with the approved procedure on a day, specified in the certificate, that was within the prescribed number of days (for each component) before the day on which the alleged offence was committed; and

(c) on the specified day referred to in paragraph (b) and on the day on which the alleged offence was committed, the components were operating properly and were accurate; and

(d) data obtained from the system was obtained by an authorised person, named in the certificate, in accordance with the approved procedure; and

(e) the image was produced by an authorised person, named in the certificate, in accordance with the approved procedure, from data obtained from the system.

(3) In subsection (2)—

approved means approved by the Commissioner of Police.

(4) A certificate under subsection (2) may also certify any one or more of the following matters—

(a) the average speed calculated in accordance with section 117D at which the vehicle travelled between detection points (which may have been calculated using the average speed detection system);
(b) if one speed limit applied to a driver of the vehicle between detection points (measured along the shortest practicable distance), the speed limit;

(c) if more than one speed limit applied to a driver of the vehicle between detection points (measured along the shortest practicable distance) —
   (i) each distance for which each speed limit applied to the driver, expressed in kilometres and rounded down to 2 decimal places; and
   (ii) the average speed limit calculated in accordance with section 117E that applied to the driver between the detection points (which may have been calculated using the average speed detection system).

(5) The certificate is prima facie evidence of the matters in it.

(6) In a prosecution mentioned in section 117B(2), it is to be presumed, in the absence of evidence to the contrary, that a certificate under subsection (2) purporting to have been signed by the Commissioner of Police was so signed, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner.

117H. Certificate evidence as to shortest practicable distance

(1) In this section —
   licensed surveyor has the meaning given in the Licensed Surveyors Act 1909 section 3(1).

(2) In a prosecution mentioned in section 117B(2), a certificate purporting to be signed by a licensed surveyor certifying any one or more of the following matters is prima facie evidence of the matters that are certified, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was a licensed surveyor —
   (a) the shortest practicable distance, expressed in kilometres and rounded down to 2 decimal places, that could be travelled by a vehicle on a carriageway between detection points;
   (b) if more than one speed limit between detection points applied (measured along the shortest practicable distance), each distance for which each speed limit applied, expressed in kilometres and rounded down to 2 decimal places.

117I. Certificate, image copies to be given before proceedings

(1) A certificate of the Commissioner of Police under section 117G is not admissible in evidence in a prosecution mentioned in section 117B(2) unless a copy of the certificate and a copy of the relevant image are given to the accused at least 28 days before the day on which the proceedings begin or within a shorter period that is agreed by the accused.

(2) A certificate of a licensed surveyor under section 117H is not admissible in evidence in a prosecution mentioned in section 117B(2) unless a copy of the certificate is given to the accused at least 28 days before the day on which the proceedings begin or within a shorter period that is agreed by the accused.

(3) If a copy of a certificate has been given as required by subsection (1) or (2), the accused cannot challenge or call into question a matter certified in the certificate unless —
   (a) notice in writing of the accused’s intention is given to the prosecutor at least 14 days before the proceedings begin; or
   (b) the court, in the interests of justice, gives the accused leave to do so.

(4) A notice under subsection (3)(a) must specify the matter that is to be challenged or called into question.

Mrs M.H. ROBERTS: I notice that these five and a half pages of amendments will be inserted at the end of the bill. Frankly, this is longer than some bills before the house. It is quite detailed. It really begs the question why the minister did not just proceed with the Road Traffic Legislation Amendment Bill (No. 2) last year without this in it and introduce a second bill on point-to-point cameras. The minister almost has a separate amending bill in what she has on the notice paper in what she is adding as a single amendment at the end of the bill. I have some questions with respect to this very long, five and a half page insertion. I start at page 13 of the notice paper. Under the definition of “minister”, it states —

means the Minister to whom the administration of the Police Act 1892 is committed;

Correct me if I am wrong, the amendments before us are to the Road Traffic (Administration) Act 2008; is that right?
Mrs L.M. Harvey: Yes.

Mrs M.H. ROBERTS: Is that act allocated to the Minister for Transport or to the Minister for Road Safety?

