Legislative Council

Tuesday, 22 May 2012

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

MEMBER SURVEYS

Statement by President

THE PRESIDENT (Hon Barry House): Just briefly at the beginning, members, I advise you that member surveys will be distributed to all members in the chamber today. I encourage you to fill them out so that the Department of the Legislative Council and the Parliamentary Services Department get your honest feedback.

ABORIGINAL HERITAGE ACT 1972 — PROPOSED AMENDMENTS

Petition

HON ROBIN CHAPPLE (Mining and Pastoral) [3.03 pm]: Thank you, Mr President. I will be filling in the annual survey, I can assure you.

I present a petition containing 156 signatures couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned residents of Australia, our friends and supporters, submit this petition pertaining to the review of the Aboriginal Heritage Act 1972 (the Act) and the proposals to regulate and amend the Act put forward by the Western Australian Minister for Indigenous Affairs.
>
> We the undersigned residents of Australia oppose the adoption of these proposals as they are not in keeping with the spirit and intent of the Act. The effect of the proposals will be to streamline and expedite land access approvals for the mining industry at the cost of Western Australia's Aboriginal heritage. The proposed amendments, if adopted, will result in the Aboriginal peoples of Western Australia being dispossessed of their rights and interests in their unique heritage and culture and, long after the current mining boom is over, will forever be viewed as yet another indelible disgrace on Australia's human rights record.
>
> Your petitioners therefore respectfully request the Legislative Council to consider reviewing all of the proposals put forward with reference to sections 9 and 10 of the Racial Discrimination Act 1975.
>
> Your petitioners also respectfully request the Legislative Council to consider reviewing all of the consultations undertaken, and advice received by Government in the review of the AHA to ascertain whether natural justice and procedural fairness in the review process has been extended to Aboriginal stakeholders prior to the production of the discussion paper.
>
> Your petitioners also respectfully recommend the Legislative Council to consider rejecting the proposed changes to the AHA.
>
> Your petitioners therefore request that you give this matter earnest consideration and your petitioners as in duty bound, will ever pray.

[See paper 4548.]

LEARN FOUNDATION FOR AUTISM CENTRE— CLOSURE

Statement by Minister for Disability Services

HON HELEN MORTON (East Metropolitan — Minister for Disability Services) [3.05 pm]: I would like to provide an update to the house regarding the families impacted by the closure of the LEARN Foundation for Autism centre. The LEARN centre, based in East Fremantle, closed its doors six days ago on 16 May 2012 because it was no longer financially viable. This sudden move by LEARN was a great shock to the families who rely on this service and whose children have been involved in an intensive treatment program for their autism spectrum disorder. My primary concern is to make sure the affected families continue to receive services and support.

LEARN is a privately run, not-for-profit organisation that provides privately funded therapy sessions for children with autism. LEARN has not previously received, or put in an application for, any state government funds. There have been opportunities for LEARN to engage with the Disability Services Commission in respect of the steps the organisation needed to take to become a state government funded service provider, but the organisation has

not chosen to do this. One of the steps includes prospective service organisations being assessed on their current financial status and ongoing sustainability, governance arrangements and membership of their boards. Also assessed are the service guidelines under which the organisation provides its services and the quality assurance provisions that are in place. While the state government is committed to supporting children with autism through services and funding, it cannot provide financial support to pay out the debts of any other organisation.

The Disability Services Commission has been concerned about aspects of LEARN's operation for more than 12 months. Unless satisfactorily addressed, such matters could preclude any organisation from qualifying to receive government funding. The Disability Services Commission is in discussions with six alternative service provider organisations that deliver acquired behavioural analysis type services. The Director General of the Disability Services Commission will be meeting with the CEOs of these organisations at 3.00 pm this afternoon, 22 May, to ensure that all LEARN students can be transitioned to alternative services. The commission has also been in contact with most of the families. The Disability Services Commission re-contacted families on 22 May. Six families have definitely agreed to alternative placement, three families have indicated that they definitely do not want alternative placement, while two families are still considering their positions. The remainder are waiting to see whether LEARN can reopen its doors. The Disability Services Commission is dependent on families making contact with the it or giving consent to LEARN to forward their contact details to the Disability Services Commission.

I know that this has been a particularly distressing time for families, and it is always a concern to see services terminated at short notice, particularly when young children and families are so attached to them. I remain concerned that, despite being well aware of their debt position over a long period of time, the owners of LEARN did not alert families sooner to the closure of the centre so that they could transition to new services without the hurt and emotional impact that this closure has caused. There is also a negative impact on staff when service providers are unable to meet their financial obligations. We have given a commitment to try to find alternative employment options for the staff following a meeting on Friday between the centre owner, the board chairman and the Director General of the Disability Services Commission. At this meeting, government was provided with an overview of the situation facing LEARN, including the involvement of a liquidator and other external authorities.

It is a hard situation and there are no winners. Much of the angst around this closure has been about the government funding process, and I wish to stress once more that Disability Services Commission records show that the owners of LEARN were invited to meet with senior commission officers to explain their current circumstances and to discuss their interest in becoming a funded service provider. LEARN did not take up that offer. The approaches that LEARN did make to the commission and to the government were related to requests for funding to pay off debt, which ultimately has caused the closure of the centre, and about possible future funding. If LEARN were to achieve a debt-free status, it may be in a position to apply for pre-qualification for some early intervention services. However a successful pre-qualification will be achieved only if it can be clearly demonstrated that the organisation has sound governance, effective management and administration and can demonstrate an ability to deliver quality services.

PAPERS TABLED

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

DISALLOWANCE MOTIONS

Withdrawal of Notice

HON SALLY TALBOT (South West) [3.12 pm] — without notice: Pursuant to recommendations of the Joint Standing Committee on Delegated Legislation, the following notice of motions for disallowance are withdrawn from the notice paper —

1. City of Cockburn Jetties, Waterways and Marina Local Law 2012 — Disallowance.

2. Hospitals (Services Charges) Amendment Regulations 2012 — Disallowance.

By way of explanation, the committee's concerns have been addressed.

ESTIMATES OF REVENUE AND EXPENDITURE

Time Limits — Standing Orders Suspension — Motion

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [3.13 pm] — without notice: I move —

> That so much of standing orders be suspended to apply the time limits on speeches for bills under standing order 21 to order of the day 11, Estimates of Revenue and Expenditure — Consolidated Fund Estimates 2012–2013.

By way of explanation, as members will be aware, the consideration of the tabled papers is a mechanism that the upper house has used for many years to enable us to have a concurrent debate on the budget with the Assembly, bearing in mind that the actual bills have been introduced into the other house and will not arrive in this place until that house has completed its deliberations. This mechanism has been in place for many years, as I have said, and has worked very well.

Under the old standing orders, this particular motion had provisions that allowed unlimited time for certainly the lead speaker from the opposition, and, I think, one hour for other members. Since we have adopted the new standing orders, and bearing in mind that the order of the day is in fact the motion, the standing order that would apply is standing order 21, "Time Limits on Speeches", which states that the time limit for all members is 45 minutes, for the mover-in-reply is 15 minutes, and for amendments is 20 minutes. If we were to implement that standing order on this occasion, it would effectively mean that every speaker on the budget would be limited to 45 minutes, with an extension of 15 minutes, by leave, if the speaker sought that. I do not think that is necessarily appropriate, particularly as leaders of parties might wish to make speeches that go beyond 45 minutes or one hour, bearing in mind that it is the budget and it is an important item.

I am proposing that we treat this motion in the same way as we treat a bill in terms of time limits—in other words, that we apply to this motion the standing order that applies to bills. That would mean that the mover of the motion would have unlimited time, the lead speaker for the government and the lead speaker for the opposition would have unlimited time, party leaders or members deputed would have unlimited time, and other members would have 45 minutes. I think that is a fair and reasonable way to deal with this matter. The motion that I have moved basically requires the house to apply to this motion the rules that apply to bills.

I have also put to the opposition parties, and I await their response, that in exchange for this particular proposition, when we come to deal with the actual bills themselves, which will be in a week or two, the lead speaker for all parties should not have unlimited time again on two more occasions to speak on the budget. I am prepared to admit that there have been very few occasions in the past when any member has used unlimited time on the bills themselves. This is a belts-and-braces proposition. What I would suggest is that we consider that the leaders have one hour on the bills themselves, and other members have 45 minutes. But that has not yet been resolved, and I await the response of other parties on that matter.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [3.17 pm]: I indicate our support for the proposition put by the Leader of the House in respect of the debate today. The Leader of the Opposition is right when he says that the second matter that he raised has not yet been resolved and we need to have a further conversation about that. It is worth noting that my recollection of the conversations that we had during the debate on the new standing orders was that we did not intend to change the speaking times on the budget. I think it is an oversight that the new standing orders do not include that and we therefore find ourselves in this position. When I was flicking through the standing orders last week, I was not able to find the speaking times for the budget, so I asked the Clerk for advice. We all need to accept responsibility for that oversight. But we are certainly happy to support the proposition that is before the house now.

Question put and passed with an absolute majority.

Consideration of Tabled Papers

Resumed from 17 May on the following motion moved by Hon Simon O'Brien (Minister for Finance) —

> That pursuant to standing order 68(1), the Legislative Council takes note of tabled papers 4536A–F (budget papers 2012–13) laid upon the table of the house on Thursday, 17 May 2012.

HON KEN TRAVERS (North Metropolitan) [3.18 pm]: I start by thanking the house for passing the motion to allow extended debate on this matter this afternoon.

After the budget was handed down by the government last Thursday, it was reported by the media on Friday that the Premier, Colin Barnett, at a breakfast in Perth, had referred to the state budget as the most "skilfully crafted" he has seen in 20 years. I am sure everybody in this house would agree with that definition, because when we look at the *Macquarie Dictionary* definition of the term "crafted", we find that there are several definitions of that word. The first definition is, "skill; ingenuity; dexterity". The second definition is, "skill or art applied to bad purposes; cunning; deceit; guile". That is probably a fairly apt description. One could also look at the terminology for "crafty", which means skilful in underhand or evil schemes, and cunning and deceitful. I think that in many ways that is what this budget is. It is a very tricky budget that uses accounting tricks and mirrors to present a false position. The Premier and the Treasurer were out there last week selling many of these false propositions. In fact, this budget is really about a litany of bad decisions by the Barnett government and the fact that Western Australian families will be required to pay for those bad decisions. It is a budget that continues with the increases in fees and charges. There is a litany of new fees and charges buried throughout this budget, and I will go through those in detail and explain to members how those various fees and charges are hidden away in the budget. The trickery and deceitfulness of it is that although the government has restricted power price

increases to 3.5 per cent this year, which is actually above the consumer price index, budget paper No 3 shows the forward glide projections for power prices. Once the election is out of the way, the government will be back on a path of putting undue pressure on Western Australian families through those very basic fees and charges for power and water. But they are not the only fees and charges that this government will be increasing. This budget treats people with contempt by pretending to give on the one hand, but taking back money on the other, and we will have a chat about that this afternoon.

The vast majority of the surplus in this budget is generated through an accounting change. We will have it confirmed in this house during question time this afternoon that $170 million of the $196 million supposed surplus net operating balance within the general government sector has been generated by a very tricky accounting change. If this budget were based on last year's accounting methodology, the surplus would be a lot smaller. The rest of the surplus has been generated by taking money out of the non-financial public sector, charging people more in fees and charges, and imposing imposts on Western Australian families. It has not done it through the hard work of finding savings; it has done it through accounting trickery by moving money between the different sectors of government. It is a budget that reinforces the view that this government has its priorities wrong. It reinforces the view that this government has not honoured the many election commitments that it made before the last election. It is a budget that presents debt as being under control, yet in the out years of this budget, there is a range of very expensive projects, a vast number of which will be in the CBD, which is where this government has its complete fixation and focus. The Liberal Party arm of this government is fixated only on the CBD, with a little money spilling into the western suburbs. When we look at the projects planned for the out years of the forward estimates or the projects that the government is planning but has no construction funding for, we know it means that the moment the election is over, the government will go back to its credit card–style binge on borrowings.

Another area of deceit in this budget is the future fund, the creation of which is based on borrowing money. Who in their right mind would use that logic in their own personal accounting? Who would borrow money from the bank, put it into an account with a lower interest rate and then tell people that that is the future fund? If the government were serious about sound financial management, it would pay down debt. Many lead-up announcements were made about the budget in which the impression was created that all the money sitting in the WA Road Safety Council account would be spent on road safety matters and that the Perth parking levy would finally be spent on the issues in the Perth CBD area that it should be spent on. None of those things is correct, and I will go through that this afternoon.

The budget for the transport portfolio shows that this government does not understand the congestion crisis happening in Perth or that the roads in regional Western Australia are not keeping pace with the demands that are being placed on them through development. This is an extraordinary budget. In the third and fourth years of this budget, the state government's contribution to new road development—its capital appropriation for asset investment in roads—will drop to an all-time low. In the final year of the Main Roads WA budget, $6 million is all the government is proposing to put into roads, and that is on top of all the other projects it has listed in the budget papers that will require additional government funding. I acknowledge that there is some money for the Gateway WA project, which is 70 per cent funded by the commonwealth government. This budget was the last chance that the government had to honour its many election commitments—I will focus only on the transport portfolio this afternoon—of which many have been broken.

Let us look at the issue of fees and charges for families. This budget will continue to inflict more pain on household budgets. Over the life of this government, $1 050 has been added to the average household's basket of goods that are measured in the budget. This budget will continue that process by adding $163 to that basket of goods. In fact, one of the fascinating things that I will go through is that people who live in the outer suburbs of Perth will be paying, I suspect, significantly more than an extra $163. But, unfortunately, we will not get to that detail until we get into the formal budget estimates process and we find out the true impacts of the fees and charges that this government is imposing on ordinary Western Australian families.

As I have said, the government has increased power prices by more than 60 per cent. It attacked Labor for its proposal to have a graduated program of increasing power prices which families could manage and which was significantly less than what it has imposed. It ran advertisements when in opposition about that proposal, and when it came to government, it deceitfully and dishonestly did exactly the opposite; it increased the prices by more than our figure, which we had been honest and open about with the people of Western Australia before the last election.

This government has record revenues coming in. It is not as though this government is living in hard times. In 2007–08, total state revenue was $19 billion. This budget is predicated on revenue of $25 billion in 2012–13. That is $6 billion more, or a 32 per cent increase. Anybody in Western Australia would be quite happy to have had that as an increase in revenue over the last four years. That cannot be the justification for this government. It is not about the amount of revenue coming in; it is about how the expenditure is prioritised and it is about expenditure control. I remember last year when the government said that it had broken the back of expenditure

growth in this state, yet we know that it has not done that and it still cannot control it. I think it comes from the top. My father always used to say that in business it is how the boss acts that will set the tone. If a boss steals from his business, the staff will steal from the business. The person at the top sets the way in which the business operates. We know that the Premier has a long history in Western Australia of being financially irresponsible. We had the famous letter from the Under Treasurer to the then Premier complaining about the now Premier when he was a minister in a previous government. This is a government that has more revenue than it has ever had before.

Having said that, I make it very clear that the Western Australian Labor Party believes that this state deserves a better deal from the commonwealth government in terms of GST distribution, but I also make the point that the horizontal fiscal equalisation process that is applied for the distribution of GST in Australia has been in place for a number of years, and the last time any major commonwealth–state financial agreement was signed up to was in 1999. Who was the Premier of Western Australia then? It was Richard Court. Who was the Prime Minister then? It was John Howard. Who was the deputy leader of the state parliamentary Liberal Party then? It was Colin Barnett. When the then state cabinet sat around the cabinet table in 1999 considering that commonwealth–state financial relationship proposal, was there a debate about horizontal fiscal equalisation? The answer is, yes, there was. In fact, the then New South Wales government put forward the proposal that the states should go to per capita distribution, which is something that the Western Australian state Liberal Party now argues should occur. Did the state Liberal Party agree with that proposal in 1999? No; it expressly opposed it, despite the fact that, in the five years leading up to the signing of that commonwealth–state financial arrangement, Western Australia had lost more than $700 million. That was $700 million in 1999 dollars; the entire state revenue at that time was probably only around $6 billion. In the five years leading up to the signing of that agreement, Western Australia had lost more than $700 million in payments from the commonwealth government. So this is not a new trend; it is not one that has suddenly miraculously appeared out of nowhere.

Hon Norman Moore would have been part of the cabinet that considered the cabinet submissions at the time. Did those submissions talk about horizontal fiscal equalisation? Did the briefing notes to the Premier and the Treasurer at the time talk about horizontal fiscal equalisation? Yes, they did. Despite that, the then government said that it did not want to go down the path suggested by New South Wales, and that whatever it did, it did not want to risk tax reform; it wanted to help its buddies in Canberra to get their GST in place. The then government wanted to put that in place, because it considered that to be more important than looking after the interests of Western Australia. Let us be very clear: what is happening now in terms of commonwealth–state financial relations has to be sheeted home to the people who signed that deal.

I have to acknowledge that the commonwealth government has introduced a review; it is the first commonwealth government to do that, and I congratulate it for that. Nevertheless, the Western Australian Labor Party will continue to argue that Western Australia needs to get a better deal, particularly in terms of infrastructure. We need look no further for an example of that than the announcement on Sunday; I thought it was one of the most disrespectful things I have ever seen in my life. A state government minister went out to make a major announcement, with video graphics, about a road project that was 70 per cent funded by the commonwealth government, and he did not invite representatives from the commonwealth government to be there. If the state government does not want to fix the problem of commonwealth–state relations, that is fine; that is what that incident says to me. The state government actually wants to try to develop a poor relationship with Canberra so that it treats Western Australia worse. I say we need to try to find a solution. We have to put forward proposals that will create solutions to this problem, and part of that is trying to build a proper relationship with the commonwealth government, which includes acknowledging it when it does the right thing. That is not to say that we should not criticise the commonwealth government when it does the wrong thing. However, when the commonwealth contributes 70 per cent of the funding for a state project, the state government cannot just ignore it and try to present and claim the project as its own.

Despite all that, Western Australia has a very healthy financial budget, through which we should be able to manage to do the things we need to do, but it is a matter of getting our priorities right. It is about understanding the pressures on government, not the government being tricky by increasing power prices by 62 per cent, stopping the increases for the election year, and then going back to its old ways with a 25 per cent glide path over the following three years of the forward estimates. Speaking of tricky, let us look at the $200 cost-of-living assistance payments that were announced in this budget. These payments were presented as being great news for families, but what did the government forget to make clear? It forgot to make it clear that $147 of the supply rebate charge has been taken away, so that families will result in only a $53 net increase. Add to that the increases in power prices, and we find that families are still worse off as a result of this budget; they are not better off, as this government has tried to present.

I suspect that most people in this room are among the lucky ones in Western Australia because we have a mortgage and our interest rates over the last couple of years have been trending down. However, people who rent in Western Australia will be hurting badly. I read a report recently about rents increasing in some suburbs by

100 per cent. For people renting in those areas to have another impost put on them by the state government is just mean and nasty.

I now touch again on the issue of household fees and charges. I acknowledge that there is a traditional basket, and that is where I got the figure of $1 053 being added to the household basket for ordinary families in Western Australia. That includes motor vehicles, utilities charges and public transport. The emergency services levy—which, I might add for the benefit of the house, will go up by 5.61 per cent, which is well above the rate of inflation—has consistently exceeded the rate of inflation under the Barnett government. The traditional basket also includes stamp duties. The total increase has been above the rate of inflation across the whole package.

It will be interesting when the government finally releases the public transport fare increases. It was reported in the media that there will be a range of increases in fares between 2.63 per cent and 5.6 per cent. I suspect that some of the higher percentage increases will be for people who live in the outer metropolitan growth suburbs of Perth, where young families are buying houses and trying to get themselves established. The cost of public transport is a significant component of their weekly family budget. An increase in public transport fares of 10c might be significant for those on low incomes, but for people living in those outer metropolitan areas, the increases might run into dollars. I look forward to seeing the actual increases across the different zones of the public transport system of Perth. Of course, the government never releases that information; it just releases the percentage increases on budget day. That does not surprise me with this government, because it has a lot to hide.

In respect of fees and charges I talk now about how much this government is collecting in total terms from the many fees and charges, beyond the list included in the family basket, that impact on Western Australian families. It is hard to pull it out of the budget, but I was helped by a speech by former Treasurer Troy Buswell when he was in opposition. He pointed out that one of the items in the consolidated accounts at the back of the budget document is a line item for the sale of goods and services. The sale of goods and services is basically the aggregated total of all the fees and charges. Every time one pays a fee or charge for a service of government, it gets lumped into this aggregated figure that is called "sale of goods and services". Members will be aware that there are three different sets of government books. There is general government, which includes departments and agencies. There are the public non-financial corporations, such as Western Power, the port authorities, Synergy, Verve and the Water Corporation.

There are also the public financial corporations, Treasury Corporation, Keystart home loans and such groups and then of course there is the total public sector, which is all three of those together. Let us look at what has happened to the revenue this government has been getting from the sale of goods and services since it was elected in 2008. We can go back to the pre-election financial statement, the last financial document prepared before this government was elected, which shows the state of the finances. That predicted that in 2008–09 the general government sector of the state of Western Australia would collect about $1.33 billion in fees and charges from the sale of goods and services. These include boat fees and fees that small businesses pay, such as a charge for a cellar licence at a vineyard. These are all paid by businesses or families in Western Australia. The budget released last Thursday now predicts that that will be $1.933 billion. Those who are quick with their maths will know that it is a $603 million increase in the money the government is collecting in fees and charges, or 45 per cent in four years. The government has been jacking up the prices paid by small family businesses, other businesses and families in general in Western Australia by more than 10 per cent per annum. We need to acknowledge, however, that as well as the CPI, there will be some population growth figures. Every year many of those fees and charges show around two to three per cent growth, purely from the increased population.