Mrs L.M. Harvey: The Minister for Transport.

Mrs M.H. ROBERTS: The Road Traffic (Administration) Act, which is allocated to the Minister for Transport, is being amended, but the request in this amendment on the notice paper is that the minister referred to is the minister to whom the administration of the Police Act 1892 is committed. The real effect is that it is committed to the Minister for Police. I cannot imagine a circumstance in which the Police Act 1892 would be allocated to anyone other than the Minister for Police. What is the minister’s explanation for that? Why should not the minister referred to here be the minister who is actually responsible for the Road Traffic (Administration) Act—that is, the Minister for Transport—or, alternatively, why should it not be the Minister for Road Safety or the minister to whom the Road Traffic (Administration) Act is allocated? As I pointed out last night, there could be a circumstance in which the government of the day determines to allocate the road safety portfolio to a minister other than the Minister for Police. That occurs in many other states. It has happened here previously. Firstly, can the minister explain why she did not make the choice that it should go to the Minister for Transport and, further, why the choice should not be made to allocate it to the minister with responsibility for the Road Traffic (Administration) Act, who may in the future be the Minister for Road Safety? Alternatively, why would it not be allocated to the minister with responsibility for road safety rather than police? I think this just presumes that the Minister for Road Safety and the Minister for Police are one and the same.

Mrs L.M. Harvey: Not necessarily, member. The reason that the minister in this proposed section means the minister to whom the administration of the Police Act 1892 is committed is that the references to the minister in the subsequent proposed sections relate to the authorisation of the speed-detection equipment and systems that the Minister for Police is appropriately authorising for use via the Commissioner of Police for speed detection.

Mrs M.H. ROBERTS: I put it to the minister that that could just as appropriately be done by a Minister for Road Safety who was not the Minister for Police. That is my whole point. Any Minister for Road Safety can get advice from a whole range of sources, but, ultimately, I think it would be very wrong if there were in the future a Minister for Road Safety separate from the Minister for Police and the Minister for Police made these determinations rather than the Minister for Road Safety.

Mrs L.M. Harvey: As we discussed yesterday, the decision has been made by government that the Minister for Police is the appropriate minister to certify the equipment that police use and ensure that a regime is in place to have that equipment tested et cetera. That is a decision of government. People may have different opinions, but that is the decision we have made and why the minister referred to in this proposed section is the minister to whom the administration of the Police Act is committed.

Mr W.J. Johnston: I wonder whether the minister is going to provide an explanatory memorandum for this very long amendment in the same way as she has provided an EM for the bill itself.

Mrs L.M. Harvey: I have some explanatory memoranda here that I am happy to table and provide copies of. I apologise. I thought that that had already been provided.

[See paper 4462.]

Mrs M.H. Roberts: In the interim, while that is being copied and provided to us, perhaps the minister could answer some questions in general terms about some of the detail. We can see all the proposed sections to be inserted—proposed section 117C, “Average speed detection systems”; proposed section 117D, “How average speed is to be calculated”, which has some formulas and so forth; and proposed section 117E, “How average speed limit is to be calculated”. Obviously, they are all very important for point-to-point cameras. Are these models for how the average speed is to be calculated, how the average speed limit is to be calculated and so forth based on formulas used in any particular state of Australia or other states of Australia generally? Basically, do they mirror legislation put in place in other states for the calculation of average speeds; and, if so, which states?

Mrs L.M. Harvey: Yes they do, and they mirror the formulae that are used in New South Wales, Victoria and South Australia.

Mr W.J. Johnston: I refer to propose section 117E and the formula to allow for the averaging of speed limits over a distance. I just want to seek clarification about the way this works. I particularly draw the minister’s attention to the explanation below the formula and the middle paragraph after “where —”. The explanatory paragraph states —

\[ D_1, D_2, \ldots, D_n \] are each part of the total shortest practicable distance \( D_t \) between the detection points, expressed in kilometres and rounded down to 2 decimal places, for the different speed limits \( S_1, S_2, \ldots, S_n \) that would have applied to the driver of the vehicle between the detection points;
Mrs L.M. HARVEY: Effectively, the trial is in a zone where the speed limit is 110 kilometres an hour. However, should we put these cameras in places where there are multiple speed limits, this formula sets out what the average speed limit should be over that distance. If the driver travels above the average speed limit, they will be infringed.