I turn now to the non-financial public sector—the government trading enterprises, such as Western Power and Synergy and the port authorities. I will come to the port authorities a little bit later on because it is another area from which this government is seeking to extract as much money as possible, money that, in many cases, will end up flowing on to the cost of goods and services. In 2008–09, according to the pre-election financial projection statement, fees and charges for the non-financial public corporations amounted to $7.5 billion. Today it is $16.186 billion, which is an increase of 115 per cent—more than double what the government is collecting from those public corporations. That gives us an idea of exactly what is going on here. It is well above even the 62 per cent from fees and charges for power that we talked about earlier. Clearly, this is a government that is collecting significant amounts of revenue. Again, the total public sector revenue has increased to $18.37 billion from $9.1 billion, a $9.2 billion increase, or 102 per cent. The government could argue, "Well, that has always been the case." We should go back to 2001–02, the first year of the previous Labor government, when fees from the sale of goods and services then was $851 million for general government, $5 billion for the non-financial and $6.169 billion for the total public sector. The total public sector sale of goods and services revenue, therefore, went from $6 billion to $9.1 billion. If members do the maths, they will see that over a seven or eight-year period, increases under Labor stood at the population growth and around the rate of inflation. What does that tell us? Fees and charges will always be lower under a Labor government. We understand the impact on families.

Hon Simon O'Brien interjected.

Hon KEN TRAVERS: The Minister for Finance can laugh, but the figures are there in black and white.

Hon Adele Farina: The truth hurts.

Hon KEN TRAVERS: It does. The minister has a right of reply, and may say these figures are wrong but they have come straight from the government's own documents that show that this is a government that has been pursuing people madly on fees and charges. It has had its hands in the pockets of families of Western Australia, grabbing money at every opportunity since the day it was elected, and those figures confirm it once and for all.

However, I want to turn back to the fees and charges for the public transport sector. Hidden away on page 165 of budget paper No 3 is reference to a fare revenue review where it states —

> The Public Transport Authority has reviewed its fare revenue projections based on consumer price index fare increases, together with expected patronage increases across the forward estimates. This review identified an additional $111 million in anticipated fare revenue between 2011–12 and 2015–16. This additional fare revenue has been recognised in the Authority's financial statements, and in the calculation of the operating subsidy (from general taxation revenue) which will be $662 million in 2012–13 and $2.9 billion over four years.

The interesting thing about that is that the government is predicting that it will get extra revenue out of the rail cars, but we know it has not ordered enough rail cars to carry everyone. The government will jam people onto rail cars and collect the finances from them. If we add that to the money we talked about earlier and the change in the way it accounts for the subsidies provided to the PTA, it will show $170-odd million in an accounting change that brought the surplus down from $196 million, then we add the money that will come out of this fare review and those two methods will provide the government's surplus this financial year. The government has arrived at the surplus through trickery. There is another one. The fare review will provide $18 million this year in extra revenue the government expects to get out of the public of Western Australia. At the same time, we are seeing a decline in the services of public transport. March has always been a bad month for buses being on time, but this year we saw a decline from 79 per cent of buses running on time compared to only 74 per cent in March last year. More concerning is that in April last year, 83 per cent of buses ran on time, but this year 74 per cent ran on time, a nine per cent decrease in the number of buses being punctual. This is a government that is clearly not able to deliver services but still fleecing the public for that money.

Also buried away in the budget are other insidious ways of collecting more money out of the government trading enterprises and transferring it across to the general government sector to artificially inflate the budget figures. Another example of how the government has done that is listed on page 9 of budget paper No 3, the *Economic and Fiscal Outlook*. Reference is made there to an increase from 0.2 to 0.7 per cent in the loan guarantee fee charged by the Western Australian Treasury Corporation for government guaranteed lending to selected agencies. It states —

> This measure will be net debt neutral, but will improve the general government operating balance by an estimated $88 million over the four years to 2015–16;

That is another accounting trick, because, at the end of the day, who will pick up the bill if these organisations go bust? If they went bust last year it would have been the state of Western Australia. This year if they go bust it will be the state of Western Australia, so we add an extra charge, but on what actuarial advice was it based? In my view, it was nothing more than an accounting measure, along with the PTA measure. In the out years the government expects to get $18 million a year out of this revenue; this year it expects to get $36 million, so if we add $170 million, that takes the figure to $10 million beyond the published surplus.

If the same accounting practices as applied to last year's budget were applied to this year's budget, this government would be in deficit—it would have a deficit budget. It did not tell anyone that last Thursday—it kept it all under wraps—but buried away in the budget papers are two measures that have changed the way things are accounted for and now deliver a surplus budget; whereas, if we were looking at the budget based on the accounting practices applied last year there would have been a deficit budget. That is not a way to run the state of Western Australia. The government might have made those changes to increase its surplus to help pay down some of the massive debt it is running up.

Hon Ed Dermer: It sounds like a contrivance.

Hon KEN TRAVERS: It is a complete contrivance, Hon Ed Dermer.

This government did not come out and tell anyone last Thursday that if this budget was looked at with the same accounting practices that were applied last year, the state would actually be in deficit going into this year. That is trickery. That is not honesty; it is not the way in which to run an organisation like the state of Western Australia.

It does not change anything. It might force some extra costs onto some of the government trading enterprises that are also getting hit with efficiency dividends and all the rest of it. I am not one to oppose efficiency dividends; I have no doubt that when I am Minister for Finance in March of next year I will need to really go through—with Ben Wyatt, member for Victoria Park, and others—and find ways in which we can save money to get the most

efficient effective operation of government that delivers quality services to the people of Western Australia. But what we will not be doing is engaging in the sort of devious trickery that this government has engaged in by using accounting mechanisms to generate a surplus when it would have been in deficit if last year's accounting mechanisms had been used. Basically, it has just taken extra revenue out of the general government sector and transferred it across, and it has done it by that loan guarantee because if it did it by increasing the dividends—if it just said "be more efficient"—that money would not be picked up until the following year because dividends are paid in the year after which the profit was made. We know that government trading organisations cannot pay interim dividends. The government has manufactured this mechanism that had been around for a long period of time as far as I am aware; I do not know when it came in, but this loan guarantee fee is a way of getting money out of one sector of the government. There are more—do not worry, these are only a couple of them—and as we spend the afternoon dissecting this budget, we will see many more examples of the way in which this government has used trickery to develop its structure.

As I said, I am a great one for trying to make sure that our government trading enterprises operate efficiently. Port authorities are really crucial to Western Australia. They are an important part of the way in which our economy operates because we are a trading state. We do so well because we are a trading state. We export, but we also import quite a bit as well as part of that exchange. The question we have to look at is: are our port authorities there as a revenue-raising exercise for the government, or should they be there as a trade facilitation? There will be different views, and there might be a different view on how Fremantle port would be treated compared with how the regional ports of Western Australia would be treated. I would argue that, particularly in regional Western Australia, our ports should be about facilitating regional trade; they should be about growing our regional centres, growing the economy of our regional centres, and growing the population of our regional centres. Yet what does this government see them as? Another cash cow from which it can get more money. It is a bit like the situation with the trains and buses; it gets more money out of the passengers using public transport but it will not expand public transport to keep up with that passenger growth—it will not order enough trains to meet the demand for public transport—and in the same way it does not want to meet the demand in our ports. Virtually every one of our regional ports is either at capacity or will, with the current allocations, be at capacity when some developments go ahead. We are still waiting for the upgrade to Esperance port.

Hon Adele Farina: What happened?

Hon KEN TRAVERS: What happened? Good question, Hon Adele Farina—if only we knew. But that would require an open and accountable government to come clean on what happened down at Esperance and why we do not have the development that was announced by, I think, the now Minister for Finance almost two years ago about how we were going to see this private-sector funded Esperance port expansion. We are still waiting for it. We could go to Oakajee; Geraldton port, with the current allocations and mines coming on stream, will be at full allocation. No-one else will be able to export from the Yilgarn; they cannot do it through Esperance, and they cannot do it through Geraldton until Oakajee is done. Where is Oakajee? What has happened to Oakajee? Oakajee was well underway when we were in government; we had signed the contract and there was a company ready to go forward with it. Then the current Premier got in and messed it all around, and we are still waiting. In this budget we see Oakajee put off into the distance.

Hon Adele Farina: The never–never.

Hon KEN TRAVERS: Probably beyond the time at which Colin Barnett will either have retired or been rolled by his backbench.

Hon Robyn McSweeney: Ha-ha!

Hon KEN TRAVERS: Hon Robyn McSweeney laughs, but we will see! There is some smirking and smiling on the other side of the chamber to that comment; it gives an interesting insight when I look at them.

Several members interjected.

Hon KEN TRAVERS: We will see what happens. We certainly know that it is going to be well beyond the budget.

What is the government doing with port authorities?

Hon Robyn McSweeney: It might be like your preselections—half the team rolled.

Hon KEN TRAVERS: Sorry?

Hon Robyn McSweeney: Nothing; just reading.

Hon Ljiljanna Ravlich: You can say it; we're easy.

The PRESIDENT: Order!

Hon KEN TRAVERS: I am happy to have a conversation about who got rolled in the preselections.

The PRESIDENT: Order; we just want to concentrate on the motion before the house.

Hon KEN TRAVERS: Bunbury port is another one; when the Lanco Infratech development comes on I think we will find that Bunbury port will just about be at capacity—certainly the rail line is. I have to say that I think "Roads to Export", which was developed over a long period and was heavily community driven, is an excellent document. If it had a bit more work done on it, it could be put forward to the commonwealth government as an excellent opportunity for funding a regional development project in Western Australia that would see Bunbury port grow and prosper.

Hon Adele Farina: The problem is that the state government will not give it a priority.

Hon KEN TRAVERS: It is worse than that, Hon Adele Farina. I think Hon Adele Farina is just teasing the other side, because from our conversations I know that she knows about this better than I do. One of the things the port wants to do is be able to use $3 million of the reserves account money held by the Bunbury Port Authority to go and do some studies on the realignment of Preston River to allow for the port, which would be crucial if we wanted to get a project-ready presentation to the commonwealth government for Infrastructure Australia. And $3 million is probably less than the fit-out costs for the Premier's new palace across the road. Will the government allow the Bunbury Port Authority to go and spend its own money that is sitting in its bank? No, it will not! But what does the government want to do to the port authorities in Western Australia? It is focused on at page 315—appendix 7 of the *Economic and Fiscal Outlook*—which states —

> The Department of Transport and Department of Treasury have commenced a review into Western Australian port authority charging regimes—

Code for "we are about to put up the prices"—

> The preliminary indication of this review —

So it is only a preliminary —

> is that there is the potential to substantially increase the rates of returns achieved by port authorities through targeted increases in port charges.
>
> Based on the preliminary work of this review, the 2012-13 Budget includes a provision for the estimated impact of increasing port charges from 2013-14 …

As I mentioned earlier, the reason it comes in at 2013–14 is that this will be paid by way of, predominantly, dividend payments and income tax expense payments, and so they will be paid out next year. The government could not, unfortunately, use this one to generate its artificial surplus, but that says that next year it expects to get $13.3 million extra from port authorities, and the year after dividends start kicking in and it will get $34.1 million, and the year after that it will $37.6 million. Much of that $37.6 million figure will be paid by regional communities of Western Australia in higher fees at their local port authorities. That is what it means. Again government members laugh, but I look forward to hearing how they explain it. I am sure some of it will be paid by the big mining companies in the north of the state—that is fine—but lots of it will also be paid by small mining companies in places such as Esperance. It will be paid by other importers and exporters through those ports. That will have a flow-on impact. If that includes Fremantle port, that will probably flow on to the price we end up paying for ordinary, everyday goods and services if they are imported through one of the ports of Western Australia. There we go—that is this government's attitude to how it expects to get money out of the port authorities in the regions of Western Australia.

But it does not end there. We go on. What is the next way this government has decided to try to get more money out of struggling Western Australian families? Let us look at the issue of Keystart loans. One would think Keystart loans are a good thing; they help young families get into the housing market to buy new houses. We would all agree that is a good thing. If people are buying new houses, that helps the land development industry. That would be a good thing because that industry has been going through tough times. It would probably also help reduce pressure on the private rental market as rents are being forced up, as we talked about earlier this afternoon.

About 12 to 18 months ago, this government changed the policy on which it set Keystart home loan rates. At the time it said it was all about good fiscal management and all the rest of it. The government dressed it up. It did a show and tell, and used spin. It got the glossies out and said, "This is a good thing." I cannot remember whether the government admitted it or the opposition had to discover it before it came clean. Nonetheless it said, "We'll use an average of the big four banks to determine the loan rates for Keystart customers." I do not know why the government would want to associate itself with the big four banks. They are not really the most popular people in Western Australia! Most people see the big four banks in Western Australia as gouging and making record profits at the expense of ordinary home owners who are paying off mortgages. But they have got nothing. The big four banks are actually very moderate compared with the Barnett government when it comes to taking money off families. That is what its policy was.

As I understand it, the Keystart rate is linked to the banks' advertised interest rate. Again, I suspect most people in this place would probably have an interest rate on their mortgage lower than the advertised rate at the banks. I know I do. If a person has a mortgage over $250 000, they can get a discount through a mortgage broker. They will find a way to get the interest rate below the advertised rate. But this government uses the advertised rate. It was dressed up in economic terms, but why did it really go to that level? It was because it creates great super profits for the government. As a result of that, it creates more profit. I suspect in many cases Western Australia is probably accessing the money that is on-lent at a lower rate than the banks are even able to access it. It would certainly be on a comparable rate, but it may even be at a lower rate than certainly some of the small financial institutions would be able to access it because of the good ratings of state governments. It has significantly increased the profits. What happens to the profits? Buried away in the budget papers on page 683, under the income statement of the Housing Authority, we see a little line item "Income", "Dividend/Statutory contribution". In 2010–11, that was $53.4 million. Last year, it expects to get $39 million; this year $40.9 million, if we round it off; going up to $87.268 million in the fourth year of the forward estimates. Over the four years of this budget, it expects $267 million in profits from ordinary families paying off Keystart loans which will go into the budget of the Housing Authority where its appropriation is reduced by a corresponding amount. This government is now using Keystart borrowers. Previously, Keystart was basically operated on a cost-neutral basis, but occasionally there would be a surplus build-up and that may be transferred across to the general government. It was not a regular, ongoing arrangement. We know this from the estimates committee hearing last year when the head of the Housing Authority came before us.

This government has now built into its funding model for the Housing Authority a profit out of Keystart home owners who then fund the cost of the Housing Authority. Yet again, that shows this government is like one of the big banks: "Let us get as much money as we possibly can out of these poor borrowers who are struggling to get up and running." The Reserve Bank decreased cash rates by 0.5 per cent the other day. The big banks passed on about 0.3 per cent. This government will pass on only 0.3 per cent. What price is the government paying to get that money? That is the big question we will need to uncover during the estimates process. The government wants to keep that because it wants to make its little profit because that is another funding stream. That is the insidious way the government puts its hand into another group of struggling WA families to make them pay for its massive excesses and massive projects. It is basically about its ego. They are all in the CBD of Perth. We will go through them later in my speech. That gives a pretty good array of the way this government has found more ways than we can poke a stick at to get into the pockets of Western Australian families and get more money out. It shows how the government uses trickery.

Another area in which the government has been completely dishonest in this budget is the way it has argued that road safety money will be used. In a number of areas—such as the road trauma trust account and the Perth parking levy—it has forced those agencies to hold cash in their bank accounts because that helps make the net debt figure look a bit lower than it is, even though the money can only be spent for specific purposes. We got the big announcement recently that all the road safety money would be spent on road safety. The impression was given that the government was clearing out the accounts. When we look at the budget papers, we realise that in the 2011–12 financial year it will make a profit out of the road safety account of $28.6 million. Is it spending that next year? Not according to the budget papers. What it is spending next year will be income from the speed and red-light cameras. It is not spending any of the money already accumulated. That will continue to sit in the accounts, making it look like state debt is not as much as it really is. When we compare the budget papers for this financial year with those of last financial year, what is more insidious about the way the government has treated the people of Western Australia is illustrated by the way it talks about the money being spent on black spots and road safety measures out of the road trauma trust account. There is a line item on page 647 of the budget papers with the heading "Minor Works (includes Black Spot and Urgent Minor Works)". This year, it has allocated $45.8 million to that. Members may say that is a nice, healthy amount. What did the government spend last year on minor works and black spots? If we go up to "Completed Works", "Minor Works (includes Black Spot and Urgent Minor Works) 2011–12", it spent $77.9 million. In fact when we go to the out years, that $45 million drops to $31 million the year after. Again, that is a bit of trickery and deceit. The government has taken the money and said, "We're spending all the red-light camera money on road safety." It has then cut the budget to Main Roads by a similar amount. The government has taken with one hand and given back with the other. It is a bit like the cost of living assistance payment, which takes away the supply charge rebate with one hand and gives back money with the other hand. That was not the intent of the government's road safety commitments and promises. The government is doing exactly what Labor did, which is to spend money on road safety, but it is not spending over and above the amount that was previously spent on road safety. The government is using budget trickery to get the outcome that it wants to get.

The same can be said for the Perth parking levy, which has a surplus of about $55 million. I have mentioned this levy in the house before and I will continue to mention it, because it should be spent on reducing congestion in the Perth parking management area. There is a beautiful project the government could start tomorrow with that money; that is, the construction of a light rail route from East Perth to West Perth. I will give the government its

dues: it has announced a green central area transit bus. But if we had a red CAT light rail running through that area, the green CAT would not be necessary, in my view, because we could then reorganise some of the other CAT bus routes and still afford to fund them from the Perth parking management area.

Why is this government not spending all the money it has in the Perth Parking Licensing Account? It announced the other day that it is spending $49 million. It said originally that would all come out of the Perth parking account. Then we found out that a number of the projects went beyond the Perth parking management area. In his media conference the Minister for Transport said he did not care about the Perth Parking Management Act, as the distance involved is only 100 metres and so he would continue to spend the money. I think he then got advice that said, "No, you can't do that, minister", and he now says that he will spend consolidated fund moneys for those areas beyond the boundary. As I said, the minister will spend $49 million over four years. The $55 million that is already in the Perth Parking Licensing Account will stay in the account and will continue to accumulate money over the next four years to the tune of somewhere around $10 million. That is money that could go to addressing real congestion; not addressing the congestion that has been created by this government's bad decision—I say bad decision—to close Riverside Drive. Let us have a waterfront development but let us do it properly. Let us do it in a way in which it can provide for the good functioning of Western Australia. We could have a fantastic waterfront development but the government does not have to cut Riverside Drive to do it.

We saw a classic case of spin by this government when it announced a road to be called "Riverside Promenade" on which it said it would discourage traffic. Suddenly in the new documents it became "New Riverside Drive" and people started to realise what a bad decision this government had made, not so much on a waterfront development but more on the type of waterfront development, to spend money on. Most of the money the government is spending is actually about addressing the congestion that will arise out of that development. The government is still not addressing the congestion that will arise out of that development.

I still find it amazing that National Party members, who complained long and hard about the building of the Mandurah railway line, are happy to see $500 million blown on a waterfront development in the CBD of Perth that still will not address the whole of the congestion crisis. Members may have read the question I asked the other day of the Minister for Finance representing the Minister for Transport about whether he would table the modelling on which the Minister for Transport's maps were based when he announced the expenditure of money to address congestion in Western Australia. The Minister for Finance mentioned to the house that the answer he had in his hand was not acceptable to him. I suspect the class clown had written yet another piece of dribble to this house and, to the credit of the Minister for Finance, he was not prepared to give it to this house. But the answer that he eventually gave to this house, from the uncorrected *Hansard* of last Thursday, is —

> (1–2) The maps on display at the recent media announcement are still subject to potential changes when future traffic modeling information is available. The maps and data will be made publically available in due course.

The Minister for Transport went out and issued a press release on these maps, for God's sake! Were they quickly knocked up in the Minister for Transport's office on the day and he does not want to release them now because there are errors in them, or is the Department of Transport still doing further modelling? This confirms what I have known all along: the minister and the department do not know what the answer is. The other part of the question I asked was on the impact of the Perth Waterfront development beyond the boundaries of the maps shown at the press conference, and of course the minister just gave us the glib line of cars being moved from Riverside Drive to Graham Farmer Freeway. We know that. What I want to know is what the impact will be on James Street, for instance, where a major bus route comes into the city. A lot of traffic will use this road, according to the map I managed to get hold of from the minister's press conference—not from him, I might add. The map shows that traffic comes out of the tunnel and around onto the James Street exit. That will be a congestion nightmare. It is already pretty bad at peak times. It is going to be crazy. There is no money that I am aware of to fix that. There is no money for Thomas Street. There is no money for Burswood or Victoria Park, which will be impacted. There is no money for South Perth, which I suspect will be impacted. The government cannot give us those simple answers, yet it is a cost that will be borne by a future government that is not shown in this budget but is a direct result of projects that are going on that are funded in this budget.

This is a government that is not being accurate and correct in the way in which it accounts. It is not looking at the total financial impacts of its decision before it actually makes them. Then, when the government is under pressure, it refuses to provide to this house a document that it was prepared to provide to the media. That, I would have thought, every member of this house would find completely abhorrent. If I were sitting on the other side of this chamber and I gave an answer like that, members on the other side would be outraged—and they would be right to be so. The same applies if I had provided a document to the media and I would not provide it to this house. I am not talking about six months ago; I am talking about a couple of weeks ago. This is from a government that claimed it would be open and accountable. Seriously! The members of this house have to get their lower house members under control. I know how hard that is. I have had to do it in the past. I will not say about whom now; but sometimes we have to get them under control.

Hon Donna Faragher: Tell us!

Hon KEN TRAVERS: We could all talk about that. But we do that. We did that. You guys on the other side need to do it as well. The men and women who sit in cabinet on the other side of this house need to let their lower house members understand that this is a house of review and that they should not treat us with the contempt that they might treat members of the lower house.

Hon Adele Farina: Hear, hear!

Hon KEN TRAVERS: We might get agreement that we should all treat the lower house with contempt at times! However, lower house members should not treat this house with contempt, and that is what those sorts of answers are about, in my view. I give credit to the Minister for Finance. I know that he has a tough job to do and I acknowledge that he was not prepared to give the original answer that was provided by the minister on that matter. As I say, the budget for the Perth parking levy in the section under "Details of Controlled Grants and Subsidies" certainly does not show that all of that additional money coming in from the Perth parking levy will be spent.

As I mentioned earlier, one area of this budget gives the government its final chance to honour the election commitments it made at the 2008 election. I just happen to have with me a copy of the Liberal Party transport policy from the 2008 state election.

Hon Adele Farina: That will be enlightening!

Hon KEN TRAVERS: It is an enlightening document, I can assure Hon Adele Farina. I am not sure whether the current Minister for Finance provided a copy of the document to the Minister for Transport when they changed portfolios. If he did not, perhaps I should send him a copy so that he knows the policies that he is supposed to implement.

There is a summary page that has the big policies that have money amounts allocated to them. The 20-year master plan is the first one with an allocation of $6 million over three years. I will give that a tick. It is a bit delayed in terms of the timing but I will give the government a tick. I am sure it was done on the Minister for Finance's watch on time. I am sure it was part of the changeover that caused the delays. I will not get into debating the merits of that plan, but the government did meet its commitment with that plan.

The next big policy is 3 000 parking bays at railway stations. I will give the government a tick there. It has met that commitment, initially using parking bays, many of which were commenced by the previous Labor government. However, the government has gone on with them and I will give it a tick for commencing construction of some parking bays.

Hon Adele Farina: Parking!

Hon KEN TRAVERS: No, no. I think we can give the government a tick on this one now for parking bays.

What the government did not do was order the rail carriages so that the people who park at railway stations can actually get onto a train. The government's commitment was only that it would build parking at stations. It did not actually say that people could catch a train once they had parked there! That might be a case of the government not thinking through its policies: it met its policy commitment with respect to extra parking, but it did not order the trains.

Hon Simon O'Brien: We were bringing on new train sets every two months.

Hon KEN TRAVERS: The Minister for Finance knows and I know that the government did not order enough trains. It did not order them when it should have ordered them. When it did order them, it did not order enough to keep up with demand. The government's own Public Transport Authority modelling shows that it will be jamming people onto trains even more than it already jams them on by the time all the trains that the government has ordered are delivered. These are not my figures. We know this from the PTA's own figures.

The next one is the Eelup roundabout flyover. It is interesting to note that at least a couple of the National Party members in this house are going to run for lower house seats at the next election. Hon Col Holt, a member for South West Region, is not game to run for a lower house seat. I suspect that is because the south west has been completely forgotten by this government. It is almost as though the south west does not exist. The government made the commitment that it would provide $30 million over the next three years for the Eelup roundabout flyover in Bunbury.

Hon Adele Farina: Perhaps that is to fly over!

Hon KEN TRAVERS: It is not to fly over in a plane! It is one of those bridges over an intersection! But what did the government do? Did it build that flyover? Interestingly, I came across a press clipping the other day in which the then minister, Hon Alannah MacTiernan, pointed out that $30 million would not be enough for that flyover; they would need over $70 million for that flyover. This government's promise to the people of Bunbury

and the south west was that it would build a flyover at the Eelup roundabout. All the government has done is put in some traffic lights. That was opened yesterday. So the government did not get that done in three years. All it has done is build traffic lights. We will probably have to leave those lights there now so that we get some value out of them. But I suspect that when the government does build the flyover, half the work that has been done there will be ripped up again. What a joke! What a waste of money! It is a broken election commitment.

I turn now to Roe 8. Hon Sue Ellery knows this one well. I think the bulldozers were going to be on the ground before the end of this term of government!

Hon Sue Ellery: It is a requirement of this government! That is what Mr Nahan said!

Hon Giz Watson: That is one promise they should have broken!

Hon KEN TRAVERS: Sometimes we actually agree that the government should break election promises! It would have been better if the government had never made that promise in the first place. But, once the government has made a promise, it should apologise to the people of Western Australia and admit that it has got it wrong if it then breaks that promise. The government promised that it would begin construction of Roe 8 during this term of government. The government has not done that. As I have said, we do not necessarily disagree with that.

The next promise was $25 million over three years for Coalfields highway. Again, we can tick off that $25 million in three years. The government did do it, but it was delayed on its original time frame.

Another promise was $250 000 for a set of traffic lights in Alfred Cove. I suspect that the government would not have built those lights if it had not had to do that—even though the government did not win the seat, it had to do that.

The next promise was to upgrade the railway from North Greenbushes to Bunbury. That is, again, a project in the south west.

Hon Robyn McSweeney: You were going to do that, too!

Hon KEN TRAVERS: The minister should know where the south west is! Is that not her seat? It is that bit of the state starting at Mandurah, and picking up Margaret River, Augusta, Bunbury and Collie, and all those areas, until we get to —

Hon Adele Farina: Albany.

Hon KEN TRAVERS: No. That is the great southern.

Hon Adele Farina: It is the South West Region, though.

Hon KEN TRAVERS: The region, yes. I am talking about the geographical–political area of the South West Region. I know that the Albany people would not want to be cast into—other than for tourism purposes, when we are promoting our great state to the rest of the world—anything other than the great southern; and it is the "great" southern. I mean that with all sincerity. My brother would kill me if I said anything different. It is. I love it. It is a great part of the world, and that is why he moved there, and he loves it as well.

To go back to Greenbushes railway, the government promised to reopen railway from Greenbushes to Bunbury and Perth. When the government was elected, it came up with all sorts of great excuses, such as, "We were just copying Labor's promises. We do not have a minister like Alannah MacTiernan who can actually drive these projects and make them happen, so we cannot honour that commitment now, and we will have to break the commitment to upgrade that railway." That is basically what the government said when it was elected. But the government did the honourable thing, and it said, "We cannot spend the $25 million on the rail, because we do not know how to do that. We are not good at rail. We are good at roads." The government used to be good at roads, but now it is not even good at that. Maybe the Liberals are not good at roads or rail, and that is why they needed a National Party member to be the Minister for Transport.

The government broke the promise to upgrade Greenbushes railway, and it said it would spend $25 million on upgrading South Western Highway. The people were not overly happy about that. They would have preferred to get the trucks off the road, but they said, "That is better than nothing; we will take the $25 million for upgrading the road." The Minister for Finance was the minister who actually announced that, if I remember correctly. I have to give the minister his due for that, because it was an honourable thing to do. It was honourable to say, "We could not meet the first promise, but the money will still be there to address the problem in some form or another." The government did not do it for Eelup, and it did not do it for any of the other projects, but it will do it for North Greenbushes railway. However, what does this budget show? It does show something. It shows that the money that the government had added for the upgrade of South Western Highway, as a replacement for the Greenbushes promise, has been pushed out to the never–never. The $25 million—ping, ping! Gone! So the government broke the promise, and it then broke the promise again! What is a double broken promise?

Hon Michael Mischin: Can you explain that for *Hansard*?

Hon KEN TRAVERS: Which bit? The ping, ping? Off into the never–never!

Hon Robyn McSweeney: It should be whinge, whinge!

Hon KEN TRAVERS: Hon Robyn McSweeney can call it whingeing. I am calling it holding the government to account. What a classic response from the government—"Oh, it's only whinging again!" What is the opposition doing? We are holding the government to account for breaking its election commitments! I tell you what, minister! I might get a copy of this section of *Hansard* and send it to the member's constituents. The minister's contempt for them is that the opposition transport spokesperson, highlighting the fact that her government has not honoured an election commitment that directly affects the people in her home town, is just whinging!

Hon Robyn McSweeney: I will send them what Alannah MacTiernan said she'd do!

Hon KEN TRAVERS: Feel free! Let us save on postage and send the two together!

The PRESIDENT: Order! I think about 12 other people are trying to interject on the member on his feet.

Hon KEN TRAVERS: I am happy to share the postage with the minister!

On the Ranford Road duplication, I give the minister a tick for that.

The final one is $53 million towards the construction of a new railway line to Ellenbrook to meet the needs of the fast-growing north-eastern corridor.

Hon Sue Ellery: What was that? What was the promise?

Hon KEN TRAVERS: To meet the needs of the fast-growing north-eastern corridor—the corridor that the government now says is not fast growing enough to warrant a railway line!

Hon Adele Farina: They don't know how to build railway lines!

Hon KEN TRAVERS: No, they do not. The other problem is: did the government take that money and put it into another project? Is there $53 million in this budget for an alternative project? No. The government has said, "We prefer to build roads. We do not like rail. We will build a bus way to Ellenbrook." So we would think that the $53 million that was supposed to be last year's budget would be in this year's budget, and in the budget going forward, for a bus way, or for something to go out to the fast-growing north-eastern corridor of Ellenbrook. There is not one single brass razoo for the construction of even a bus way to Ellenbrook. That is, yet again, a double broken promise. Of course we know that the Liberal Party realised that it was in so much trouble in Ellenbrook that the local member cut and ran and the Liberal Party put in a submission to the Electoral Commission and said, "Get Ellenbrook out of the Liberal seat and put it into a Labor seat, because we do not want those people to have to vote for us, because they might be angry that we have broken our election commitments."

That is just a summary of some of the major broken provisions within the transport portfolio. They are the broken promises in the government's summary sheet of the highlights of its transport policy. I have not even gone into the detail of the government's transport policy, and I might have to leave that until after question time, but I will start with one. The government promised to develop a new rapid transit service to connect with Perth Airport. This is a crucial issue for Western Australia, because if we want to build a railway line to Perth Airport, we need to build the box for the railway station at Perth Airport as part of the next wave of building that will be done by Westralia Airports Corporation as part of its expansion plans. The government needs to put in the money in the current period of the forward estimates or work out a deal with Westralia Airports Corporation to build that box. The government may not build the railway line, but it needs to build the box in which the underground railway station will sit if it is going to build a railway line to the airport. Is there money in this budget for that? No, there is not. If we do not build it, we will never be able to get the best option for public transport to the airport.

There was to be a partnership with outer suburban growth councils for their road requirements. That has not been done yet. The government understands that transport costs add to everyday household weekly shopping bills. It seemed to care about the cost of living back then. Does it not think that the port authority increase in charges will add to the cost of everyday household weekly shopping bills? It did make one promise that it kept. It promised to privatise vehicle inspections, and it has certainly done that. It knows how to privatise—not well, but it knows how to do it! We saw that when it privatised Joondalup Health Campus, and we saw how appallingly that was done.

Debate interrupted, pursuant to standing orders.

[Continued on page 2874.]

QUESTIONS WITHOUT NOTICE

LEARN FOUNDATION FOR AUTISM CENTRE — CLOSURE

277. Hon SUE ELLERY to the Minister for Disability Services:

(1) What were the opening and closing dates for the last two advertised pre-qualification rounds asking for expressions of interest from potential disability service providers?

(2) On what date or dates was the LEARN Foundation for Autism invited to engage with the Disability Services Commission about a pre-qualification process, and by what method and to whom was that invitation issued?

(3) What documentation, file note or correspondence exists of that invitation and will the minister table that; and, if not, why not?

Hon HELEN MORTON replied:

I thank the honourable member for some notice of the question. Pre-qualification can be achieved through two routes. The first is through a separate pre-qualification process that is conducted regularly every two or three years. The second route is through a tender process whereby pre-qualification documentation and tender documentation are considered at the same time.

(1) The last separate pre-qualification round for disability professional services opened on 18 February 2009 and closed on 10 March 2009. LEARN provides services of this program type. A pre-qualification process was conducted for the positive behaviour strategy and opened on 23 February 2011 and closed on 23 March 2011. In addition, pre-qualification was undertaken for the community support, alternatives to employment and accommodation support programs and opened on 9 March 2011 and closed on 26 April 2011.

(2) On 10 September 2010, Mr Andrew Mason of LEARN was contacted by a Disability Services Commission executive director at the request of the policy adviser of the Minister for Disability Services. The issue of pre-qualification was raised. LEARN was invited to meet with the commission to discuss its situation further. LEARN did not take up this offer. On 28 July 2011, a commission branch manager emailed Ms Mandy Mason, forwarding to her information that would assist with the pre-qualification process and tender process for disability professional services. The following day the branch manager also forwarded information on funding eligibility. On 29 July 2011, Ms Mason acknowledged these emails with thanks. Relevant tenders for school age services and early intervention services were conducted in late 2011. Tenders that are advertised in *The West Australian* on Wednesdays and on the government electronic market site always stipulate the contact details for contractual inquiries and technical inquiries. Service providers that do not understand the requirements of the tender are encouraged to contact relevant staff at the commission. The commission has no record of LEARN contact about these tenders. If LEARN had engaged with the commission as invited and demonstrated sustainability and quality services, the organisation would have been informed that the commission's tender documentation contains a section that allows service providers to engage in the tender process and give additional information to the information requested in the tender request for proposal. LEARN would then have had the opportunity to submit pre-qualification documentation that would have been assessed at the same time as the tender.

(3) I table the attached document. [See paper 4549.]

DEPARTMENT FOR CHILD PROTECTION — HARM ALLEGATIONS

278. Hon SUE ELLERY to the Minister for Child Protection:

(1) What is the number of children in the care of the CEO who were the subject of an allegation of harm by an approved carer in 2009, 2010, 2011 and 2012 to date?

(2) For each year, how many children who were the subject of those allegations were found to have been harmed by an approved carer?

Hon ROBYN McSWEENEY replied:

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

(1) The system used is the same as that used in Labor's time in that the allegations are kept only on the child's file.

(2) Any abuse of a child is not to be tolerated in our society. When this happens to a child who is in the CEO's care, whether they are in relative care or general care, it is abhorrent. Our foster carers in the main provide a wonderful service for the children and we could not operate without them. The

department screens potential foster carers and the standard is very high. Unfortunately, as in the general public, we do get carers who harm children. I never want to see a record of 59 children abused in state care again, as happened in Labor's time in 2006.

Hon Sue Ellery interjected.

Hon ROBYN McSWEENEY: In 2006, there were 59; in 2007, 10; in 2008, three; in 2009, four; in 2010, two; in 2011, three; and so far in 2012, zero.

RECYCLING — WASTE DIVERSION

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

I refer to the government's continuing failure to achieve its projected targets for diverting waste from landfill. Why, only months after the government promised a new recycling program for construction and demolition waste, do the budget papers project a decrease in the amount of construction and demolition waste recycled?

The PRESIDENT: I think there was an opinion expressed there.

Hon HELEN MORTON replied:

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

The Western Australian waste strategy Creating the Right Environment identifies that construction and demolition recycling has the potential to significantly improve the diversion of waste from landfill. Construction and demolition recycling is highly variable and cyclical and responds to economic activity. The focus is to improve the long-term recovery of construction and demolition waste, and the programs funded in the Waste Authority's business plan will be targeted to achieve this.

PUBLIC TRANSPORT AUTHORITY — APPROPRIATION — REDUCTION

280. Hon KEN TRAVERS to the minister representing the Treasurer:

I refer to pages 162 and 165 of the *Economic and Fiscal Outlook*, which show a change in the funding model, including a $170 million reduction in the appropriation to the Public Transport Authority in the 2012–13 financial year.

(1) Can the Treasurer explain what impact this has on the 2013 operating balance?

(2) What impact does this accounting treatment have on total public sector net debt?

Hon SIMON O'BRIEN replied:

I thank the honourable member for notice of the question. I advise that the Treasurer has been engaged for much of the afternoon in a debate in some other place. However, if an answer to this question does come before the end of question time, I will table it for the member's information.

BUSSELTON HEALTH CAMPUS

281. Hon GIZ WATSON to the minister representing the Minister for Health:

I refer to the Busselton health campus concept plan dated March 2012.

(1) As the proposed development will be built right up to the 150-metre horizontal setback line to protect it from coastal hazards and also will be surrounded by conservation areas to protect the endangered western ringtail possum, could the minister clarify how and where future expansion will be accommodated at the site given these constraints?

(2) Could the minister please explain how the conservation areas, which are seaward of the 150-metre horizontal setback line, will be protected from coastal hazards given that these are the proposed rehabilitation and management sites for the endangered western ringtail possum?

(3) Could the minister explain why the government has chosen to redevelop at the existing site, knowing that the site is unable to integrate an aged-care residential facility and subacute unit that were part of the original aims to achieve a seamless health service for Busselton and the surrounding communities?

Hon HELEN MORTON replied:

I thank the member for some notice of the question.

(1) Any future expansion of the new Busselton health campus will not be affected by the 150-metre horizontal setback line. The proposed construction area is outside the setbacks required for the most pessimistic scenario for 100-year sea level rises as published by the City of Busselton. Design features also include easily adapted areas within the building that allow for the internal expansion of critical areas. Although there are no plans for future expansion, areas to the north and south of the site are potential expansion zones.

(2) The new Busselton health campus is being built outside the conservation area. The Department of Health proposes to manage the conservation area by establishing a protective covenant; planting at least two peppermint trees for each one that is removed from the site; rehabilitating the undergrowth; controlling pedestrian, dog and vehicle access; erecting information and signage; preparing a fire management plan; controlling weeds; and monitoring habitat health and the possum population. A fund to rehabilitate an area of possum habitat in Tuart Forest National Park has also been proposed.

(3) The Department of Health sought expressions of interest for involvement in the project from the private sector after the site had been selected. This resulted in a proposal from the private sector to provide subacute care and locate a residential aged-care facility on the site. Preliminary master planning at the time indicated that a residential aged-care facility could be located on the site. After a detailed assessment it was decided that the proposal did not provide sufficient benefit to the state. The new Busselton health campus has been designed with the capacity to provide subacute care.

FIRST CLICK AND SECOND CLICK PROGRAMS

282. Hon LJILJANNA RAVLICH to the Minister for Training and Workforce Development:

I refer to the axing of the First Click and Second Click programs.

(1) Who made the decision to axe the First Click and Second Click programs, and when was the decision made?

(2) How were the 49 providers of this program advised of the axing?

(3) Does the minister support the Premier's claim that funding was axed because the program is no longer needed; and, if not, why not?

(4) Is the minister aware that the axing of this program means that some community organisations may now have to close, and what will he do about that?

Hon PETER COLLIER replied:

I thank the honourable member for the question.

(1)–(4) As I said when I answered the question on Thursday, the First Click and Second Click programs have merit and provided some very good outcomes for some people in the community who are marginalised. The Department of Training and Workforce Development has to continually rationalise the programs in its portfolio, and that is exactly what we do on a constant basis. We have to ascertain whether the program is providing the best outcomes for the money that is being provided. The department is constantly assessing and appraising programs and it provides recommendations to me. Ultimately, of course, those recommendations come to me and I make a final decision. The providers that were delivering those programs were notified; I cannot give the exact date without notice, but I can provide that information to the member at some other stage if she likes.

Hon Ljiljanna Ravlich: So the department told you it wasn't a valuable program and wasn't achieving its objectives.

Hon PETER COLLIER: No, not at all. That is not what I have said. I want the member to listen to what I am saying. That is not what I said. We have to ask whether it is the best way for us to provide opportunities and resources for the community. We have provided record amounts of money for training since I have been minister, and we provided an additional $99 million in the current budget —

Hon Ljiljanna Ravlich interjected.

The PRESIDENT: Order! Let the minister answer the question!

Hon PETER COLLIER: Of that, $38 million was because the federal government pulled that amount out. The simple fact of the matter is that we have provided additional money. One of the priority areas of Skilling WA is to ensure that we assist those who are marginalised, particularly Aboriginal people. Our record in providing access for Aboriginal people, a number of whom used First Click and Second Click, is second to none. We have provided an enormous number of avenues for Aboriginal people to come into training and have ensured that we have provided sound mentoring systems and structures to transition people from training into the workplace. Other programs are being used at the moment to ensure that people who are marginalised are being catered for. As I stated on Thursday, this is not the end of these programs; we have rationalised the programs and will continue to rationalise them within the department to ensure that they are providing the most positive outcomes. We will reassess the situation in 12 months and determine whether we have been able to open doors for the particular groups we were providing for in the First Click and Second Click programs. If we find that they have not been catered for and that, in fact, First Click and Second Click had provided a service that could not be provided through other programs, the programs will be reinstated. At the moment they are in suspension, and we will reassess them after a 12-month period.

HARDSHIP UTILITY GRANT SCHEME

283. Hon MATT BENSON-LIDHOLM to the Minister for Child Protection:

For each of the utilities Synergy, Horizon Power, Water Corporation and Alinta Energy, with regard to the hardship utility grant scheme, for the months of February and March 2012 —

(1) What was the number of approved grants?

(2) What was the total grant amount?

(3) What was the average amount paid?

Hon ROBYN McSWEENEY replied:

I thank the honourable member for some notice of the question. This information was correct as of 2 May 2012.

(1)–(3) In February 2012, for Synergy the number of approved grants was 1 011, the total grant value was $362 700 and the average grant amount was $358.75. For Horizon Power, the number of approved grants was 89, the total grant value was $48 900 and the average grant amount was $549.44. For the Water Corporation, the number of approved grants was 48, the total grant value was $18 000 and the average grant amount was $375. For Alinta Energy, the number of approved grants was 351, the total grant value was $92 600 and the average grant amount was $263.82.

In March 2012, for Synergy the number of approved grants was 1 376, the total grant value was $488 700 and the average grant amount was $355.16. For Horizon Power, the number of approved grants was 131, the total grant value was $72 300 and the average grant amount was $551.91. For the Water Corporation, the number of approved grants was 78, the total grant value was $26 000 and the average grant amount was $333.33. For Alinta Energy, the number of approved grants was 438, the total grant value was $119 200 and the average grant amount was $272.15.

MENTAL HEALTH FACILITIES — SMOKING POLICY

284. Hon ALISON XAMON to the Minister for Mental Health:

I refer to the minister's commitment to review the policy banning smoking in mental health institutions.

(1) Would the minister please advise the current status of this policy?

(2) Is the minister aware of any instances in mental health facilities whereby staff have been given warnings or have been subject to disciplinary action for allowing patients to smoke?

(3) If yes to (2), does the minister support this action being taken against staff?

(4) If no to (2), what action has the minister taken, or does the minister intend to take, to address this issue?

Hon HELEN MORTON replied:

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

(1) My office has the final draft of the partial exemption to the Western Australian smoke-free policy to provide the opportunity for mental health inpatients on locked or secure wards to smoke in outdoor designated smoking areas. This has obviously taken a little more time because we were required to do some extra work on the advice from the State Solicitor's Office. When I have reviewed the document, I will consult with my cabinet colleagues. That is the process we are going through right now.

(2) No.

(3) Not applicable.

(4) This is an operational issue, to be managed by the relevant health service.