Mr W.J. JOHNSTON: But there is no such thing as an average speed limit.

Mrs L.M. Harvey: We are introducing it here for the purpose of point-to-point.

Mr W.J. JOHNSTON: The reality is that a person would not be infringed even though they speed. It is a matter of mathematics. If there is a high speed and a low speed in the same detection zone, maths tells us—it is as simple as that—there is absolutely no alternative. Someone could match the proposed section 117E average speed limit but still actually speed. There is absolutely no argument about this; it is simply a mathematical truth.

I am not saying we should withdraw the legislation because of that but I make the observation that it is a simple mathematical truth. If we can accept that mathematical truth, I will not ask any further questions on this topic.

Mrs L.M. HARVEY: Just to clarify that it is a mathematical truth; in effect, if someone in a 100 kilometre zone, an 80 kilometre zone and a 100 kilometre zone, they could travel at 80, 100 and 80 and perhaps achieve the average speed. But just because a point-to-point trial is being held, that does not mean that in an area that is speed limited as part of that trial—for example, a town where there is a lower speed limit—we could not also place a speed camera in the zone to infringe people who choose to exceed the speed limit at certain points.

Mrs M.H. ROBERTS: Cameras are to be inserted at the start and finish of the zone; they can take photographs of vehicles, their numberplates and the like. One of the concerns in the past has been the penalty for obscuring a numberplate being lesser than speeding fines. Can the minister advise the penalty for an obscured or largely unreadable numberplate?

Mrs L.M. HARVEY: At present, the penalty for obscuring a numberplate is $1,000. However, we are working towards increasing that and it will occur in the near future.

Mrs M.H. Roberts: Are demerit points associated with it or not?

Mrs L.M. HARVEY: No.

Mrs M.H. ROBERTS: I think that is an oversight and something that should have been addressed in this bill. When introducing this kind of regime, yes $1,000 is a significant fine for obscuring a numberplate but if someone is exceeding the speed limit by 30 kilometres an hour or whatever, presumably, they will get not only a fine of that order, but also probably lose at least six demerit points and potentially lose their licence, especially if they have already lost some demerit points. If they do that during a double-demerit weekend, it would cause a loss of licence. If someone wants to drive at excessive speeds to get from point A to point B down the Forrest Highway or wherever, there appears to be some incentive for them to obscure their numberplate, and risk the $1,000 fine rather than risk losing their licence and having probably a greater fine, I think of up to $1,200, for certainly doing some of the higher level speeding that unfortunately too many people do. Can the minister consider that as the bill goes through the upper house, because with increased speed detection, more people may obscure numberplates? While driving around on a daily basis, I notice numberplates that are been partly obscure numberplates? While driving around on a daily basis, I notice numberplates that are been partly
obscured, seemingly somehow faded, non-existent or difficult to read. That should not provide a way for people to get around speeding fines, the accumulation of demerit points or the loss of a licence.

Mr W.J. JOHNSTON: Other states have point-to-point gantries over roads. I understand they are also used to check driver fatigue management in heavy vehicles. I know that is not included in this provision, but has the government considered this?

Mrs L.M. HARVEY: That is one area we are testing with the equipment.

Amendment put and passed.
Clause, as amended, put and passed.
New clause 68: Part 9 Division 2 replaced —
Mr W.J. JOHNSTON: Other states have point-to-point gantries over roads. I understand they are also used to check driver fatigue management in heavy vehicles. I know that is not included in this provision, but has the government considered this?

Mrs L.M. HARVEY: This is one area we are testing with the equipment.

Amendment put and passed.
Clause, as amended, put and passed.
New clause 68: Part 9 Division 2 replaced —
Mrs L.M. HARVEY: I move —

Page 48, after line 23 — To insert —

68. Part 9 Division 2 replaced
Delete Part 9 Division 2 and insert —

Division 2 — Transitional provisions arising from certain amendments made by the Road Traffic Legislation Amendment Act (No. 2) 2015

166. Terms used
In this Division —

commencement day means the day on which the Road Traffic Legislation Amendment Act (No. 2) 2015 section 66 comes into operation;

RT(A) Act means the Road Traffic (Administration) Act 2008 as in force before commencement day.

167. Approval of apparatus for ascertaining vehicle speed
An approval under the RT(A) Act section 117(2) that was in effect immediately before commencement day is, on and from commencement day, to be taken to be an approval for the purposes mentioned in section 117(2)(a).

168. Approval of apparatus for ascertaining distances on roads
An approval under the RT(A) Act section 117(3) that was in effect immediately before commencement day is, on and from commencement day, to be taken to be an approval for the purposes mentioned in section 117(2)(b).

169. Certain authorised persons to be authorised persons for speed measuring and recording equipment, average speed detection systems

(1) In this section —

speed measuring equipment has the meaning given in the RT(A) Act section 117(1).

(2) A person who, immediately before commencement day, is a person certified by the Commissioner of Police as being competent to use speed measuring equipment is, on and from commencement day, to be taken to be a person certified by the Commissioner of Police as being competent to install, set up, test and retrieve data from speed measuring and recording equipment as defined in section 117(1) and produce images from the data.

(3) A person who, immediately before commencement day, is a person certified by the Commissioner of Police as being competent to use speed measuring equipment is, on and from commencement day, to be taken to be a person certified by the Commissioner of Police as being competent to install, set up, test and retrieve data from an average speed detection system as defined in section 117B(1) and produce images from the data.

Mrs M.H. ROBERTS: Again I ask why we need to insert a new clause.

Mrs L.M. HARVEY: This new clause will delete a redundant head of power in the Road Traffic Administration Act to make amendments to regulations under any act to do with matters consequential to the commencement of the act. The member will recall that earlier we deleted transitional provisions. This new clause will insert new transitional provisions, which are detailed on the notice paper. These transitional provisions deal with matters arising from the commencement of amendments made by the Road Traffic Legislation Amendment Bill (No. 2) 2015, in particular matters that arise from amendments to legislation concerning the approval and operation of speed and distance measuring apparatus. Included at section 168(3) is a transitional provision providing for
persons certified by the Commissioner of Police to be competent to use speed measuring equipment to also be certified to install, set up, test and retrieve data from an average speed detection system.

Mr W.J. JOHNSTON: It means that in proposed sections 169(2) and (3), because those people are automatically certified, they will be certified without necessarily proving they are capable of using the equipment. That is an unusual situation. Perhaps it will be easier for me to ask now, rather than having to ask the same question a number of times, for an assurance that people will not be allowed to use the equipment even when they are certified under this provision without having been trained.

Mrs L.M. HARVEY: Indeed, they need to be certified by the commissioner to be competent to use the equipment. The commissioner needs to satisfy himself that they are competent to use it before he certifies it. That obviously involves training in the use and maintenance of the equipment.

Mr W.J. JOHNSTON: That is not right because proposed new subsection (2) states —

A person who, immediately before commencement day, is a person certified by the Commissioner of Police as being competent to use speed measuring equipment is, on and from commencement day, to be taken to be a person certified by the Commissioner of Police as being competent to install, set up, test and retrieve data from speed measuring and recording equipment as defined in section 117(1) and produce images from the data.

That is a broader range tasks than was previously allowed. Indeed, proposed new subsection (3) states —

A person who, immediately before …

Blah, blah, blah, is —

To be taken to be a person certified by the Commissioner of Police as being competent to install, set up, test and retrieve data from an average speed detection system as defined …

The minister’s answer was wrong. I do not want to get into a big up-and-down argument about it. All I am asking for is an assurance that the Commissioner of Police will make sure that people are trained before they do the job because this provision explicitly states that people are automatically certified, even if they have done nothing to gain that certification.