PREMIER'S PORTFOLIO — TENDERS, CONTRACTS, CONSULTANCIES

285. Hon ED DERMER to the Leader of the House representing the Premier:

I refer to the Premier's answer to question on notice 5351.

(1) On what specific infrastructure projects has BG&E been contracted to provide advice?

(2) On what specific infrastructure projects has Sinclair Knight Merz been contracted to provide advice for contract DSD040510 and contract DSD09001?

(3) On what specific infrastructure projects has Parsons Brinckerhoff Australia Pty Ltd been contracted to provide advice for DSD040510 and DSD09001?

Hon NORMAN MOORE replied:

I thank the member for some notice of this question.

(1) BG&E is one of a number of firms on a panel contract, DSD040510, to provide consulting services to the Department of State Development. BG&E has not been engaged to provide any services under the contract to date.

(2) Sinclair Knight Merz is one of a number of firms on two panel contracts, DSD040510 and DSD09001, to provide consulting services to the Department of State Development. Sinclair Knight Merz has not been engaged to provide any services under the contracts to date.

(3) Parsons Brinckerhoff Australia is one of a number of firms on two panel contracts, DSD040510 and DSD09001, to provide consulting services to the Department of State Development. Parsons Brinckerhoff Australia has not been engaged to provide any services under the contracts to date.

EARLY LEARNING AND CARE CENTRE, SOUTH HEDLAND

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

I refer to the answer to question without notice 806 on 22 September 2011.

(1) Has the minister received a response to her letter to Hon Peter Garrett recommending the south metropolitan education region as an alternative "needs" area for the construction of an early learning and care centre in Western Australia?

(2) If a response has been received, has the minister taken any further action in relation to the construction of the early learning and care centre in this or any other area?

Hon PETER COLLIER replied:

I thank the honourable member for some notice of this question. I have to say that this question was asked on 20 March, so it is relevant as from then, although there may have been an update to the question.

(1) No response has been received as yet.

(2) Not applicable.

As I say, that is relevant as of 20 March.

BROWSE LNG PROJECT — NATIVE VEGETATION CLEARING

287. Hon ROBIN CHAPPLE to the minister representing the Minister for Environment:

I refer to question on notice 5152 regarding the clearing of vegetation to make way for a meteorological tower at James Price Point asked on 6 March and answered on 1 May.

(1) Under which exempt purpose in the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 did the clearing by Woodside for a temporary meteorological tower fall?

(2) Does the area cleared for the meteorological tower fall within a listed environmentally sensitive area?

Hon HELEN MORTON replied:

I thank the member for some notice of this question.

(1) Under regulation 5 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004, item 1 allows clearing for the lawful construction of a building or other structure and item 12 allows clearing for vehicular tracks.

(2) No.

DEPARTMENT OF HOUSING — DWELLINGS — SALE AND DEMOLITION

288. Hon HELEN BULLOCK to the minister representing the Minister for Housing:

(1) How many dwellings owned by the Department of Housing were sold or demolished in the last financial year?

(2) How many dwellings owned by the Department of Housing were sold or demolished in the 2010-11 financial year?

Hon SIMON O'BRIEN replied:

I thank the honourable member for some notice of this question. The information cannot be provided in the time frame available. The member is asked to place the question on notice.

SCHOOL PSYCHOLOGISTS

289. Hon ADELE FARINA to the minister representing the Minister for Education:

I refer to school psychologists in government schools.

(1) Will the minister provide a list of government primary and secondary schools and for each the full-time equivalent school psychologist positions that exclusively serve these schools; and, if not, why not?

(2) Will the minister provide a list of government primary and secondary schools that have no school psychologist position that exclusively serve these schools; and, if not, why not?

(3) Will the minister provide a list of government primary and secondary schools where a school psychologist serves more than one school and full-time equivalent school psychologist positions against a list of the schools each served; and, if not, why not?

Hon PETER COLLIER replied:

I thank the honourable member for some notice of this question. Given there are 764 public schools in Western Australia, it is not possible to provide this information in the time available. It is suggested that the member place this question on notice. I refer the member also to Legislative Assembly question on notice 7134 in relation to school psychologists, of which I table a copy of the response together with the attached documents.

[See paper 4550.]

ROTTNEST ISLAND — GOLF COURSE UPGRADE

290. Hon LYNN MacLAREN to the minister representing the Minister for Tourism:

I refer to the proposed upgrade of the Rottnest Island golf course.

(1) Has there been an environmental impact assessment, including necessary hydrology reports and the likely effects of chemically treated irrigation on the existing water and surrounding lakes?

(2) Can the minister please provide the total expenditure to date on upgrading the golf course and the country club?

(3) Is the minister aware that this expenditure is not budgeted in the Rottnest Island Management Plan 2009-2014?

(4) What public consultation was conducted prior to this expenditure being incurred?

(5) Is there a business plan in place for the golf course and country club that will have to be observed by the private operator to whom these facilities will be leased?

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

Hon ROBYN McSWEENEY replied:

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

(1) No; the Rottnest Island golf course upgrade is currently in a project scoping phase.

(2) $140 000.

(3)-(4) The golf course upgrade is consistent with the Rottnest Island Management Plan 2009-2014, initiative 13 "Expand Recreational Activities". The plan for reticulation of the golf course was developed with the executive of the Rottnest Island Country Club and is seen as an excellent way of reusing wastewater and improving visitor numbers to the island in the off season.

(5) Yes.

(6) Not applicable.

FOREST MANAGEMENT PLAN — CARBON STOCK MONITORING

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

I refer to the carbon stock monitoring project being carried out by the Department of Environment and Conservation for the area to be covered by the next forest management plan.

(1) Has the project commenced? If so, can the minister provide details of the terms of reference of the project? If not, when will the project commence?

(2) Is the minister aware of the report by the Australian National University centre for climate, law and policy "Tasmanian Forests Intergovernmental Agreement: An assessment of its carbon value"? Does the minister consider that such an assessment would be relevant to native forests in the south west of WA; and, if not, why not? If so, will the minister commission a WA version of the report?

(3) Will the carbon stock monitoring project or the social and economic impact assessment of the potential impacts of the implementation of the draft FMP 2014-2023 being carried out by DEC undertake an assessment of the economic value of native forest carbon values and the potential economic and regional development opportunities arising from managing our native forests for the protection of their carbon values; and, if not, why not?

Hon HELEN MORTON replied:

I thank the member for some notice of this question.

(1) Yes. The project involves a broad regional estimate of carbon stocks for the forests in the planned area.

(2)-(3) At present, there is no national legislative carbon trading mechanism in place and there is still uncertainty on how such a system would operate. The lack of a national framework and a national accounting system for native forest management credits means that the draft forest management plan will not be the vehicle for determining the economic value of forest carbon stocks. Notwithstanding this, the government will investigate opportunities if and when a more certain carbon market emerges?

STATE BUDGET 2012–13 — EXPENDITURE IN NORTH METROPOLITAN REGION

292. Hon KEN TRAVERS to the minister representing the Treasurer:

I refer to the Treasurer's media release of 17 May titled "State budget 2012-13; Building the State; Supporting our Community: $1.419 billion for North Metropolitan".

Will the minister table a full list of all the projects included in the $1.419 billion and how much has been allocated to each of these projects by the state government in the 2012-13 financial year?

Hon SIMON O'BRIEN replied:

I thank the honourable member for some notice of this question. This was the $1.419 billion for North Metropolitan —

Hon Ken Travers: Yes.

Hon SIMON O'BRIEN: This is the advice from the Treasurer: the member is requested to put questions of this type on notice, especially when this volume of information is requested. There is a lot happening!

DERBY CORRECTIONAL CENTRE

293. Hon ROBIN CHAPPLE to the minister representing the Minister for Corrective Services:

I refer to the naming of the new Derby correctional centre.

(1) Did the Kimberley Cultural Advisory Group and the Derby Community Reference Group give the Warrwa traditional owners authority in relation to the naming of the new Derby prison on behalf of the Kimberley Aboriginal people?

(2) Did the Warrwa traditional owners select the boab flower "Guria" as the name of the new Derby correctional centre?

(3) On 7 October 2009 did KCAG carry a motion that the Warrwa name "Guria" was to be used in relation to the Derby prison, subject to the Kimberley Language Resource Centre checking that the name is acceptable to the other areas of the Kimberley?

(4) If no to (1)–(3), why not?

(5) If yes to (3), why, at the meeting on 1 November 2011 at Derby, did Michael MacFarlane, superintendent of Derby prison, determine that the name would be West Kimberley Regional Prison?

(6) Why has no further consultation in respect of the naming of the prison occurred with the Warrwa traditional owners?

Hon SIMON O'BRIEN replied:

I thank the honourable member for some notice of this question. I have a response on behalf of the Minister for Corrective Services.

The member's question, which was very detailed, refers to a meeting dating back to 2009 of which records need to be located, and seeks information that is not readily available. I therefore request that the member place the question on notice.

DEPARTMENT FOR COMMUNITIES — EFFICIENCY DIVIDEND

294. Hon SUE ELLERY to the Minister for Community Services:

(1) What was the target set for the Department for Communities to achieve across the forward estimates from the three per cent efficiency dividend announced in 2008?

(2) Did the department meet that target?

Hon ROBYN McSWEENEY replied:

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

(1) The three per cent efficiency dividend for the Department for Communities was $4 982 000.

(2) Yes, it did.

PUBLIC TRANSPORT AUTHORITY — APPROPRIATION — REDUCTION

Question without Notice 280 — Answer Advice

HON SIMON O'BRIEN (South Metropolitan — Minister for Finance) [5.03 pm]: As to the question asked of me in a representative capacity to the Treasurer by Hon Ken Travers earlier today, I have now received an answer to that question and I table it and seek leave to have it incorporated in *Hansard*.

Leave granted. [See paper 4551.]

The following material was incorporated —

I thank the Hon Member for some notice of this question.

1. Previously the state accounts were bearing a cost of depreciation for the PTA that no other state budget accepts for similar transport agencies and that is not accepted as a cost that should be borne by the budget for any other public non financial corporation. Last year was the first stage of this change when the budget no longer funded the PTA for depreciation of the grain freight network.

This change now makes us consistent with all other Australian jurisdictions and provides the PTA with a clear and transparent operating subsidy instead of the taxpayer carrying the costs in the state budget of the PTA's depreciation expenses and this is exactly how it should be.

The impact that this has on the 2012/13 operating balance is detailed in Budget Paper three page 162.

2. Nil.

ESTIMATES OF REVENUE AND EXPENDITURE

Consideration of Tabled Papers

Resumed from an earlier stage of the sitting.

HON KEN TRAVERS (North Metropolitan) [5.03 pm]: Before the break I was discussing the Liberal Party's pre-election transport policy and the number of promises or commitments in that document that had been broken. I think when we broke for question time I was up to the government being able to meet its commitment to privatise; as I say, it has not necessarily always been done very well, but it has met one of its commitments in terms of privatisation.

The next commitment, which I have always thought was very important , was a commitment to improve the security of rail passengers by increasing the number of police officers on the rail network. I will not go through it again today, but nothing in this budget will allow that, and we know that in the past, in fact, the number of police officers working on our public transport system has actually decreased.

As I flick through, there are a lot of generic comments which could be picked up and about which it could be said that the general thrust of what the government was saying has not been met. There are also some specific ones, such as Ellenbrook, for which the government definitely has not met its commitment. There are some for which the government has clearly implied that it was going to do something, but they were weasel words, so that it cannot be said that the government did not meet its commitment, but it clearly gave a misleading impression.

The government's 20-year master plan referred to all the things it was going to do for public transport, including planning for a range of things. One of the things it said it would include planning for was a rail service from Fremantle to the southern rail line. If someone looks at the 20-year master plan, they will not find a rail link between Fremantle and the southern rail line, other than the one that already exists from Fremantle through the western suburbs and down through the tunnel. It is possible to get from the Fremantle line onto the Mandurah line, but I do not think that is what the people of the southern corridor actually thought was meant when the then shadow Minister for Transport released this paper.

Hon Ed Dermer interjected.

Hon KEN TRAVERS: It is not even mentioned in the plan, despite being one of its commitments.

The other thing the government said it would be planning for as part of its 20-year master plan was the extension of the Armadale line to Byford, and the examination of the case for services to Mundijong. Again, if anyone looks at that master plan, the government has no plans within the next 20 years to extend the rail to Byford. Again, another big fail.

Then of course we come to the issue of taxis, and we would have thought there might be some good news there as it was one of the government's big commitments. Again, I am a fair man and I will give credit where it is due; the government said it would establish a taxi advisory board comprising industry and government representatives

that would have a range of tasks, and it did create a taxi advisory board—credit to the minister. But I am not sure that it had industry representatives on it, which was one of the big complaints of the industry. They are very good people; I have had dealings with the board and I am not in any way impugning the integrity of any of the people on that board because I have a great deal of respect for all of them. I have absolute respect for all the board members I can think of off the top of my head who I have met, and I have had good dealings with a number of them in various capacities over the years. The chair is not of my political persuasion, but I have always found him a very reasonable and decent person to deal with when I have dealt with him in this and other capacities. I once advised people to keep him on as the chair of a government board when we were in government! I digress for a second. The commitment was that that board would comprise industry representatives, but initially it did not. I understand there are moves to change that, so I guess we can give a half tick for that one.

The next commitment was that a Liberal government would return the ownership of taxi plates currently owned by the government to the private sector. That is clearly a broken promise, but, a bit like the Roe stage 8 promise we talked about earlier, I am glad it broke that promise because I did not think it was the right thing to do; nevertheless, the Liberal Party made the promise, not me. It was a silly promise, and, again, it has never apologised to taxidrivers in Western Australia for misleading them prior to the election and presenting a position that would be different from what it is.

The Liberal Party talked about committing to a general review of school bus contracts, and it has done. It will be interesting to see how the new contracts comply and what the Auditor General has to say, but that is not for now. If the contracts comply with the requirements of the Auditor General, at this stage I am certainly happy to go along with what the government has proposed.

What did the Liberal Party say about rail freight? It said it would make decisions necessary to secure the future of the grain rail freight network. That was probably not as strong as the commitment given by the leader of its coalition partner, Brendon Grylls, who promised he would maintain all the rail lines, although one could certainly have inferred from that that there was talk of maintaining all the grain rail freight lines. We know that the Liberal Party's coalition partners, the National Party, actually committed in very clear terms to maintaining all the grain rail freight lines; this government is now closing about 700 kilometres of rail line in the wheatbelt, or about one-third of the grain rail network. So, again, that is a big fail for both parts of this coalition government.

Of course, the final one is that the Liberal Party was going to provide for expanded port operations, and James Point would be properly serviced by rail infrastructure. Both parties deleted from the budget the federal government money that was available to do that. Of course, we now know they have even cancelled the contract for a private port, which the previous Liberal government signed in its dying days of 2000. It has walked away from that contract; a contract it had attacked the Labor Party for not progressing and said it was going to fix and do it all. The Liberal Party broke that promise when it got into government.

Another thing I should have mentioned when we were dealing with the issue of taxis is the security and safety of taxis. Since the minister talked about reforming the taxi industry, we have had a real explosion in the taxi industry. One would have thought that this budget would have had some money to deal with the implementation of the demerit-point system. It may be hidden in the budget and I have not been able to find it yet, but I cannot see within the budget papers any money allocated to the implementation of the demerit-point system. The issue of taxidrivers was one of the major priorities that the new Minister for Transport, when he got the portfolio in December 2010, was going to fix. In April 2011 he told us he was going to introduce a demerit-point system, probation and better training for taxidrivers. To this day we are still waiting. When the minister came under a bit of pressure and was about to go on the ABC radio program in March this year, he released a letter that he had sent out to taxidrivers saying there would be a zero-tolerance approach. Of course, we now know that zero-tolerance approach includes only a fair range of options for what would be tolerated. It is probably a zero-to-10-tolerance approach. Again, that is a story for another day, but I would have thought there would be some money in the budget to deal with the safety of taxi passengers. A big fail there—not in this budget at all that I can see so far, but of course we have not had estimates and that might not turn out to be the case.

I will check if there is anything else in this transport document. I refer to Oakajee port. The private sector company that won the tender under the previous Labor government has worked diligently to get the Oakajee port up and running. It is my view that decisions taken by the government of this state have frustrated the development of that project, not facilitated and assisted it. Interference in commercial issues by the Premier has made that project harder, even though it was clearly listed as one of the projects the government was committed to getting on with rather than letting the private sector get on with the project.

A number of other promises were made by individual members and others across the state of Western Australia prior to the last election. The member for Southern River promised a Canning Vale railway station—no sign of that. The South Perth railway station was already in the budget. The Liberal Party actually argued that we needed

to get on with that. The member for South Perth was a roaring lion when in opposition and has now become a very tame pussycat now that he is in government! He has allowed that station to be cancelled. In the northern suburbs, a commitment was made by the then Liberal candidate for the seat of Ocean Reef that —

> … if elected, the Liberal Party would organise a feasibility study, public consultation and design work on the project, —

The project being the extension of the freeway north of Burns Beach Road —

> starting work straight away to ensure it was included in the state budget.

We now have the final state budget before the next election, four years on from that commitment in the *North Coastal Times* on 26 August 2008. What do we get? We get spin from this government: it has now established a committee to look at this issue even though a major study, completed in 2009, will tell us all the things we need to know about what roads need to be built and where in the northern corridor. This committee is nothing more than a delaying tactic to try to make this government look like it is doing something when it has done nothing to honour that commitment given to the people of the northern suburbs four years ago. That is another broken promise. A litany of promises has been broken by this government. This was the budget in which the bacon should have come home and those projects should have been honoured.

The government has tried to create the impression that towards the end of this budget it will get debt under control and even start to bring debt down slightly. A range of projects will commence with small amounts of money. The government either intends to spend small amounts of money and then not complete the project, such as Roe Highway stage 8, or it is being misleading and once we get over the election, the government will be back using the credit card to run up money for the state so that it can build monuments to itself, such as the Premier's pet projects. Maybe it will build new offices for the rest of the ministry now that the Premier has his new office. The rest of the cabinet will want new offices or refurbished offices, or something like that. We see the Riverside project being pushed back because it has now dawned on the government that it is releasing too much commercial retail space in the Perth CBD and the market will not be able to absorb it. We have projects such as the sports stadium. The government has put $375 million into the stadium and transport arrangements, yet we know that the transport arrangements will be more than $300 million. I am confident it will come in at more, as I am confident the stadium will be more than $700 million. There is still a big gap there. About $700 million has to be found beyond that period. We know it has to find, on its own budget, $700 million. I suspect the figure is probably closer to $1 billion, if not $1.5 billion, on top of the money already there; I hope it is not. But if it goes on with Roe Highway stage 8—as the minister said he wants to—that is another $700 million project. There is the Perth–Darwin highway. Hopefully the government will be able to repair the damage with the commonwealth and get it to focus on the Perth–Darwin highway, although I suspect there will need to be a lot of bridge building—pardon the pun—with the federal Minister for Infrastructure and Transport after the way our Minister for Transport behaved on Sunday with respect to the Gateway WA project. That is an important project, but a significant contribution will still be required from the state government.

There is of course the claimed light rail. We know light rail will not go out to Curtin University, but the government still claims it will go to Mirrabooka. There is no money for the construction of that light rail. There is no money for the Ellenbrook busway the government claims it will construct. There is a small amount of money for the museum—again, some $400 million not in the budget. For the Perth Waterfront project, we know $170 million will not be recouped because the government will flood the market with land. That is not allocated in the budget. We also know that further significant work will be required in the Perth CBD and surrounding streets to manage the congestion that has been created by the bad decision to close Riverside Drive. Again, that is not in the budget. Future governments will need to pick that up. Once Riverside Drive closes, governments will have no choice but to do that. The way it has been designed certainly precludes being able to build a tunnel through that area at a low cost. If a tunnel is built in the future, it will be a very expensive exercise.

Surely this government will get on with extending the freeway to Clarkson, having promised it at the last election and not having delivered. This sham committee has basically been set up as a delaying tactic—is it going to commit to that freeway? Construction of the Kununurra bypass had been put in the budget. We have done the funding for the planning of the Kununurra bypass; we now need to put in a submission to the commonwealth government to get its contribution towards that. The sum of $150 million-odd is required there. There is the Roads to Export program, which I talked about earlier, to do with the ports of Bunbury, Esperance and Albany. Albany port has spare capacity, but once Grange Resources comes on stream, that will start to use up most of the spare capacity. We know more money is required for Oakajee than is in the budget. These are all projects not included in the budget. Where will the government get the money for all these projects that it is giving the illusion it will do? Either the government will again break its promises or it will go back to using the credit card. The government announced funding to plan the Albany ring-road. That will require another significant contribution. There are hundreds of other projects, particularly in the roads budget, that will need to be funded, yet we see a significant underspend in the roads budget.

Before I go into the future of the roads budget, another project I want to talk about is the new stadium. This government is planning to move 35 500 people from the stadium within an hour. We know that is not physically possible with the current rail network in Perth. When I asked the minister to explain that, he ran away from the question at a million miles an hour and said only that that was the advice the Public Transport Authority gave him. My question is: what is the Public Transport Authority's view about how it can do that? We know that Perth train lines cannot carry more than 20 trains an hour and no more than 1 000 people on each train. That adds up to 20 000 people going along a train line under the current signalling system. The government has a couple of options. It could build a second track, which would require a bridge across the Swan River; it could decrease the amount of time between trains, which would require a significant upgrade of the signalling system; or it could extend the trains to nine-car sets, which would require a significant increase in expenditure because of the need to extend the platforms around Perth. The government would have to use one of those three options to move 35 500 people. To be able to do that and continue to operate the standard network in Perth, the government would also need to buy more trains than it currently has. Can the minister answer these questions? Will he answer these questions? No, he will not. When I asked him the other day about this very issue, I was told that we would have to wait. His reply to question on notice 5273 states —

> (1)–(3) A Master Plan, will be completed in the first half of 2013. It will include the provisions and cost estimates for road, rail, bus facilities and the pedestrian bridge.