Mrs L.M. HARVEY: I am saying that the people in Western Australia Police who are currently certified and trained to use the equipment are the same people who will be trained and certified to use the new equipment. There is existing equipment and new equipment. They will all be trained and certified to use the equipment. I am not sure whether that satisfies what the member is asking.

Mr W.J. Johnston: Rather than me jumping up again, can the minister stay up and just say that she will make sure that the commissioner trains everybody before they use the equipment? Then I will be happy.

Mrs L.M. HARVEY: That is our protocol; I am happy to say that, yes.

Mr W.J. Johnston: It’s not in the legislation.

Mrs L.M. HARVEY: The commissioner absolutely ensures that people are trained and competent to use all the equipment provided by police.

Mr W.J. Johnston: Excellent, because it is not in the legislation.

Mrs M.H. ROBERTS: Can the minister advise me whether Western Australia Police currently propose to outsource the management of the point-to-point cameras?

Mrs L.M. HARVEY: No, it does not.

Mrs M.H. ROBERTS: Can the minister assure the house that the tender that has been out for the point-to-point cameras is just for the provision of equipment not for the operation of the equipment by an outsourced company?

Mrs L.M. HARVEY: The equipment for the current tender is being operated as a trial system. The equipment is being maintained and serviced by the vendor but the system is operated by WA police from the traffic enforcement section.

Mrs M.H. ROBERTS: Is that proposed to continue into the future?

Mrs L.M. HARVEY: It may change, but there is no proposal to change that at this point in time.

New clause put and passed.

Title put and passed.

HIGHWAYS (LIABILITY FOR STRAYING ANIMALS) AMENDMENT BILL 2016

Receipt

Bill received from the Council.

House adjourned at 12.05 am (Thursday)
QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

DEPARTMENT FOR CHILD PROTECTION AND FAMILY SUPPORT — STATE BUDGETS

5515. Mr B.S. Wyatt to the Minister for Child Protection:

I refer to the 2014/15 and the 2015/16 State Budgets and ask:

(a) in respect of the Department of Child Protection, what percentage of the total Budget for each financial year was allocated and spent on:

(i) construction (materials, equipment and services);
(ii) medical;
(iii) facilities management;
(iv) ICT;
(v) agency specific expense;
(vi) professional services;
(vii) human resources;
(viii) fleet management;
(ix) travel and transport; and
(x) office supplies and services; and

(b) of the total Budget for each financial year, what percentage of the total Budget was spent in areas other than those specified in question (a)?

Ms A.R. Mitchell replied:

(a)–(b) The 2015–16 actual results of the Department for Child Protection and Family Support are not provided as the audit of these results has not been finalised.

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MINISTER FOR MENTAL HEALTH — PORTFOLIOS — 457 VISA HOLDERS — STAFF

5540. Mr M. McGowan to the Minister for Mental Health; Child Protection:

For every department, agency and Government-Trading Enterprise within the Minister’s portfolio of responsibilities, how many 457 visa holders are currently employed, and in what positions?

Ms A.R. Mitchell replied:

Department for Child Protection and Family Support

The Department for Child Protection and Family Support directly employs ten (10) employees on primary 457 visas. Employees are employed in the following positions:

7 x Child Protection Workers
2 x Senior Child Protection Workers
1 x Clinical Psychologist

The Department also employs one secondary 457 visa holder in the position of Senior Residential Care Officer.
Comments for the Minister

A secondary visa holder can be a member of a family unit, an interdependent partner, or a dependent child of the interdependent partner who were added to the main applicant’s visa. Secondary visa holders can be employed on a fixed term contract basis only while the primary 457 visa holder sponsorship is current.

All employees sponsored by the Department on a 457 visa are employed fixed term by the Department. Their sponsorship will cease should their contract with the Department come to an end.

Mental Health Commission

One employee is employed on a UF309 Visa as a Registered Nurse in the Inpatient Withdrawal Unit, Next Step.