This government is telling us that it will start signing contracts to build the stadium this year without actually knowing how it will deliver the transport for that stadium. We already know that once the stadium is open, there will be an overwhelming demand for more parking there, as this nonsense about building a stadium without parking will be found to be the nonsense that it is. That will be another cost on a future government. I cannot believe—as I said before about the rail to Mandurah, an important piece of infrastructure in Western Australia that was heavily opposed at the time by the National Party—that National Party members are sitting by meekly and saying nothing about the amount of money to be put into the CBD of Perth on these projects. These projects are being done with shoddy planning and without knowing their true cost, and they will force future governments to spend money that does not need to be spent on projects in the CBD of Perth. We can actually have a stadium and do it well without all these additional costs. This is just about extravagance and about the egos of this current government.

I want to touch on roads, because roads are really important to regional Western Australia. Public transport is the key to the congestion crisis in Perth but our roads in regional Western Australia are really under pressure. We need only to drive south along Albany Highway or north along Great Northern Highway on any given day to see that. Money comes from a range of sources to fund our roads. Record amounts of money from commonwealth grants are coming into Western Australia for our road projects. Money comes from the motor vehicle licence fees, and that is now mainly being applied to the maintenance of roads. I do not begrudge that, as there is a backlog to make up as a result of the contracts signed when the last Court government was in power and when the Liberals participated in the failed privatisation of our road maintenance network. So there is a source of funding from the commonwealth, which is growing astronomically, and there is the state capital appropriation. When we monitor what has been happening, we see that in 2010–11, under this Barnett government, $114 million was spent on roads. An allocation of $114 million was the state appropriation for capital works for new roads. Do members know how far back we have to go to find a figure that low for funding for roads? We have to go back to 2005–06, six years back, to see the last time the government spent that small amount of money. In real terms that was appalling! Even in this financial year, 2011–12, the funding is $160 million. Again, members have to go back to 2005–06 to find a figure that low. In the next financial year, 2012–13, the government predicts it will spend $232 million. But, of course, we have seen traditionally that the government promises big and fails to deliver. Unfortunately, Hon Ed Dermer, at the moment the government is a bit like St Kilda, our favourite team: it raises our expectations and fails to deliver!

Hon Ed Dermer: In the second half of the season it will deliver!

Hon KEN TRAVERS: Let us hope it will.

In the budget for the following couple of years the government has put in a bit of extra money to match the commonwealth money for the Gateway WA project, but in the final two years of the budget the funding drops to $78 million and then down to $7 million. With the money from the road traffic fund added in, we can see that all the government is doing at that point basically is managing the capitalised minor works within the budget. That is therefore a dangerous position for us, because although the state is growing, we will not have the capacity to fund important road upgrades. The Premier dismisses the forward estimates, but they are absolutely crucial to our ability to deal with these things into the future.

I will finish by making a couple of comments on where I started. I do not know whether the answer is available to the question without notice I asked the Minister for Transport this afternoon. Whilst I am trying to find the answer the minister tabled and sought to incorporate into *Hansard*, perhaps someone could find me a copy of it.

Hon Simon O'Brien: That was a question to the Treasurer.

Hon KEN TRAVERS: It was to the Treasurer, yes. Perhaps someone could find me a copy of the answer to that question. I do not know whether it has been put on my desk but I would like to see a copy of it, as I am interested to know the answer.

Whilst that is being found, I will raise another issue I raised in question time. The Treasurer last week put out a press release saying that $1.419 billion was being spent on a number of projects in the North Metropolitan Region, but the figures do not add up to $1.419 billion. There was certainly a heavy emphasis on projects in the CBD and a bit of spillage out to the western suburbs, but very little in the outer growth suburbs where families are living today. As the projects mentioned in the press release did not add up to $1.419 billion, I asked the Treasurer to provide us with the full detail of that $1.419 billion and how much was being spent on each project, and was told to put the question on notice. The Treasurer must have had the information last week to make the press release, yet today he cannot give us the answer. Has the Treasurer shredded it all? Has he just picked the figure at random? If he can issue a press release with a figure of $1.419 billion, surely he can tell me today how he arrived at that figure, and surely I do not need to put the question on notice. He has put out a press release! Again, we are seeing the constant undermining of the parliamentary process by this government.

Another question I asked was about the change in accounting processes for the Public Transport Authority. Back came a very long answer that went round and round in circles. I will read the answer in more detail, but we know the answer when the government avoids these questions and refuses to say what happened to the balance of that funding. I think people asked at the briefing by Treasury this afternoon about the change to the way this government funds the PTA having the net effect of adding $170 million to the net operating surplus. This goes back to the point I started with: the surplus in this budget has been created with accounting trickery. The government has changed the way in which it accounts for the PTA. It has brought money out of the public financial corporations and put it into the general government sector by way of this lending charge to create the illusion of a surplus. If the government had used the accounting practices that were applied to the budget in the past 10 years in this state, the budget would have been in deficit this year. That, I think, encapsulates what this budget is all about. That illusion of a surplus by increasing fees and charges, by the trickery and meanness used to increase the fees and charges and by the total pool of increased funding, sums up this government. It is about trickery; it is about poor financial management; it is about making WA families pay for that poor financial management; and it is about the government's bad decisions to build monuments to itself.

I am confident that the people of Western Australia will look at this government at the election in less than 12 months and reject it as a bad government that has failed to deliver the infrastructure that the WA economy and the WA community need. They will see that it has failed to deliver services, and all at the same time as it has run up state debt. In the way this government has increased fees and charges, it is the highest taxing government in Western Australia's history.

That concludes my remarks on the budget.

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

CRIMINAL ORGANISATIONS CONTROL BILL 2011

Third Reading

HON MICHAEL MISCHIN (North Metropolitan — Parliamentary Secretary) [5.30 pm]: I move —

That the bill be now read a third time.

HON GIZ WATSON (North Metropolitan) [5.30 pm]: I rise to express the position of the Greens (WA) on this Criminal Organisations Control Bill 2011. We have taken some time to debate this bill through this house, and there have been some amendments, a number of which we have supported, and a number of which we have initiated. We acknowledge that the government has accommodated at least a couple of the amendments that I have moved. Nevertheless, we find ourselves unable to support the bill as it stands, and I want to make a few comments about why that is the case.

As was discussed at length during the committee stage of this bill, the bill breaches a number of key principles that currently exist in the legal system. In a number of places, the bill makes the rules of evidence inapplicable. The operation of the bill will rely heavily on covert intelligence. That is information that will not be subject to cross-examination and can indeed be based on hearsay evidence. It will create a novel entity—a designated authority—which will be a decision maker with the powers of a royal commission. However, it will also operate in a private capacity. It will also operate, for all intents and purposes, in a way that could otherwise be described as judicial; that is, it will make judgements about whether to rule an organisation to be a declared criminal organisation. In that way, this entity will be fundamentally different from a royal commission, which is not a decision-making body but only makes recommendations following an inquiry.

Breaches of control orders will result in mandatory prison sentences, and for this reason alone we cannot support the bill, because we do not support mandatory prison sentences. Mandatory sentencing removes judicial discretion and breaches the integrity, independence and authority of the courts. Control orders will make an offence of simple human interactions, such as two people having a cup of coffee together, if those persons are subject to a control order. It will also create a precedent whereby a person can be imprisoned because he or she has associated with another person. The police in Western Australia already have significant powers to charge people when it is suspected that they are planning to, or are about to, commit an offence. It is not as though we do not already have provisions in this state to deal with suspicions about people's intentions. In this state we also have exceptional powers to surveil people. We have exceptional powers to remove fortifications. I have been in this place long enough to have debated all those changes to the laws in Western Australia to provide exceptional powers to the police. It is interesting to note that regardless of all the chest-beating about the marvellous powers that we might effectively have, particularly against bikie gangs, it is my understanding that the fortification removal powers—which were initially in a stand-alone bill and were then incorporated in the Corruption and Crime Commission Act—have never been used successfully in this state. Further, the notion that groups or gangs can be wiped out is, I think, thoroughly questionable. This bill is much more likely to drive these people further underground and outside the reach of the law. That has certainly been the experience with similar legislative changes in Canada.

This bill, when it passes this place, as no doubt it will very shortly, and then goes back to the other place, and no doubt eventually becomes law, will also attract some headlines in our media, saying that this will make the people of Western Australia safer and we can all sleep safer in our beds at night. This sort of legislation does not make me feel any safer. In fact, it makes me feel very concerned that we are dismantling some very longstanding and important aspects of our justice system. I think it is highly likely, and it has been acknowledged by the parliamentary secretary, that when this bill becomes an act, it will be subject to a High Court challenge. I made the point during the second reading debate, and when I moved for the bill to be referred to a standing committee, that it is the role of the Parliament to thoroughly scrutinise bills of this nature. We have done our best job—or some of us have done our best job—in this place to scrutinise this bill. But it has not had the benefit of the level of scrutiny of a standing committee inquiry, and that is a significant concern.

I conclude by quoting from the former President of the Law Society of Western Australia, Mr Hylton Quail, who said the following —

> Over the decade and a half that I have been involved in considering parliamentary criminal bills on behalf of the Society, most of them have promised 'tougher' laws in what seems to be a never-ending 'law and order' auction. As these initiatives are often perceived as electorally popular, they have rarely been subjected to close parliamentary scrutiny by major parties other than the Greens. Yet, with each passing year these new laws change the nature of our essential liberal democracy.

I reiterate that the Greens cannot support this sort of legislation. We believe there are ample powers in the statutes to deal with organised crime. It is always disappointing when we know that there is significant concern about this sort of legislation, but that members are constrained from putting that on the record, and ultimately we end up with bad laws. For that reason, we will be opposing this one.

HON MICHAEL MISCHIN (North Metropolitan — Parliamentary Secretary) [5.37 pm] — in reply: In speaking on the third reading of the Criminal Organisations Control Bill 2011, I will not take up much more of the house's time. But I do have to say that the submissions made by Hon Giz Watson during the course of the second reading debate and the committee stage, and reiterated just now, demonstrate the length, breadth, height and depth of the misunderstanding of not only so-called fundamental principles of law and justice, but also the operation of this bill; the scrutiny that this legislation has had from courts, such as the High Court in looking at the South Australian legislation and the New South Wales legislation; and the need for action to be taken against what is patently a public menace. The mind boggles as to the sort of government the Greens (WA) might form and what they might do when they are faced with a public menace to safety but are so concerned about so-called fundamental principles that they would deny the authorities the power to deal with these sorts of novel occasions. No doubt, come the next election there will be full-page advertisements supporting the Greens' stand on civil liberties, proudly sponsored by organisations such as the Coffin Cheaters, the Finks, the Rebels, the Comancheros, the Gypsy Jokers, God's Garbage, and the others, along with the "search for your rights" group, the CFMEU, which some weeks ago came out complaining about how this will affect law-abiding citizens. I have no doubt that various church and Rotary groups will also put their names to those full-page ads complaining about the infringement of their civil liberties! The government makes no apologies for dealing with organised crime. If there is a necessity for additional powers to deal with the question of organised crime in a measured way, this government will do it. This government has made its best effort to ensure that criminal organisations are dissolved and that life is made as hard as possible for them. We heard the wonderful argument that somehow the provisions in this bill will drive these criminal organisations underground. That may be possible; it may be a likely outcome that they will find it more difficult to intimidate law-abiding citizens by

parading down the streets of Perth, flexing their muscles publicly and showing their power and that they are a force to be reckoned with; but that is a situation that will be dealt with in due course.

I commend the bill to the house and move that it now be read a third time.

Question put and a division taken, the Deputy President (Hon Col Holt) casting his vote with the ayes, with the following result —

Ayes (29)

Hon Liz Behjat	Hon Phil Edman	Hon Alyssa Hayden	Hon Linda Savage
Hon Matt Benson-Lidholm	Hon Sue Ellery	Hon Col Holt	Hon Sally Talbot
Hon Helen Bullock	Hon Brian Ellis	Hon Robyn McSweeney	Hon Ken Travers
Hon Jim Chown	Hon Donna Faragher	Hon Michael Mischin	Hon Max Trenorden
Hon Peter Collier	Hon Adele Farina	Hon Norman Moore	Hon Ken Baston *(Teller)*
Hon Mia Davies	Hon Philip Gardiner	Hon Helen Morton	
Hon Ed Dermer	Hon Nick Goiran	Hon Simon O'Brien	
Hon Wendy Duncan	Hon Nigel Hallett	Hon Ljiljanna Ravlich	

Noes (4)

Hon Lynn MacLaren	Hon Giz Watson	Hon Alison Xamon	Hon Robin Chapple *(Teller)*

Question thus passed.

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

CRIMINAL INVESTIGATION (COVERT POWERS) BILL 2011

Second Reading

Resumed from 17 May.

HON GIZ WATSON (North Metropolitan) [5.46 pm]: From one bill to another; here we go! The Criminal Investigation (Covert Powers) Bill 2011 is not very good either! That is a good way to start! I have only 10 pages!

On 5 April 2002, the Prime Minister and state and territory leaders agreed on a number of reforms to enhance arrangements to deal with multijurisdictional crime. A national joint working group was established by the Standing Committee of Attorneys-General and the Australasian Police Ministers' Council to provide for a nationally consistent legal framework and to develop model laws that aid criminal investigations across state and territory borders.

The first step was a discussion paper "Cross-Border Investigative Powers for Law Enforcement," which was published by the national joint working group in February 2003. The NJWG received 19 written submissions in response to the discussion paper. In November 2003, the joint working group produced a 624-page report, "Cross-Border Investigative Powers for Law Enforcement", which contained model laws to be implemented as a minimum standard across all Australian jurisdictions. It should be noted that the model laws were initiated by the "Leaders Summit on Terrorism and Multijurisdictional Crime", as identified in the report.

So far only one bill, the Cross-border Justice Amendment Bill 2009, has passed in this house. It amends the Cross-border Justice Act with implications solely for cross-border justice matters.

The bill before us today implements model laws from the 2003 report for three areas. However, it is does not limit the application of the provisions to cross-border matters. The bill will also see new provisions available for police operations in Western Australia without any cross-border implications. These operations are defined in clause 7 as "local controlled operations".

The bill proposes changes to three areas of law enforcement: controlled operations; assumed identities; and witness identity protection. A "controlled operation" is an undercover operation that authorises an undercover law enforcement officer to engage in unlawful conduct under controlled conditions to investigate serious offences. An "assumed identity" is a false identity that protects an undercover operative engaged in investigating crimes and infiltrating organised crime groups; and "witness identity protection" provides for the protection of the true identity of a covert operative and of other protected witnesses who give evidence in court.

The bill goes beyond the agreed minimum standards of the model laws. The second reading speech reads —

> … several significant modifications to provide our police with the necessary tools and flexibility to disrupt and frustrate contemporary organised crime groups.

In future, undercover agents will not be liable for any offences they might commit in their role infiltrating a crime network. According to clause 23, after the granting of a controlled operations order, an officer will be allowed to engage in the controlled conduct; in other words, an officer will be allowed to break the law. Clause 27 gives the officer protection from criminal responsibility.

The provisions of this bill will be applicable to not only WA Police, but also the Department of Fisheries and the Australian Crime Commission, plus any other government agency that functions as a law enforcement agency. I note that we might be dealing with some amendments in this regard, which we welcome. These special law enforcement provisions can be made for any offence that carries a minimum sentence of three years' imprisonment or offences that are prescribed by regulation, without being bound to a minimum penalty restriction. Again, I am pleased to see that there are some amendments to address that issue.

The bill was referred to the Standing Committee on Uniform Legislation and Statutes Review, and the committee tabled its report on 6 March this year. The committee made four findings, three narrative-form recommendations and 25 statutory-form recommendations. The executive summary of the committee's report identified the following concerns —

> … No qualitative external oversight of the agencies' use of the powers and investigation into the conducting of their operations will occur. A gatekeeper is an essential tool for combatting the spectre of corruption around those who will exercise the extraordinary powers provided by the Bill.
>
> … The Committee is of the view that the power to conduct a controlled operation or assume an identity for the purpose of conducting a controlled operation should be used judiciously to deal with proportionately serious matters or matters where normal methods of law enforcement are, for particular reasons, ineffective.
>
> … The Committee has a particular concern that the creation of new offences in subsidiary legislation for which a controlled operation may subsequently be undertaken is an inappropriate delegation of legislative power from the Parliament to the Executive. The creation of new offences is a subject matter that should remain within the purview of the Parliament and to propose otherwise, diminishes the sovereignty of the Western Australian Parliament.

I share the committee's views in this regard, but I will also raise some additional issues.

The current Western Australian law allows for controlled operations under the Royal Commission (Police) Act 2002 and under division 5 of part 4 of the Corruption and Crime Commission Act 2003, and also for the use of controlled operations in integrity testing under division 4 of part 6 of the Corruption and Crime Commission Act. A media article entitled "Premier's wish for CCC to probe organised crime" written by Cortlan Bennett and published on PerthNow on 29 September 2011 states —

> **WEST Australian Premier Colin Barnett will push ahead with a bid to expand the Crime and Corruption Commission's "extraordinary powers" to fight organised crime, despite high-level opposition.**
>
> Mr Barnett says a bill to empower the CCC to investigate organised crime directly will be introduced soon, despite a parliamentary committee and others rejecting the recommendation.
>
> In a report tabled in state parliament today, the CCC joint standing committee—headed by Liberal MLC Nick Goiran—said the corruption commission was served well by its powers to investigate WA police and other civil servants.

I note the contribution that we heard earlier from Hon Nick Goiran on this bill. I found myself agreeing with his contribution wholeheartedly. That says to me thank goodness we have some lawyers in this place who understand the implications of legislation such as this and thank goodness we have a Legislative Council committee system that can put the time and effort into thoroughly examining this sort of legislation, unlike the bill we have just dealt with. The report referred to in the media article was debated recently, and I will come back to that later.

This bill will give exceptional powers to the police to enable them to combat organised crime, but, at the same time, the Premier wants organised crime to be investigated by the Corruption and Crime Commission. These messages are exceedingly confusing and warrant a range of further questions. If there is one thing that is problematic with this legislation, it is that we have not sorted out the fundamental questions of whose role it will be to investigate serious crime in the state and, indeed, who will be the gatekeeper for these sorts of exceptional powers. Until those two questions are answered, I do not think this Parliament should be considering anything like this legislation at this point.

I have a number of questions. First, what evidence is there that existing WA laws are not sufficient to deal with organised crime? I made the same point in the debate on the previous bill about the additional powers it provided to supposedly stamp out organised crime. How do the roles of police and the CCC interact in addressing organised crime? It seems to me that we are doing this completely out of order. If we are going to deal with the issue of providing additional and very significant powers, we first need to resolve the question of how the CCC

and the police deal with serious organised crime. If this bill is passed, is it possible that a covert or undercover agent—I cannot think of the right term at this point—engaged by the CCC could be surveilling an undercover agent from WA Police and each would potentially be committing crimes to gain credibility with each other? What would the scenario be in that case? Regardless of which agency—the CCC or the police—gets to finally tackle organised crime, it will have a financial implication for the state. Estimates have been suggested in an article by Katherine Fenech dated 9 September 2010 in WAtoday. It states —

> The CCC estimated it would need $42 million over five years to establish an organised crime fighting arm and $9.4 million each year to run it.

That is an incredibly expensive proposition. If we enact a bill such as this, how will we know that we have been successful in reducing and combatting organised crime? If we are contemplating spending $42 million over four years to run an organised crime–fighting arm, how will we know that that money will be spent wisely? If those powers go to the CCC, what additional funds will be needed for WA Police to implement the bill if it goes through unamended?

I want to make some general observations in relation to the issues covered by the bill that were raised in the national joint working group discussion paper. Page iii of that report states —

> In order to investigate crime, police must be given effective powers. However, these powers must be balanced against the rights of individuals, such as the right to privacy and the right to a fair trial.

According to the Minister for Police, the main aim of this bill is to disrupt and frustrate contemporary organised crime groups. However, organised crime is neither defined nor mentioned in this bill. According to the long title, this bill applies to any type of criminal investigation and intelligence gathering in relation to criminal activity. I am concerned about this apparent oversight, as a suitable definition of "organised crime" is easily available. For example, in the Queensland Police Powers and Responsibilities Act, the following definition appears —

> **organised crime** means an ongoing criminal enterprise to commit serious indictable offences in a systematic way involving a number of people and substantial planning and organisation.

By contrast, the WA Police website has a very different definition. Under the subtitle "What is organised crime?", it states —

> Organised crime is when two or more people work together to carry out some type of criminal activity in order to profit.
>
> Criminal activity includes illegal drug manufacturing, drug trafficking and distribution, extortion and sexual exploitation. Organised criminal activities may involve public official corruption, falsification of records, money laundering and the use of violence.

Basically, any criminal activity becomes organised crime as soon as more than one person is involved, if we are to accept that definition from WA Police. The WA Police definition does not require the offence to be a serious indictable offence and it does not require the need for substantial planning and organisation. I do not know what status the definition on the website has.

Sitting suspended from 6.00 to 7.30 pm

The DEPUTY PRESIDENT (Hon Col Holt): Welcome back, members. I welcome our Olympic athletes in the gallery tonight.

Hon GIZ WATSON: On 17 August 2009, the commonwealth Parliamentary Joint Committee on the Australian Crime Commission reported the legislative arrangements to outlaw serious and organised crime groups. The report provided the following snapshot of organised crime in Australia. Chapter 2.5 of the report states —

> There is a long history of organised crime in Australia and, according to Dr Andreas Schloenhardt, an Associate Professor at the University of Queensland specialising in organised and transnational criminal law, it is widespread in its reach:
>
> > Organised crime can be found across the country and even regional centres and remote communities are not immune to the activities of criminal organisations.
>
> In its current manifestation, organised crime in Australia exhibits a number of features that largely reflect patterns in organised crime internationally. Unsurprisingly, an enduring feature of organised crime is that it is primarily motivated by financial gain. Further, it generally involves systematic and careful planning, the capacity to adapt quickly and easily to changing legislative and law enforcement responses and the capacity to keep pace with, and exploit, new technologies and other opportunities.
>
> The Australian Crime Commission (ACC) likens organised criminal 'enterprises' to conventional businesses in the kinds of measures they adopt to ensure good business outcomes—risk mitigation strategies, the buy-in of expertise (legal and financial for example), and remaining abreast of market

> and regulatory change. The principal difference is, of course, that their business activities and profits are illicit.
>
> The impact of organised crime on Australia is significant. The ACC concluded that at a conservative estimate organised crime cost Australia $10 billion in 2008. These costs include:
>
> Loss of legitimate business revenue;
>
> Loss of taxation revenue;
>
> Expenditure fighting organised crime through law enforcement and regulatory means; and
>
> Expenditure managing 'social harms' caused through criminal activity.