MINISTER FOR MENTAL HEALTH — PORTFOLIOS — FREEDOM OF INFORMATION ACT — INFORMATION STATEMENT

5560. Mr M. McGowan to the Minister for Mental Health; Child Protection:

For every department and agency in the Minister’s portfolio of responsibilities, does the agency have an Information Statement consistent with section 96 (1) of the Freedom of Information Act 1992:

(a) if yes to (1), what was date of publication of the Information Statement. If no, why not?

Ms A.R. Mitchell replied:

Department for Child Protection and Family Support

(a) Yes, the Information Statement is consistent and was last updated on 06 July 2016. It was uploaded to the DCPFS website on 26 July 2016.

Mental Health Commission

No.

(a) The Mental Health Commission merged with the Drug and Alcohol Office in July 2015 and a new Information Statement reflecting the amalgamation is yet to be published. The new Information Statement is required to embrace the additional information types that were transferred to the Mental Health Commission from the former Drug and Alcohol Office. This follows the development of a new Business Classification Scheme, in consultation with the State Records Office. The submission of a new Information Statement to the Office of the Information Commissioner, as per section 96(1) of the Freedom of Information Act 1992 will be achieved in the current calendar year. The previous Information Statement for the Mental Health Commission is available upon request until such time as the new submitted statement has been published.

MINISTER FOR MENTAL HEALTH — PORTFOLIOS — 2014–15 ANNUAL REPORT ON STATE FINANCES — LEASES

5591. Mr W.J. Johnston to the Minister for Mental Health; Child Protection:

I refer to Note 3: Summary of Significant Accounting Policies, and specifically to sub-note (r) Leases on page 81 of the Annual Report of State Finances 2014–15, and I ask:

(a) for each agency in the Minister’s portfolio, please detail each finance lease that has been entered into since 8 September 2008 and currently in force for each agency;

(b) for each such lease, please specify the specific infrastructure or property, plant or equipment that has been financed by such a lease, what value was assigned to that infrastructure or property, plant or equipment at the time the lease was created, and what is the current value of that infrastructure or property, plant or equipment;

(c) for each such lease, who is the counter party for each lease, and on what date did each lease come into force, and when is it expected that the lease will expire;

(d) what was the original value of each such lease, and what is the current value of each lease;

(e) for the specific infrastructure or property, plant or equipment financed by each such lease, what is the expected value of the item at the expiration of the lease;

(f) for each such lease, is there an obligation to make a “balloon” or similar payment at the expiration of the lease, and if so, what is the value of any such payment, and when is it due to be made; and

(g) what is the “interest rate implicit in the lease” for each such lease?
Ms A.R. Mitchell replied:
Department for Child Protection and Family Support
(a) The Department for Child Protection and Family Support has not entered into any finance lease arrangements since 8 September 2008.
(b)–(g) Not applicable.

Mental Health Commission
The Mental Health Commission has no finance leases currently in force that have been entered into since 8 September 2008.

MINISTER FOR EDUCATION — PORTFOLIOS — 2014–15 ANNUAL REPORT ON STATE FINANCES — LEASES

5603. Mr W.J. Johnston to the Minister representing the Minister for Education; Aboriginal Affairs; Electoral Affairs:
I refer to Note 3: Summary of Significant Accounting Policies, and specifically to sub-note (r) Leases on page 81 of the Annual Report of State Finances 2014–15, and I ask:
(a) for each agency in the Minister’s portfolio, please detail each finance lease that has been entered into since 8 September 2008 and currently in force for each agency;
(b) for each such lease, please specify the specific infrastructure or property, plant or equipment that has been financed by such a lease, what value was assigned to that infrastructure or property, plant or equipment at the time the lease was created, and what is the current value of that infrastructure or property, plant or equipment;
(c) for each such lease, who is the counter party for each lease, and on what date did each lease come into force, and when is it expected that the lease will expire;
(d) what was the original value of each such lease, and what is the current value of each lease;
(e) for the specific infrastructure or property, plant or equipment financed by each such lease, what is the expected value of the item at the expiration of the lease;
(f) for each such lease, is there an obligation to make a “balloon” or similar payment at the expiration of the lease, and if so, what is the value of any such payment, and when is it due to be made; and
(g) what is the “interest rate implicit in the lease” for each such lease?