I might just pause at that point, because it is interesting that two of those points, loss of legitimate business revenue and loss of taxation revenue, indicate that not all organised crime fits the stereotype of bikies or other gangs. Just as much, organised crime is conducted by people in suits and ties. The point I made in a previous speech was that those sorts of groupings of organised criminals are not so readily available. They do not run around down the pub with leather jackets and tattoos indicating who they are; they run around the stock exchange and probably do not indicate if they belong to a particular grouping of organised criminals.

The report goes on to say at chapter 2.9 —

> Serious and organised crime not only results in substantial economic cost to the Australian community but also operates at great social cost. Organised crime can threaten the integrity of political and other public institutional systems through the infiltration of these systems and the subsequent corruption of public officials. This, in turn, undermines public confidence in those institutions and impedes the delivery of good government services, law enforcement and justice. Along with this are the emotional, physical and psychological costs to victims of organised crime, their families and communities.

Chapter 3.56 of the report regarding investigative powers in Western Australia states —

> The WA Corruption and Crime Commission (CCC) was established in 2004 by the Corruption and Crime Commission Act 2003 (WA) to combat organised crime by authorising and monitoring the use by WA Police of exceptional powers in organised crime investigations, and to reduce the incidence of misconduct in the public service.
>
> The CCC has extensive investigative powers, including coercive powers, telephone intercept and surveillance powers, running controlled operations, and the ability to use and authorise the use of assumed identities. In its organised crime function, the CCC has the authority to authorise and monitor the use of these exceptional powers by WA Police.
>
> The Corruption and Crime Commission Act also authorises the CCC to issue 'fortification warning notices' and 'fortification removal notices' which are enforceable by the WA Police.
>
> The (then) Opposition introduced a Bill in November 2007 which would have allowed the CCC to investigate serious crime independently of the WA Police, however the Bill was not passed by the Legislative Assembly and lapsed.

We have several concerns regarding this bill, including but not limited to the following issues. Firstly, it should be clarified whose role it is to combat organised crime before any operational amendments are proposed. If it remains a role for the police, this role needs to be properly defined and limited in the act. The proposed bill does not even contain a definition of "organised crime". The bill's application should be clearly limited to organised crime, which must be defined in the bill to avoid any ambiguity. Secondly, there is the issue of safeguards for controlling operations in other laws. I am concerned about the lack of safeguards for controlled police operations within this bill. Thirdly, the bill makes these law enforcement tools available for offences that are not serious offences. The proposed minimum penalty limit for any offence to attract the application of these provisions is three years' imprisonment. Other states such as Queensland have chosen to increase the minimum penalty to seven years. I am concerned that the application of the provisions in this bill could be made for far lesser crimes by regulation. I am sure we will discuss that in more detail when we get to the committee stage. Fourthly, the definition of "suspect" in clause 5 is of concern. The bill states —

> **suspect** means a person reasonably suspected of having committed or being likely to have committed, or of committing or being likely to commit, a relevant offence;

The definition of "suspect" in this bill is a lot wider than in other acts that allow for controlled operations. My question to the minister would be: on what basis will police decide whether a person is the suspect if an offence has not been committed?

Fifthly, deviation from model laws should not be allowed. The police have not made a case for why the additional provisions are necessary for successful police operations. Locally controlled operations should not be

allowed. The bill should be limited to provisions agreed to under the mutual recognition or operations provisions.

In terms of retrospectivity, retrospective authorisations should not be lawful. The provisions give protection from criminal responsibility for controlled conduct during authorised operations. It is limited to the controlled conduct as prescribed in the authorisation. However, due to the ability to get retrospective orders, the provisions actually give a blank cheque to law enforcement officers to break the law when they see fit. Again, we would argue very strongly that this is not in the interest of the rule of law. Unlawful conduct should be strictly limited through safeguards. An independent oversight of these safeguards is necessary. This point has been made by other members in their contributions to this bill. These proposed law enforcement provisions have far-reaching consequences, but the bill does not contain any provision for a review of this particular act. Therefore, we cannot support the bill in its current form.

I will mention a few more details of this bill with regard to independent oversight. Clause 41 gives the Parliamentary Commissioner for Administrative Investigations, the WA Ombudsman, the right to inspect records of the law enforcement agency. In our view, inspecting the records does not give an oversight status. Section 122 of the CCC act limits the CCC as to what can be done and must not be done in controlled operations and what skills a person carrying out such a controlled operation has to have to become involved.

Under section 51, the CCC can issue directions as to limitations on the exercise of exceptional powers; however, this bill does not contain such limitations. My question to the minister is: why have the safeguards for controlled operations in the CCC act not been reflected in this bill? The Tobacco Products Control Act 2006 is another current law that provides for controlled operations. It allows a controlled purchase operation against a person suspected of one or more offences of selling tobacco to underage smokers. The controlled operations are well defined in the act and are limited to people who are suspected of having already committed an offence.

In Queensland, other independent bodies have been entrusted with oversight and monitoring functions, such as the public interest monitor and the Controlled Operations Committee. My question to the minister is: has this government given any consideration to the establishment of a public interest monitor; and, if yes, what is the outcome of those considerations?

The uniform legislation committee had concerns similar to the ones that I have raised and, on page 21 of its report, made the following finding —

> **Finding 1: The Committee finds that a gatekeeper is an essential tool for combatting the spectre of corruption by those who will exercise the extraordinary powers provided by the Criminal Investigation (Covert Powers) Bill 2011.**

And I wholeheartedly agree with that. It is fundamental to consideration of legislation such as this; that is, if someone or some body does not provide that function, there is no way the Greens could support legislation such as this to give further powers to the police.

In terms of the validity and duration of a controlled operation's authority, under commonwealth law a covert operation is limited to three months unless it is extended for a further three months by the Administrative Appeals Tribunal. Clause 16 proposes a period of six months for a longer covert operation in Western Australia. The Commonwealth Ombudsman is the oversight agency for the Australian Crime Commission and on 23 March 2011, the Ombudsman tabled a report in the federal Parliament about long-term controlled operations. At page 2 of that report, it found that —

> the most significant issues related to:
>
> - the ACC exceeding the maximum permitted duration of controlled operations and not seeking external review by the … (AAT)
> - inaccurate reporting of illicit goods involved in controlled operations by the AFP
> - the AFP not identifying on the certificate the activities permitted or the civilian participants in the controlled operation.

The original proposal contained in the national joint working group discussion paper on the draft model law was for six months and this was shortened to three months in the final report, which recommended a three-month duration in the final model laws. Extending the period of validity beyond six months can be authorised by the chief officer as a variation in clause 18. No external agency is proposed to be involved. Clauses for variation can be upon the own initiative of the chief officer or upon application of a law enforcement officer under clause 19. An urgent variation of authority is limited to seven days and can be made orally. However, I would argue that in these days of electronic communications, it is questionable why an urgent variation application under clause 19(3) still has a place and such important authorisations can still be made orally at all. Mobile phones could be used, as could SMS messages and emails, which would allow for written verification of the evidence provided. The issue of whether urgent non-formal applications can be made was discussed in the working group

report at page 8, which recommended that non-formal applications have only a seven-day validity, whereas long-term authorities require a proper formal application and assessment. The proposed laws for WA do not follow the model laws in this respect. Therefore, my questions to the minister are: could he please provide reasons for the proposed variation from the model laws in this particular application, and why do covert operations in WA need a different time frame from covert operations of commonwealth agencies? The orders, in our view, should be limited to three months as they are under commonwealth law.

I want to put on the record that the commonwealth law was amended in February 2010 to provide for a maximum of 24 months for a controlled operation, but the Administrative Appeals Tribunal must still approve extensions every three months. The committee did not make any comments on the time period for which authorisation remains valid, but focused on the retrospective authorities that it objected to. I will make some comments about retrospectivity in a little while.

In terms of limitations to law enforcement agencies—clause 3, the definition—and the use of revisions by the fisheries department and the Australian Crime Commission, I understand these tools are very valuable to the police because they allow the police to work outside the rules of law; however, applications to other agencies should be limited. I am interested to hear from the minister what offences are anticipated will be the target of any investigation by the fisheries department and the minimum penalty for these offences.

I welcome the committee's report and recommendation 1 at page 21 that it proposes to delete making these powers available to the fisheries department for the following reasons, which are listed on page 20 of the report; namely, that WA would be the only state where these powers would be available to the fisheries department, that under current laws a ministerial exemption for a controlled operation can already be conducted, and that of the seven operations conducted since 2007, four have resulted in successful prosecutions. And there has been no evidence of organised crime in fisheries and my investigation reveals that the only indication seems to be whatever "emerging trends" means —

A member interjected.

Hon GIZ WATSON: We do not know what that actually means. I may just throw in that I have some indication, valid or not from my previous job, of potential involvement in bringing drugs into the country by some fishing operations.

Hon Sue Ellery: That was your job?

Hon GIZ WATSON: My job was community networking about marine and coastal issues, and the member would be amazed what people would tell me when asked what happens in the fishing industry. There is a little bit of an underbelly there! I suppose this is the frustration for legislators; that is, there is an indication of serious crime involvement in this area or that area, but we have to base our decisions on a bit more than "emerging trends". Nevertheless, we strongly argue that these powers should not be extended to fisheries officers.

Hon Adele Farina interjected.

Hon GIZ WATSON: Absolutely; yes, that is right. Those activities would fall under criminal law anyway. The fact that a person may be using a fishing boat to carry them out is neither here nor there.

The committee found that the inclusion of the fisheries department in the definition of "law enforcement agency" to be ill-considered and unprepared; and the committee concluded that these powers should not be conferred on fisheries, stating in its report —

> **Recommendation 1: The Committee recommends that in terms of the implementation of the policy decision to include "*the fisheries department*" in the definition of "*law enforcement agency*" in the Criminal Investigation (Covert Powers) Bill 2011, the Department of Fisheries should be excluded. This may be effected in the following manner:**

And then there is a proposed amendment.

The Australian Crime Commission generally investigates commonwealth or state offences that have a federal aspect. I will quote from page 3 of the second reading speech —

> It is also authorised to investigate state offences without a federal aspect and consequently may utilise the powers in this bill.

My question to the minister is: what offences is it authorised to investigate without any federal aspect, and under what law?

Although the minister wants to limit law enforcement operations to law enforcement agencies defined to include WA Police, the fisheries department and the Australian Crime Commission, this limitation is not reflected in the bill. The bill in fact allows law enforcement operations to be conducted by not only law enforcement agencies, but also any other government agency under the definition in clause 3. This is a concern to us and I will move an amendment to the definition to ensure that the conducting of law enforcement operations is limited to law

enforcement agencies. This issue was addressed in the briefing that I attended last year at which additional information was provided and for which I am grateful. The definition allows the disclosure of any assumed identity to another government agency that is not a law enforcement agency. This provision is necessary because clause 75 of the Criminal Investigation (Covert Powers) Bill 2011 makes the disclosure of an assumed identity an offence. Despite this explanation I remain concerned about government agencies being included in the definition of "law enforcement operation" in clause 3 and I will move an amendment to delete those words.

With regard to retrospective authority, clause 25 makes provision for retrospective authority for local controlled operations only. This authority is to be granted by the chief officer. I am concerned that this provision has the potential for bad decisions to be made on operational matters and for those bad decisions to be covered up by retrospective approval for those operations. Neither the model law nor the Corruption and Crime Commission Act provide for retrospective authorisation. Clause 25(1) provides that the chief officer may retrospectively authorise unlawful conduct engaged in during the course of local controlled operations but that it is not available for cross-border controlled operations. I note that the Standing Committee on Uniform Legislation and Statutes Review shared these concerns and recommended the deletion of these provisions. Perhaps in the minister's response he might indicate what safeguards are in place regarding this provision. Only the statutory provisions on covert operations in New South Wales provide for retrospective authorisations. No other states have included such authority. Recommendation 26 of the committee proposed a simple solution to the problem, which is to delete clause 25, and we support that recommendation. Also, the committee report raised concerns about the time frames relevant to retrospective authorities and makes a suggestion that the Joint Standing Committee on the Corruption and Crime Commission oversee retrospective authorities. I note with interest that the chair of that committee was not terribly keen to take up that offer. The challenge in this area of law is who provides the checks and balances and who is in the position to deal with what is often highly confidential information.

Hon Adele Farina: There need to be checks and balances.

Hon GIZ WATSON: Absolutely. That is why when dealing with this kind of legislation we have to be very careful about how we set up those checks and balances. I commend Hon Nick Goiran for his contribution to this debate, which was very useful. He has obviously taken some time to consider the full ramifications of the legislation.

Although the bill contains a safeguard in clause 26 and requires the notification of the Ombudsman for each retrospective authority within seven days of it being made, the bill does not give the Ombudsman any measures should he consider the authority be granted without proper reason. This is an oversight without any teeth. A breach would come to the attention of the minister or Parliament, if indeed at all, only some considerable time afterwards. The oversight of retrospective authorities through the Corruption and Crime Commission is warranted if the government has not agreed to the provisions being deleted.

With regard there being no limitations to serious offences, finding 3 of the standing committee's report suggests limiting these tools to the most serious crimes. The committee stated in its report —

> The Committee is of the view that the power to conduct a controlled operation or assume an identity for the purpose of conducting a controlled operation should be used judiciously to deal with proportionately serious matters or matters where normal methods of law enforcement are, for particular reasons, ineffective.

The bill makes these enforcement tools available for offences that are not serious offences. The proposed minimum penalty limit for any offence to carry the application of these provisions is three years. Other states such as Queensland have chosen to increase the minimum penalty to seven years. I am concerned that by regulation the application of the provisions in this bill will be available for considerably lesser crimes. Opening the minimum requirement to a lower benchmark for regulations is not in the interests of Parliament, and Parliament needs to ensure that the covert operations are limited to serious offences and organised crimes and do not become available to the police as a daily tool for ordinary offences. To ensure that only serious crimes trigger the application of covert operations, the definition of "relevant offence" in clause 5 needs to be amended to reflect the need for a serious crime, as is stated in both the second reading speech and the public intention of this bill.

The bill does not contain any subsidiary recommendations such as that these tools are to be measures of last resort and used only when other investigative measures have failed. The discretion of the police officers as to whether to use these tools is very wide, despite requiring the involvement of high-ranking decision makers. The committee raised concerns about this aspect of the proposed subsidiarity and judicial involvement in these operational decisions at paragraph 10.14 in the report. Finding 3 states —

> **The Committee finds that the controlled operations powers being proposed in the Criminal Investigation (Covert Powers) Bill 2011 should only be used judiciously to deal with proportionately serious matters or matters where normal methods of law enforcement are, for particular reasons, ineffective.**

In other bills, the government establishes a specific decision-making authority through the appointment of a current or retired judge. My question to the minister, who I am sure is paying close attention, is: why does the decision making rest solely with the police in this instance, and why is the decision maker not obliged to consider whether less intrusive methods of investigation should be pursued prior to the issue of a surveillance device, warrant or other tools under this bill? I made a comment in a recent debate about lazy policing. This type of provision is exactly the same thing. Time and again when debating this sort of bill I have seen that without careful vigilance from the upper house in particular, bills of this type contain other provisions that are not clearly stated in the second reading speech or in the public debate. That has occurred in bills of this type that were drafted by the police or whoever drafts these bills or gives the drafting instructions. Often it is the upper house that says that the bill is about providing exceptional powers for particular circumstances that the government thinks are the most serious of circumstances. However, when we read what the bill actually does, we find that it is not like that at all. It is an ambit claim to give the police exceptional powers in the most ordinary of circumstances. That is a very dangerous route to go down. Quite frankly, as a legislator, alarm bells ring every time I see bills that look like this one. There have been many instances when an attempt has been made to get legislation through the Parliament that, on the face of it, is about dealing with the really nasty people out there, such as organised criminals, bikies and those sorts of people who are antisocial elements in our community. I am not suggesting that those people are not antisocial, and they should be brought to justice for the crimes that they commit. However, we cannot go down this route of eroding the checks and balances in the system and giving additional powers to the police.

This might be the point at which to consider the history of the police service. Ninety per cent of the time WA Police does a fantastic job, but there are many examples in the police service when injustices have been committed, people have been imprisoned wrongly and there have been serious instances of corruption. We have had royal commissions into whether there has been any corruption in the WA police service but not one police officer has ever been brought to book for any of those matters. If I am to fall over the line on this matter, I will fall over the line to say that the police have to make a very clear case for why they should be entrusted with further powers because over the years I have seen that once these powers are put in their hands, they will simply put their hands out for more. We already have an exceptional array of tools and powerful legislation in Western Australia that assists the police in their activities. I am very reluctant to give them any more powers, particularly any that involve making legal what would otherwise be illegal activities. We are on a very slippery slope in that regard; hence, we certainly cannot support this bill as it stands.

The next issue that I want to raise relates to breaching privacy laws. The standing committee proposes to amend the limitations to the Freedom of Information Act and the State Records Act so that records can be obtained 30 years after a decision is made. Again, we think that is a very fair and reasonable amendment for transparency and accountability and is totally applicable to the application of covert powers. Gathering information as an undercover agent could also be a breach of privacy, and no doubt it is. That is the kind of balance that we have to strike in legislation. A breach of privacy principles limits the allowable collection of personal information, whether it is recorded on paper, in a form or by way of audio. Collection of such data needs to be undertaken in a manner that is lawful, fair and not unreasonably intrusive. Gathering intelligence and the protection of privacy are two opposing aims. For example, Queensland's existing front-end accountability requirements, such as the public interest monitor and the controlled operations committee with respect to covert powers, are protected. Queensland will also retain a higher relevant offence threshold that must be under investigation to access these powers.

With regard to the role of the Ombudsman, although the act does not state that the Ombudsman has to produce a report to Parliament on such investigations, we understand that such a report is one of the statutory obligations of the Ombudsman. I wonder whether the minister in his response might confirm that the Ombudsman not only presents his report to the minister about the inspections, but also includes the outcomes of those inspections in his report to Parliament. I assume that is by way of an annual report but, if not, perhaps the minister could clarify that as well. Recommendation 23 of the standing committee's report enters into a similar discussion, and clarification is definitely required in this regard. Extending the role of the Ombudsman to conduct not only inspections but also investigations goes some way towards addressing some of the shortcomings of this bill, but I have noted the contributions of other members about the role of the Ombudsman in this proposed new role.

Clause 110 deals with the Misuse of Drugs Act amendment. Undercover officers do not necessarily have to be police officers. However, if a criminal is recruited to function as an undercover police officer, several questions are raised as to how that would work. For example, who will make the decisions to recruit someone as an undercover police officer and on what basis? How will it be ensured that these people have the right training to conduct the operations appropriately? I will go into that clause in more detail when we get to the committee stage.

Clause 27 prevents a victim of crime from making a claim for compensation under the Criminal Injuries Compensation Act 2003 in the event the offence had been committed under the authority issued under the bill.

The standing committee raised the question about the fundamental legislative principles that it usually considers; that is, does the legislation have sufficient regard to the rights and liberties of individuals? The committee came to the conclusion that there is no basis for excluding the making of compensation claims, which led to recommendation 14 from the committee, which we will be supporting. Other provisions that the committee investigated, as set out in its report, made a lot of sense. We are very grateful to the standing committee for having done an exceptional job of examining this piece of legislation.

We cannot support the bill in its current form as these law enforcement tools are already available to the Corruption and Crime Commission for use in relation to organised crime. The bill breaches important human rights principles, such as the right to a fair trial and the right to privacy. The proposed application of the bill is too far-reaching and the threshold offences required for the application bill are too low.

With those comments, I conclude by saying that Parliament has a really important job to be very cautious in providing exceptional powers to the police or the CCC because, inevitably, these powers transgress civil liberties. It is up to Parliament to decide where that balance should sit. I strongly argue that it is up to every member of Parliament to take a very strong interest in this legislation because when we provide powers to spy on people—in this day and age, very effectively spy on people—it reaches a level of sophistication that has never been available before. We have recent history in this state of people who have had their phones tapped and their premises bugged and are then required to front the CCC where they are presented with the evidence, and bang, they are tried before they have even had a chance to respond, and they do not even know what they are responding to. These are significant powers that can have huge impacts on individuals. Sure, they might be excellent powers to prosecute wrongdoers but occasionally—not that occasionally; unfortunately, too frequently—the powers can impact on individuals, including individuals who choose to take their life because they are so devastated by being named following covert operations. These are really serious matters.

I thank the members of the Standing Committee on Uniform Legislation and Statutes Review for doing the job that they have done. I notice that that committee presented a unanimous report. These issues transcend party political positions or policies. It is about getting that balance right between the rights of the individual to privacy and how far we as a community provide exceptional powers to enforcement agencies to transgress that. It is a really serious issue. This bill is well outside what I think are the proper checks and balances of those exceptional powers. I do not think the case has been made as to why these are needed and I do not think this government has applied itself to the overall question of who is the authority that is dealing with organised crime in this state. Who are the gatekeepers? Who is keeping an eye on whom? I have been part of enough parliamentary inquiries to have noted the tensions between the police and the CCC. Arguably, we need to have those tensions because one is keeping an eye on the other. But we cannot continue to go hell for leather, saying that we are going to somehow smash organised crime and it does not really matter what we do to get there because there are consequences. This bill as it stands at the moment has some significant consequences. I hope, perhaps by the end of this debate and at the end of its progression through this house, we might amend this bill to put back in place the proper checks and balances. With those comments, I will sit down. I certainly cannot support the bill in its current form.

HON ADELE FARINA (South West) [8.09 pm]: I am pleased to speak on this very important Criminal Investigation (Covert Powers) Bill 2011, the ramifications of which need to be understood by all members of this place before we vote on the bill. I am pleased to commend the sixty-ninth report of the Standing Committee on Uniform Legislation and Statutes Review to the house. I would like to thank the members of the committee for their excellent work and attention to detail in analysing the bill and preparing the report for the house. I also acknowledge the work of the committee staff and the support they provided to the committee in the preparation of this report and, indeed, in the undertaking of the inquiry. This report represents the last report prepared by the committee under its old terms of reference, which provided the committee with a full ambit to review and inquire into a bill that stood referred to the committee. I am sure that members who take the time to read the report will appreciate the value that is added to debate on the bill in this place as a result of the full and proper inquiry able to be undertaken by the committee on this bill. This house is a house of review, and the committee has sought to provide members with a detailed understanding of the bill so that they can carry out their review function to the fullest and best of their abilities.