Mrs L.M. Harvey replied:
Department of Aboriginal Affairs
(a)–(g) Nil.
Country High School Hostels Authority
(a)–(g) Nil.
Department of Education
(a)–(g) [See tabled paper no 4461.]
Department of Education Services
(a)–(g) Nil.
School Curriculum and Standards Authority
(a)–(g) Nil.
Western Australian Electoral Commission
(a)–(g) Nil.

PREMIER — PORTFOLIOS — 2014–15 ANNUAL REPORT ON STATE FINANCES — LEASES

5606. Mr W.J. Johnston to the Premier; Minister for Tourism; Science:
I refer to Note 3: Summary of Significant Accounting Policies, and specifically to sub-note (r) Leases on page 81 of the Annual Report of State Finances 2014–15, and I ask:
(a) for each agency in the Minister’s portfolio, please detail each finance lease that has been entered into since 8 September 2008 and currently in force for each agency;
(b) for each such lease, please specify the specific infrastructure or property, plant or equipment that has been financed by such a lease, what value was assigned to that infrastructure or property, plant or equipment at the time the lease was created, and what is the current value of that infrastructure or property, plant or equipment;
(c) for each such lease, who is the counter party for each lease, and on what date did each lease come into force, and when is it expected that the lease will expire;

(d) what was the original value of each such lease, and what is the current value of each lease;

(e) for the specific infrastructure or property, plant or equipment financed by each such lease, what is the expected value of the item at the expiration of the lease;

(f) for each such lease, is there an obligation to make a “balloon” or similar payment at the expiration of the lease, and if so, what is the value of any such payment, and when is it due to be made; and

(g) what is the “interest rate implicit in the lease” for each such lease?

Mr C.J. Barnett replied:

The Department of the Premier and Cabinet, Public Sector Commission, Lotterywest, Salaries and Allowance Tribunal, Rottnest Island Authority, Tourism and Gold Corp advise:

(a)–(g) Nil.

MINISTER FOR MENTAL HEALTH — PORTFOLIOS — STAFF GRIEVANCES

5610. Mr M. McGowan to the Minister for Mental Health; Child Protection:

For each department, agency and Government Trading Enterprise within the Minister’s portfolio of responsibilities, I ask:

(a) how many staff grievances have been lodged for financial years 2013–14; 2014–15 and 2015–16;

(b) how many of those grievances are outstanding as at 30 June 2016;

(c) how many of those grievances are resolved as at 30 June 2016; and

(d) for those grievances resolved:

(i) how many were dismissed;

(ii) how many were upheld; and

(iii) how many were partly upheld?

Ms A.R. Mitchell replied:

Department for Child Protection and Family Support

(a) 2013–14 – two (2) grievances.

2014–15 – four (4) grievances.

2015–16 – seven (7) grievances.

(b) Three (3) grievances are outstanding as at 30 June 2016.

(c) Ten (10) grievances were resolved as at 30 June 2016.

(d) (i) Four (4) grievances were dismissed:

two (2) in 2013–14; and

two (2) in 2014–15.

(ii) One (1) grievance was upheld (in 2014–15).

(iii) Five (5) grievances were partly upheld:

one (1) in 2014–15; and

four (4) in 2015–16.

Table of Employee Grievance per Financial Year

<table>
<thead>
<tr>
<th>Year</th>
<th>Lodged</th>
<th>Dismissed</th>
<th>Upheld</th>
<th>Partially Upheld</th>
<th>Outstanding</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013–2014</td>
<td>2</td>
<td>2</td>
<td>–</td>
<td>–</td>
<td>0</td>
</tr>
<tr>
<td>2014–2015</td>
<td>4</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>2015–2016</td>
<td>7</td>
<td>–</td>
<td>–</td>
<td>4</td>
<td>3</td>
</tr>
</tbody>
</table>
Mental Health Commission

(a)  2013–14: Nil.
     2015–16: 3.

(b)  1.

(c)  2.

(d)  (i)  0.
     (ii)  0.
     (iii) 2.