I also note that this is the last report on which two former members of the committee, Hon Liz Behjat and Hon Nigel Hallett, served on the committee. I take this opportunity to put on the record my sincere appreciation to both members for the roles that they played on the committee and the invaluable contribution that they provided to the committee through numerous inquiries that we undertook together. I am sorry to see that both those members are no longer members of the committee, and I wish them well in their future endeavours on other committees.

I note from the supplementary notice paper that the government has indicated a willingness to adopt a number of the committee's recommendations. I am pleased that yet again the committee has delivered a well-considered and thought-provoking report that has given the government cause to review its position. The result will be, I

hope, much better legislation. However, there remain significant concerns with the bill, which I trust the government will address during the consideration of the bill.

I also acknowledge the submission of the Joint Standing Committee on the Corruption and Crime Commission and that committee's excellent fifteenth report, which was submitted as part of its submission to the Standing Committee on Uniform Legislation and Statutes Review inquiry into the bill. I commend the Joint Standing Committee on the Corruption and Crime Commission's submission and report to the house. I urge those members who have not yet taken the time to read both the submission and the report to do so. The work of that committee is of a high standard and assisted our committee to a great extent in our consideration of the bill.

The implications and ramifications of this bill are significant. The bill provides extraordinary powers to the WA Police and the WA Department of Fisheries. The bill provides for the WA Police and the WA fisheries department officers to engage in controlled operations. A controlled operation permits the authorised law enforcement agencies to authorise their authorised law enforcement officers to commit criminal offences without incurring criminal responsibility. This is a significant matter. The bill also permits them to create and use assumed identities and to restrict evidence that may be given in legal, executive and parliamentary proceedings to protect investigations and participants.

The giving of these extraordinary powers is indeed a serious matter. An extraordinary power or powers permitted under this bill should be used only under extraordinary circumstances and should be open to a high level of scrutiny to avoid the possibility of corruption. If this bill is passed in its present form, when the WA Police wants to access extraordinary powers, it will no longer have to make an application to the Corruption and Crime Commission, the current gatekeeper of access to these powers. The Commissioner of Police will be authorised to make these determinations himself, with no independent body providing input or assessing the justification for the use of the extraordinary powers. Further, the same right is being extended to the Director General of the Department of Fisheries. This is an extraordinary power to put in the hands of the Director General of the Department of Fisheries. Under the bill, he will have the power to authorise fisheries officers to commit actions that would otherwise be criminal, with no independent gatekeeper to authorise the use of such extraordinary powers. The implications of this are serious and significant.

The bill proposes the use of extraordinary powers—powers that, as I have said, should be used only in extraordinary circumstances—and it expands the range of officials who would be able to use such powers and removes the independent gatekeeper from the decision-making process about whether it is appropriate and necessary in the circumstances to use extraordinary powers. Further, it removes the full and proper oversight of and monitoring role in the use of these extraordinary powers.

Unfortunately, the time available for me to speak will not enable me to do justice to all the issues raised by the bill that have been addressed by the Standing Committee on Uniform Legislation and Statutes Review and, indeed, the Joint Standing Committee on the Corruption and Crime Commission. I urge members to read the reports of these committees and acquaint themselves with the issues that they have identified, as the impact for the community, if the bill is passed in its current form, will be significant. As I have said, time will not allow me to cover all the issues canvassed by the committee report, so I will address some of the key issues and trust that I will be able to canvass other issues during the consideration of the bill in detail.

The premise for the need for the bill is outlined in the second reading speech, and it states that the need for the extraordinary powers is to combat organised criminal networks and a belief that such organised criminal networks have reached macro-economic proportions and are on the rise. The two agencies, the WA Police and the fisheries department, were unable to provide to the committee convincing evidence of an increase in organised crime, despite every opportunity being provided to both agencies. Perhaps the government may be able to provide this information to the house in its response to the second reading addresses. As has been pointed out by Hon Giz Watson, the second reading speech states that this bill targets organised crime, yet nothing in the bill limits it to organised crime, and it refers to dealing with serious offences. However, we know that it is not limited to serious offences either because not only has it taken a step lower than was proposed by the model law in looking at offences with seven years' imprisonment or more—in this case we are referring to offences with imprisonment of three years or more as being relevant offences—but also it enables the executive to prescribe offences that have a penalty of imprisonment of less than three years, which can be very minor offences indeed.

The second argument was the decision in Ridgeway v The Queen. In this case the High Court decided that the importation of heroin by law enforcement officers was illegal and, therefore, evidence of that importation should have been excluded from the trial on the grounds of public policy. In deciding, the court weighed up the public interest in discouraging unlawful conduct by law enforcement officers against the public interest in the conviction of wrongdoers and concluded that the nature and degree of the law enforcement officers' unlawful conduct and the fact of the unlawful importation of the drug by police created an element of the offence charged against Ridgeway, being possession of a prohibited import. This case highlighted the High Court's concern with administratively sanctioned unlawful conduct that led to a culture of inducing people to commit crimes, which

was then normalised by those active in law enforcement. The High Court acknowledged that sometimes law enforcement officers need to engage in a range of activities, in some cases illegal, to uncover organised crime and recommended that the problems relating to the conduct of controlled operations should be addressed by introducing regulating legislation.

That is the background to the bill. The form and extent of that legislative power is a matter for the Parliament to determine and what we as legislators must turn our minds to in consideration of the bill.

I turn to recommendation 1 of the committee report. The committee's first recommendation is that the Department of Fisheries should be excluded from the definition of "law enforcement agency". This is not a decision that the committee took lightly. The hearing with the Department of Fisheries officers was most unenlightening as to the need for the Department of Fisheries to have such extraordinary powers, and illustrated a high level of confusion amongst officers of the department as to what activities the powers in the bill would actually allow their officers to undertake, and in fact whether all the powers under the bill were needed by the fisheries officers. It did not instil any comfort in the committee members that the fisheries department was ready for, or should ever be entrusted with, these extraordinary powers.

The Director General of the Department of Fisheries' statement that the ministerial exemption under which controlled operations are currently undertaken was operating very well raised further questions as to whether the department needed the powers at all. The fisheries department indicated that its real interest in the bill was the assumed identities power, which again only begged the question why the rest of the exceptional powers were being provided to the department in the absence of the department being able to provide any evidence of emerging trends of organised crime in fisheries. Under the legislation, fisheries officers would be authorised to deal with the exchange of fish for firearms and/or drugs—areas that are beyond the knowledge and expertise of fisheries law enforcement officers. The committee formed the view that it would be more appropriate for the Department of Fisheries to make an application to the chief officer of WA Police for the granting of a controlled operation authority or assumed identity, especially given that the Department of Fisheries' mandate is for serious commercial fishing offences, not drug trafficking offences; WA Police are ex officio fisheries officers; and the Director General of the Department of Fisheries in his proposed capacity of chief officer does not have expertise in drug or firearms trafficking and/or management and/or other aspects of the Criminal Code, yet the legislation gives him the power to issue a retrospective authority for their possession under the Criminal Code.

The committee also noted that the Commissioner of Police had concerns about the fisheries department straying into areas perhaps better suited to WA Police and how to deal with that. He considered possibly swearing fisheries officers in as special constables so that they have the powers and the legitimate authority to have those things when they are authorised to do so. He stated to the committee —

Otherwise, it seems to me that it is going to be quite messy unless the police are involved.

It was interesting that it appeared that the Commissioner of Police had not had an opportunity to exercise his mind to some of the questions put by the committee until such time as they were put by the committee and that in doing so, he recognised that there would be some serious issues with fisheries law enforcement officers having such exceptional powers. As a result, the committee was of the view that the whole consideration of whether the fisheries department should have extraordinary powers, as proposed under the bill, had been fairly ill-conceived and poorly thought out. As a policy position of government, it needed much further work and there were issues that would create tension between the Department of Fisheries and WA Police that needed to be sorted before a bill came before this house to approve such extraordinary provisions for the Department of Fisheries. As a result, the committee formed the view that there really is no basis for the fisheries department to have the extraordinary powers that are proposed under the bill and that the Department of Fisheries should be excluded from the definition of "law enforcement agency"—that is, recommendation 1 of the committee report.

At recommendation 2, the committee addresses issues associated with the definition of "relevant offence" under the bill. "Relevant offence" means an offence against the law of this jurisdiction punishable by imprisonment for three years or more. However, it does not stop there. The definition goes on to provide that a relevant offence also means an offence against the law of this jurisdiction that is prescribed for the purposes of this definition. This means that the executive may, by way of regulation, add to the list of relevant offences—this can extend to every offence listed in the Criminal Code—and extend the scope and use of exceptional powers for not only serious offences, but also the most minor offences, which I think many in this place would agree is extreme and unnecessary.

This raises the important question of parliamentary scrutiny. Expanding the scope of the application of the legislation by regulation avoids parliamentary scrutiny. Although Parliament has the opportunity to disallow regulations, it is not the same as the power to scrutinise and review amendments to legislation. The power to disallow does not provide the same level of scrutiny or the possibility of amendment to restrict or vary its operations. These are exceptional powers and any decision to extend the scope of offences that carry a term of imprisonment of less than three years should be carefully scrutinised by amendment to the legislation and not by

regulation. I again make the point that the second reading speech states that this legislation is needed to combat an increase in organised crime and we need these tools to combat serious offences. The government cannot make that argument and then also contain in the bill a provision that states we should extend the application of this legislation to offences that carry a term of imprisonment of less than three years, which are minor offences and which are well less than what was ever intended by the model law and by the uniform scheme when it was first contemplated.

The committee expressed the concern that the breadth of the definition of "relevant offence" diminishes the role of Parliament in the creation of new offences by delegating this role to the executive. The committee also expressed concern that the power to prescribe offences is considerable, with no criteria provided for the exercise of this power. This is another important factor: the bill provides for the executive, by regulation, to add to the list of relevant offences, yet provides no guidance or criteria as to what additional offences could be added by way of regulation. At the very least the bill should offer that, but the committee would prefer not to see additions made to the list of relevant offences by way of regulation. The committee suggests a number of methods to address its concerns at page 25 of the report, such as the use of a schedule to the bill or restricting the categories of offences that can be added by regulation. The justification given by the executive that amendments to legislation by way of regulation is simple and quicker is, in the view of the committee, not a justification. That is basically saying, "We don't believe that the Parliament should have the time it needs to scrutinise amendments to the law. You make the initial law and then trust the executive to change it at its will to expand the scope quite broadly, and we're supposed to just take that on trust." I do not think that the people who elected us to this place expect us to pass laws that then hand over the lawmaking power to the executive. If a lawmaking power through delegation is handed to the executive, it should be very clearly itemised and very clearly restricted in the legislation, and this bill does not provide for that. The role of the Parliament should not be avoided or usurped for the ease of the executive; the role of the Parliament is to scrutinise and hold the executive to account. This role should not be curtailed, especially when dealing with exceptional powers legislation.

Recommendation 2 of the committee is that the definition of "relevant offence" be amended to exclude the prescribing of additional relevant offences in regulation. The committee also provides an alternative recommendation, should recommendation 2 not be supported; that is, that clause 5 be amended to provide for greater scrutiny of the prescription of relevant offences by way of affirmative resolution. When that was put to the Commissioner of Police, he indicated a preparedness to support such a proposal. I am interested to hear the government's view on this important issue of maintaining the scrutiny function of this house.

The committee made similar recommendations—namely, recommendations 4 and 5—in relation to the definition of "sexual offence", the detail of which can be found on page 29 of the report. Given the time restrictions that I have to talk to the committee report, I will not detail all those.

Clause 9 of the bill provides that the State Records Act 2000 and the Freedom of Information Act 1992 do not apply to investigations, operations, activities or records under the principal act. The committee has previously brought to the attention of the house the Information Commissioner's concerns about the recent trend to include such provisions in uniform schemes. The committee shares the Information Commissioner's concerns. Time does not permit me to detail these concerns and I commend pages 30 to 34 of the committee report to members and the Information Commissioner's submission to the committee, which the committee has attached to the report.

At recommendation 6, the committee recommends, for the reasons detailed in the report, that clause 9 be deleted. I trust that the government will respond to the committee's recommendation; and, if it does not support the recommendation, that the government will provide comment why it does not support the concerns expressed by the Information Commissioner. I also note that the committee provides an alternative course of action at recommendation 7 and seeks the minister's comments on the concerns raised by the Information Commissioner at recommendation 8. Clauses 12 and 15 of the bill address the process for authorising controlled operations. The committee makes two recommendations at pages 35 and 37 of the report, being recommendations 9 and 10, that seek to clarify the process, and I understand that the department has indicated support of these amendments and I would appreciate hearing confirmation of that point from the government, or if it has not been confirmed, the reasons why.

Clause 25 is a critical provision of the bill that provides for the granting of retrospective authorisation of unlawful conduct and it raises a fundamental legislative principle that the committee routinely considers; that is, does the bill impose obligations retrospectively? Interestingly, neither the model law nor the Corruption and Crime Commission Act provide for retrospective authorisation. The power to provide a retrospective authorisation cannot be delegated by the chief officer, which is a necessary precaution to the use of this extraordinary power and does not extend to cross-border controlled operations. Clause 25(2) provides that —

> If a participant in an authorised operation engages in unlawful conduct (other than controlled conduct) in the course of the operation, the principal law enforcement officer for the operation may, within

> 24 hours after the participant engages in that conduct, apply to the chief officer for retrospective authority for the conduct.

The committee was concerned with the word "may" used in that provision, which implies a discretion that could result in an application not being made within the stated 24 hours, and that no upper time limit was provided or suggested in the legislation. Although the committee acknowledged that in some circumstances keeping within a 24-hour limit may not always be possible, it still felt that the time limit should not be open-ended as the bill is currently drafted and, accordingly, the committee has recommended at recommendation 11 a minor amendment that provides, in exceptional circumstances, for the chief officer to consider an application made at a time longer than 24 hours. Again, my understanding is that the police indicated to the committee a willingness to accept this recommendation, and I would be interested to hear confirmation on that point from the government.

Clause 25(7) is a very interesting provision. It seeks to limit the circumstances in which retrospective approval may be granted, and at face value it seems a very reasonable restraint. However, the committee expressed some concern that this provision may in fact place law enforcement officers at greater risk. The argument for retrospective approval is that organised crime networks often test police officers operating in controlled operations under assumed identities in an effort to expose whether the person is in fact an undercover police officer by asking them to commit offences that they believe the police officers would not engage in. The need for retrospectivity is that one cannot reasonably predict how the undercover police officer may be tested. Therefore, the police are arguing that because police officers are tested and it cannot always be predicted how they will be tested. It is impossible, when giving the authority for a controlled operation, to foresee all the possible tests that a police officer could be subjected to. Therefore, the need for retrospective authority uncovers that circumstance in which a police operative may be put in a position in which they are being tested, and that that was not a foreseen event when the authority was initially given. In those circumstances, rather than exposing the operation or themselves, and putting themselves and the operation at risk, a police officer may engage in unlawful activity and then seek a retrospective approval. At face value I fully understand the sense in that, but paramount in our minds at all times needs to be the protection of the operatives in these operations.

The issue with clause 25(7) is that it actually states the criminal activity for which retrospective approval cannot be granted. In my view this places operatives, undercover law enforcement officers, at direct risk of being challenged to commit the very offences for which the legislation states retrospective approval can never be granted. I personally struggled with this. As members know, I have a brother-in-law and a sister-in-law who are police officers and although they do not operate in this area, the idea that we are placing any person in a position in which they could be putting their lives at risk is something that this house needs to take very seriously. I understand on the face of it the very sound reasons those limitations were incorporated into the bill; it is to say that there are certain offences such as sexual offences or murder that will never be sanctioned in a retrospective approval. But let us not kid ourselves, criminals can read the law; they engage lawyers who can read the law. They will pick up this bill and they will understand those criminal activities for which retrospective approval can never be granted. As I said at the committee hearing—I have probably watched a few too many crime movies!—we can bet our bottom dollar that organised criminals will understand exactly what this bill means and if they want to test operatives within their networks, they will look to this very provision and test them in respect to one of these offences. That places the operation at risk and places the operative at risk. Therefore, we need to think very seriously, first, about the whole retrospective activity, which is not provided in the model law, and why we are going down this path when it is not incorporated in the model law; and also, whether we are actually providing police officers with the protection that it alleges we intend to provide through this provision or whether we are actually placing them at greater risk. Having put that out there, I will leave it to members to contemplate and to come to their own views. The committee was very concerned about this issue and spent quite a bit of time deliberating about how to handle it. The committee made the following general findings about clause 25 —

- It is not a feature of the Model Law yet the policy of the Bill is to enter into a uniform scheme to avoid fragmentation and complexity amongst participating jurisdictions' corresponding laws. Deviations lose that principle of uniformity essential to the operation of any national scheme.
- The equivalent of clause 25 has been used only twice in 14 years in NSW.
- It is anticipated by Western Australia Police that clause 25 will be rarely used in Western Australia.
- NSW is the only other jurisdiction to include the equivalent of clause 25.
- The testing of operatives is foreseeable.

The very fact that this provision has been included is because WA Police and the drafters of this legislation foresee that operatives will be tested. The issue then is: do we then want to put out there that there are certain crimes for which retrospective authority will never be granted? We can bet our bottom dollar that they are the

very sorts of tests that our operatives will be subjected to in the field, and I have real concerns about placing operatives, police officers and other law enforcement officers in a high-risk situation. As a result, recommendation 12 states —

> **The Committee recommends that clause 25 of the Criminal Investigation (Covert Powers) Bill 2011 be deleted from the Bill.**

On balance, the committee recommended at recommendation 12 that a retrospective authority provision be excluded from the bill because the risk to operatives was too great to be sanctioned by Parliament. Appreciating this may not be what the government would entertain, the committee, in its usual thorough fashion, also recommended at recommendation 13 that if clause 25 is to be retained, greater oversight is needed for the exercise of retrospective approvals. Understanding the government's position and opposition to that oversight power being retained within the Corruption and Crime Commission, a view that the committee had some very serious concerns about, the committee looked for other options and suggested that the terms of reference of the Joint Standing Committee on the Corruption and Crime Commission could be extended to encompass that oversight function for clause 25, should the government persist in its view that the CCC should not continue to maintain an oversight role in relation to use of exceptional powers. The important fact that I want to drive home is that parliamentary oversight of extraordinary powers is critical. It is important and it should be incorporated in the bill. Clauses 27 and 35 to 41 deal with the protection for participants from criminal responsibility, disclosure of operational information, reporting and record keeping, and inspection. I do not have time to detail those provisions, but I trust I will have a chance to address those during the committee stage.

I turn to part 3 of the bill, which provides for the granting of assumed identities. The committee had concerns with a couple of issues. One was that the bill provides for the granting of assumed identities for the training of persons for the purposes of taking on an assumed identity and for administration functions in support of that function. The committee struggled to understand why we would need to extend the assumed identities roles to training, particularly given that that activity is currently undertaken by police and there does not appear to be any issue with the way it is undertaken. The committee noted that the creation of an assumed identity merely for training purposes or administrative support diminishes the integrity of the births, deaths and marriages register, which would be altered in those circumstances, and the WA Police said the model law provisions were not considered adequate, but even the Minister for Police queried his own staff about why assumed identity could not be role played and questioned whether it is needed for training purposes. The committee repeats its claim that any deviation from the model law fragments the uniformity of the scheme and introduces complexity; this is not a uniform aspect of the law that occurs in every other jurisdiction. The committee is of the view that on balance WA Police has not provided convincing evidence of the need for the two deviations. The integrity of the births, deaths and marriages register is already compromised and to compromise it further merely for training purposes or administrative support diminishes the integrity of the register even further. For this reason the committee made recommendation 22 that —

> … 48(2)(a)(ii) and (iii) of the Criminal Investigation (Covert Powers) Bill 2011 be deleted.

I am running out of time, so I will have to be very selective about what I pick up next. Perhaps I might turn to a section of the report that I know the Clerk has a particular interest in. I thank the Clerk for attending before the committee as a witness and providing very important support to the committee. Clause 80 of the bill raises a fundamental legislative principle that the committee routinely considers: does the bill have sufficient regard to the institution of Parliament and, in particular, does the clause affect parliamentary privilege in any matter? Clause 80 states —

> In this Part, unless the contrary intention appears —
>
> …
>
> ***court*** includes —
>
> (a) a tribunal or other body established or continued under a written law and having a power to obtain evidence or information;
>
> (b) a Royal Commission established under the *Royal Commissions Act 1968*;
>
> (c) a commission, board, committee or other body established by the Governor or by either or both Houses of Parliament or by the Government of the State to inquire into any matter;

The committee noted that the definition of "court" deviates from the model law in a very significant way. The model law limits the definition to including any tribunal or authorised person by law or consent of parties to receive evidence. However, unlike other jurisdictions, WA Police expanded the definition to allow for maximum protections to operatives and protected witnesses when giving evidence, information or producing documents. The rationale for clause 80 is the need to extend the protection to any proceeding that a person is required to attend and give their name. A further justification is that it is in line with the definition of "court" in the Witness

Protection (Western Australia) Act 1996 and the Corruption and Crime Commission Act. Although that is true of the Witness Protection (Western Australia) Act 1996, it is not true of the Corruption and Crime Commission Act. Sections 114, 134, 152, 153, 208 and 209 of the CCC act do not expressly prescribe for the houses of Parliament or its committees. In fact, section 114, for example, states that —

> (1) In this section —
>
> ***court*** includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

Clearly, the definition of "court" in those sections, although broad, does not apply to Parliament or its committees when read with section 3(2) of the Corruption and Crime Commission Act, which reinforces that nothing in that act —

> … affects, or is intended to affect, the operation of the Parliamentary Privileges Act 1891 or the Parliamentary Papers Act 1891 and a power, right or function conferred under this Act is not to be exercised if, or to the extent, that the exercise would relate to a matter determinable exclusively by a House of Parliament, unless that House so resolves.

I will quote from the information provided to the committee at page 63 of the report, for those who are following intently. The view of the WA Police was —

> *In the context of the issues of parliamentary privilege, what it is about is protecting the identity of the actual person, not preventing any publication of evidence that they may give. So I do not know to what extent there will be any problems with parliamentary privilege.*
>
> *For example, the name of the person giving evidence is not published or included in any report, the information given by the operative is subject to parliamentary privilege; however, their identity is protected.*
>
> *I do not know whether it is likely that the operative's true identity would have any bearing on the evidence they would give; it is more a case of the evidence they are giving than their identity.*
>
> *It is not about putting any sort of restrictions in terms of parliamentary privilege about what evidence they may give to parliamentary committees et cetera but about protecting the true identity of who it is.*

Further, WA Police advise that no other jurisdiction expressly prescribes parliamentary committees in their respective definitions of "court" and —

> *possibly not contemplated by the JWG on model laws as they would not have foreseen the necessity for operatives to give evidence at parliamentary committee hearings but rather concentrated on the traditional places an operative would be called to give evidence (usually criminal proceedings). Western Australia included Parliamentary Committees to assure that a mandated provision would assure the protection of an operative's true name.*

Although the explanatory memorandum states that its definition "is broad to ensure maximum protection to operatives when giving evidence", the committee is of the view that the inclusion of Parliament and its committees diminishes the sovereignty of the Western Australian Parliament. As a fundamental principle, it would be in only the rarest and most extraordinary of cases that Parliament would decide to set some limit on its own operations and legislate so as to limit itself in some way.

Arguably, the intent of clause 80 is to waive parliamentary privilege and impacts on article 9 of the Bill of Rights 1689. Article 9, which is incorporated as section 1 in the Parliamentary Privileges Act 1891, provides that —

> … freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

By article 9 each house of Parliament, its committees, members and attending witnesses are able to operate without their proceedings being interfered with in any way. Arguably, clause 80, which seeks to limit this freedom, is fundamentally obnoxious and inconsistent with article 9. The report goes on to say —

> Article 9 established the right of the Parliament to determine what matters were to be considered by it. 'Proceedings in Parliament' includes evidence before a committee, submissions made and the report of that committee. A related question arises as to its impact on section 7 of the *Parliamentary Privileges Act 1891*, which limits the ground on which a person can refuse to answer a Parliamentary inquiry due to the matter being of "*a private nature*" and "*not affecting the subject of inquiry*" with the House determining whether that refusal will be accepted. If clause 80 was applied to proceedings in the Parliament, section 7 would be diminished.
>
> Concealing the true identity of an operative who may appear before the Parliament is directed at two public interests:

- protecting the personal safety of the operative witness (their family and associates); and
- enhancing the efficacy of the controlled operations by preserving the cover of an operative and providing some security for other police officers when participating in controlled operations.

The competing public interests are the right of an accused to be tried fairly and the conduct of criminal proceedings in public. Limitations on the latter have potential to undermine public confidence in court proceedings. The same is true for Parliamentary inquiries.

The assumed identity provisions will deny a "court" (here, the Parliament or a committee), any role in evaluating whether there is a need to protect the true identity of a witness and in balancing that need against other competing interests, such as the interests of justice. In contrast, sections 114, 134, 152, 153, 208 and 209 of the CCC Act allow the Commission to ask an operative to reveal their true identity. The Committee finds it extraordinary that a person with an assumed identity within the Department of Fisheries or Western Australia Police appearing before a Parliamentary committee cannot be asked to reveal their true identity, yet can if before the CCC.

The following clauses in Part 4 of the Bill give context to the term "court".

- Clause 87(3) defines a person involved in a proceeding to include "the court" (which would include members of the Parliament) and "any other officer of the court or person assisting the court in the proceeding"; (this would include all parliamentary staff, including Hansard).
- Clause 90(8) provides for a "court" (again being a Parliamentary committee) to make orders suppressing the publication of anything said in a hearing and how subsequent transcripts are to be dealt with in order to protect the operative's true identity and location.
- Clause 93(4) allows for appeals to a court that has jurisdiction to hear and determine appeals from a judgment given pursuant to clauses 86 and 90. If, in a parliamentary committee hearing, the operative is asked to identify him or herself and refuses, the clause allows the person to seek an adjournment of the proceeding and apply to a court for a judgment on appeal against the decision to give or refuse leave or to make or refuse to make an order. The person leaves the committee hearing and goes to court. At that stage, there is interference in the processes of a Parliamentary committee by another court.

The Committee is of the view that clause 80(c) seeks to constrain the Parliament in the conduct of its inquiries and places conditions on the access by Parliamentary committees to certain information. In so doing, this fundamentally undermines both the powers and immunities of parliamentary committees and the rights of unfettered access to persons by parliamentary committees.

A particular feature of Parliamentary inquiries is their power to compel evidence, which exists independent of any explicit prescription as an aspect of the power to legislate. The Bill may necessarily impose a limit on the general power to inquire—so that compulsory inquiries cannot be conducted into matters beyond the Parliament's legislative competence. As noted, legal and police submissions to the JWG were that:

> the criteria were too light—every covert operation would meet the test; and
>
> it is inappropriate for the Executive to take over a judicial function.

These criticisms apply equally to the Executive's usurpation of Parliamentary privileges.

The requirement that a Parliamentary hearing must be held in a closed "court" is not in accord with the power of the Parliament to fundamentally determine its own process.

Further, to override the operation of Parliamentary privilege by making Parliamentary committee operations bound by a statute:

> setting conditions of access between parliamentary committees and their witnesses,
>
> dictating the manner in which parliamentary committees must hear evidence, and
>
> making any disclosure of a witness's identity a criminal offence,

is a departure from the long-standing supremacy of Parliamentary privilege and a significant trespass on the powers, privileges and immunities of the Houses and their committees and on the rights of witnesses of the Parliament.

To date, there are no known instances where a committee has requested an individual to disclose their real identity. As to whether a committee would ever inquire into the identity of an individual, this is

> highly unlikely. Parliamentary committees have been known to respect the wishes of persons appearing before them by using non-identifying information in tabled reports. In comparison, Western Australia Police wish to retain clause 80(c) on the cryptic basis that they "have had some experience in relation to disclosure of details relating to covert operatives who appeared before a parliamentary committee". Western Australia Police said:
>
> > A previous Parliamentary Committee did not heed a confidentiality agreement and allowed the names of covert operatives to be published. The Western Australia Police seeks to assure that the protection of an operatives name cannot be left to chance and that future administrative errors cannot occur or result in harm to an operative.

[Leave granted for the member's time to be extended.]

Hon ADELE FARINA: Further —

> It is the Committee's view that Western Australia Police has not justified the definition of "court" in clause 80 as it applies to the Parliament and its committees. The Committee therefore makes the following recommendation.
>
> > Recommendation 25: The Committee recommends that clause 80(c) of the Criminal Investigation (Covert Powers) Bill 2011 be amended.

The report goes on to detail how that would be amended to effectively remove the application of that provision to parliamentary committees. I think all members in this house who understand the importance of parliamentary privilege and the operation of this house and parliamentary committees would agree that this is one amendment that we all should support, because there is a deep need to protect parliamentary privilege and the operations of this house and to keep very separate the operations of this house and the courts.

In view of the fact that my time is up, I do not propose to go through the rest of the report. That really makes the essence of the concerns of the committee clear to the house. I will address other issues during consideration of the bill in detail. I again commend this report to the house. I also commend report 15 of the Joint Standing Committee on the Corruption and Crime Commission. They are both excellent reports.

HON PETER COLLIER (North Metropolitan — Minister for Energy) [8.57 pm] — in reply: I thank honourable members for their contribution to the debate on the Criminal Investigation (Covert Powers) Bill 2011. I think we have had a fairly forensic discussion about the merits or otherwise of this bill. A number of questions have been asked by various members, which I would like to go through now. However, it is quite evident from the comments that have been made that there is quite a degree of interest in this bill. There will be a lot of questions that will go beyond the scope of those that I will be able to respond to in my response. Having said that, I will do the best I can to identify those specific areas. What I do not cover will be covered in much more detail at the committee stage.

As I said, I thank honourable members very much for their contributions. I appreciate the concerns that have been raised by several members. I would like to think that we will be able to placate some of those concerns, although I doubt, as far as Hon Giz Watson is concerned, we will be able to get across that threshold level. Having said that, I respect her views on this piece of legislation. As has been identified, the aim is to develop model laws for criminal investigation across state and territory borders. The objectives of the model law are to enable the seamless cross-border investigation of serious offences.

A number of issues were raised by various members. First of all, Hon Kate Doust asked a question about what sorts of offences can and cannot be committed in a controlled operation. Clause 12(1)(g) sets out the threshold for unauthorised unlawful conduct, known as controlled conduct, that can be committed during a controlled operation. Any controlled conduct cannot —

(i) seriously endanger the health or safety of any person; or

(ii) cause the death of, or serious injury to, any person; or

(iii) involve the commission of a sexual offence against any person; or

(iv) result in unlawful loss of or serious damage to property (other than illicit goods).

Clause 25(7) does not allow retrospective authority to be granted that breaches any of these thresholds. Any offences may be committed with the exception of offences that fall within one of these above-mentioned categories.

Hon Kate Doust also asked a question about how a child considered a suspect in dealing with illicit goods will be dealt with in a controlled operation. All members of the undercover police unit are also sworn members of police, so they will have received training in their responsibilities under the Young Offenders Act 1994. There is already a range of processes in place for how police deal with young children, whether they are suspects or

whether they have been charged with offences. As mentioned, there are quite a lot of provisions under the Young Offenders Act 1994 in terms of how police engage with children. These provisions will still apply in the context of how police engage with young children who are suspected of committing a criminal offence. This issue does not have a direct effect on offences under the Fish Resources Management Act 1994—the FRMA. Hon Kate Doust also asked how this bill has regard to the best interests of children. The thresholds previously mentioned in clauses 12(1)(g) and 25(7) protect any person, which includes children under 18. The term "sexual offence" used in clauses 12(1)(g)(iii) and 25(7)(c) was defined in clause 5 of the bill during drafting because the model laws did not define this term to deliberately exclude offences related to child pornography. This will enable WA Police to infiltrate paedophilic circles in order to gather evidence of offences. During controlled operations, planning and assessment of the impact of the investigation on the type of person and those associated with the target is undertaken; if relevant, this will include assessment of the impact of juveniles on planning to ensure that any impact is negated or, if unavoidable, minimised.

Hon Kate Doust also inquired, given clauses 9 and 45, how people will have access to information if something goes wrong in a covert operation. Clause 33(1) requires the principal law enforcement officer to report to the chief officer any loss of or damage to property that occurs as a direct result of a controlled operation. Clause 33(2) obliges the chief officer to take all reasonable steps to notify the owner of the property of the loss or damage. Clause 37 requires the chief officer twice yearly to submit a report to the independent inspection entity about controlled operations conducted in the previous six months, which includes details of any loss of or serious damage to property or any personal injuries occurring as a direct result of the controlled operation. Clause 38 requires the inspection entity to prepare an annual report of the work and activities of the agency. This annual report is tabled in Parliament. Clause 32(1) provides a right to compensation to an innocent third party who suffers loss of or damage to their property.

Finally, Hon Kate Doust asked a question about the concerns raised by the Clerk of the Legislative Council in his submission to the Standing Committee on Uniform Legislation and Statutes Review with regard to clause 80(c) of the bill and the definition of "court". The definition of court as contained in the model laws was considered to be too restrictive, as it described a court to include any tribunal or person authorised by law or consent of parties to receive evidence. During drafting, this definition was extended to include an inquiry or other hearing, person or place that has the power to require the production of documents or the answering of questions that may not in every instance amount to evidence per se. An example of this is when an operative or officer in charge of a covert unit is called before a committee to give information about how certain matters are administered by the agency, such as witness protection or informant management, as recently required by the Joint Standing Committee on the Corruption and Crime Commission. It is still necessary in these instances for the officer in charge of such units to attend to those inquisitorial-type sittings using his assumed name so that his true identity is protected.

A response to concerns raised by the Clerk of the Legislative Council in his submission to the Standing Committee on Uniform Legislation and Statutes Review with regard to this clause can be discussed during the committee stage of the bill.

Hon Kate Doust asked another question about how covert operatives in a controlled operation prepare in terms of training and scenario planning for their work in the field. Clause 12(2) of the bill provides that a person must not be authorised to participate in a controlled operation unless the chief officer is satisfied that the person has the appropriate skills or training to participate in the operation. An operative must successfully complete the undercover operative training course. All of this training is accredited and the operative must reach a certain standard of certification. Each operative undertakes a rigorous selection course that involves constant observation by training staff and a psychologist who monitors behaviours and responses to each scenario the operative is presented with. Department of Fisheries undercover operatives receive training from the WA Police undercover policing unit and in-house training from an experienced former police officer now working with the DOF serious offences unit.

The very honourable Nick Goiran asked a couple of questions specifically about the adding of additional relevant offences under the three-year imprisonment threshold by way of amending statute rather than by regulation. This recommendation is not in accordance with the model laws. The joint working group that produced the final report agreed after a process of extensive consultation that each jurisdiction should be able to prescribe certain offences that fall below the three-year threshold. Crimes change, crime trends change and challenges change. It may be that in the future organised crime changes the way it conducts its business and starts engaging in offences below the three-year threshold. Police need to be able to respond quickly to that without having to wait for an amendment to go through the Parliament.

Hon Nick Goiran also asked a question about the testing of undercover operatives that can be anticipated and therefore a prospective authorisation given; that is, there is no need for retrospective authorities. The intent of retrospective authority is to protect a participant in a controlled operation against scenarios that may arise and that were unforeseen at the time of the planning of the controlled operation and issue of the authorisation. The

retrospective authority covers the unexpected. The extent of criminality of any given organised crime group should not be subjected to guesswork. The original controlled operations planning will have to contain every hypothetical scenario that a group or individual may be involved in or connected to, if prospective authorisation is granted without the capacity to approve certain unlawful behaviour retrospectively. This is particularly problematic for the Department of Fisheries because the prime target of the operation will be fish-related offending, and other testing of an operative may occur outside the scope of the Fish Resources Management Act 1994. Retrospective authority may also cover conduct that may be committed or discovered during a controlled operation. It is not always possible to predict what future offences the operative may need to undertake—for example, when a controlled operation targets drug supply and is approved for that purpose and the operative is given a handgun to deliver to another criminal entity. Because that controlled conduct was not identified in the controlled operations approval, it is therefore not authorised. It will not always be operationally possible to seek a variation to the original authority to cover the behaviour and therefore the evidence of the supply of the handgun may be jeopardised.

A retrospective authority is not intended to replace the normal application and approval process, and it is expected that retrospective authorisations will be infrequently applied for. However, the new provisions will help ensure that evidence of criminal activity is not later rendered inadmissible at court. This retrospective authority will also provide a greater level of officer safety, as the operative will be able to maintain his cover and not react inappropriately in a criminal setting to a situation that would normally compromise the operative by way of a refusal to commit a particular act.

Finally, Hon Nick Goiran asked whether further amendment is desirable to define in the bill which senior executive service officers of the Australian Crime Commission are appropriate officers to be authorising controlled operations. It is a very pertinent question.

Hon Nick Goiran interjected.

Hon PETER COLLIER: The answer is: consultation with the ACC, WA branch, has been conducted and the ACC has requested the initial opposition be maintained; that is, to avoid making reference to any particular position or titles because they may change over time, and this is what caused the problem in the first place. The ACC also argued that it is important for there to be as much consistency as possible between the proposed state provisions of the bill and the current commonwealth provisions found in section 15GF of the Crimes Act 1914. The proposed amendment is consistent with the delegation provision in the commonwealth act. So there!

Hon Nick Goiran: Are you trying to provoke me?

Hon PETER COLLIER: The member thought that I did not know.

Hon Nick Goiran: Do you really want me to answer that?

Hon PETER COLLIER: No. Hon Linda Savage enquired whether the three-year threshold for a relevant offence had set the bar too low. She felt that the ability to prescribe further offences in regulations without any criteria to justify these further offences exacerbated the problem.

The Criminal Investigation (Covert Powers) Bill 2011 implements model legislation. The threshold of three years' imprisonment contained in the definition of "relevant offence" was a compromise reached by the joint working group responsible for developing the model laws after extensive consultation with all jurisdictions. During this consultation the range of thresholds canvassed included Queensland at one end of the spectrum, for its use of controlled operations of serious indictable offences, and New South Wales and Victoria at the other end, which prefer an all-offences approach. The JWG considered all submissions and concluded that the model bill should retain a three-year offence threshold. The JWG also agreed after consultation on the discussion paper that jurisdictions should be able to prescribe certain offences that fall below the three-year threshold. As a guide, the JWG intended that prescribed offences be limited to the following categories: child pornography, gaming, fishing, firearms, prostitution and corruption. These are areas that fall under the three-year threshold in some jurisdictions but which the JWG believe are sufficiently serious to include in the model bill. The Commissioner of Police gave an assurance at the hearing of the Standing Committee on Uniform Legislation and Statutes Review held on 17 January 2012 that any relevant offences added by amendment to regulations that fell outside of these six categories would be subject to a process in which people could be satisfied that what we are suggesting is in fact necessary and useful. The commission of offences under the three-year threshold by serious and organised offenders is often the precursor to more serious and organised offending. The ability to target differing levels of offending is critical to undercover work and infiltrating organised groups.

Hon Giz Watson asked a number of questions and I will try to go through most of them now. If I do not resolve the issues, I request that the member have some patience and we will deal with them at the committee stage. There was an issue with organised crime, which was raised by a couple of members. Organised crime is only one area in which the legislation will be a benefit. The legislation is targeted at any person who engages in criminal activity, which means the commission of an offence by one or more persons. The bill aims to investigate or gather intelligence on criminal activity and to frustrate criminal activity by any person.

Hon Giz Watson enquired about the report of the Joint Standing Committee on the Corruption and Crime Commission into the police's use of informants and controlled operations. Is that correct?

Hon Giz Watson: Yes.

Hon PETER COLLIER: That report is the fifteenth report of that committee and is related to the old regime, which is the Misuse of Drugs Act and the Prostitution Act, and did not take into account the draft bill, which has much more rigorous application, approval and oversight provisions. I imagine that the member might want to address that more fully in committee.

Hon Giz Watson: Yes.

Hon PETER COLLIER: The offence threshold in Queensland is seven years. However, it has a schedule of some 30 offences below the threshold, of which 15 have a penalty of three years or less, including fines. This undermines the high threshold. If we adopt seven years, we will allow another participating jurisdiction to come to Western Australia and investigate an offence that WA Police cannot investigate. The joint working group decided on a balance between Queensland, Victoria and New South Wales, which have no threshold, and arrived at the figure of three years. All jurisdictions have this threshold for cross-border investigations, except the Northern Territory, which is yet to enact the legislation, and Queensland, which has agreed to be part of the national scheme. The prescription of offences under three years will be limited to offences considered serious enough or that are a precursor to more serious offending.

With regard to the hesitation about the retrospective authorities—clause 25—under the safeguards contained in this provision, only the Commissioner of Police can grant a retrospective authority and this power cannot be delegated. The chief officer—the Commissioner of Police—must be satisfied that the participant believed on reasonable grounds that there was a substantial risk to the success of the operation or a substantial risk to the health and safety of a participant, or a substantial risk that evidence would be lost, amongst other factors, before granting an authority. A retrospective authority cannot be granted for conduct that seriously endangers the health or safety of a person, causes the death of or serious injury to a person, or involves the commission of a sexual offence.

Hon Adele Farina: Just to clarify, you said that only the Commissioner of Police as the chief officer of WA Police could issue a retrospective authority. Does the bill also not provide for the chief officer of the Department of Fisheries?

Hon PETER COLLIER: There is an amendment.

Hon Adele Farina: But the bill as it is currently drafted provides for that?

Hon PETER COLLIER: It does, yes.

There are some additional amendments. An additional supplementary notice paper has been distributed.

Hon Adele Farina: Part of one. I understand that it is a work in progress.

Hon PETER COLLIER: I apologise; I thought it was the completed version. This has been a moving feast. The previous supplementary notice paper covered the amendments that reflect some recommendations from the Standing Committee on Uniform Legislation and Statutes Review. I thank Hon Adele Farina for her very thorough contribution and the committee for the work it has done. Ideally, as a result of a number of amendments that have been suggested the government will accept some but not others. I will not go into anything specific that Hon Adele Farina has mentioned at the moment because it was specific to the report and is probably best left to the committee stage. The two amendments that are subsequent to the original supplementary notice paper regard the Department of Fisheries. The first empowers the Commissioner of Police to be the approving authority for controlled operations conducted by the Department of Fisheries and the use of assumed identities by that department, and the second amendment empowers the Corruption and Crime Commission to be the inspecting entity for controlled operations in lieu of the Ombudsman. They are the two additional amendments. Even though I have answered a number of questions, I am sure there are still a lot more questions to be answered. Ideally, at the end of this process, which I am sure will be a very colourful and worthwhile committee stage, we will have an improved bill. Having said that, I thank all members for their contributions and I commend the bill to the house.

Question put and passed.

Bill read a second time.

Point of Order

Hon GIZ WATSON: We have just received 20 pages of further amendments. I have had words with the Deputy Leader of the House that we should wait until at least tomorrow before we go into the committee stage. There is no way we can consider an extra 20 pages of amendments on the run on such an important bill.

The DEPUTY PRESIDENT: I do not see that as a point of order.

As to Committee Stage

HON SIMON O'BRIEN (South Metropolitan — Minister for Finance) [9.20 pm] — without notice: I move —

That consideration of the bill in committee be made an order of the day for the next sitting of the house.

This motion simply reflects the wishes of the honourable member. Between now and when we have an opportunity to resume sitting, members can examine and digest the new supplementary notice paper. That seems only reasonable.

Hon Giz Watson: Thank you.

Question put and passed.

RETAIL TRADING HOURS AMENDMENT BILL 2012

Second Reading

Resumed from 1 May.

HON LJILJANNA RAVLICH (East Metropolitan) [9.21 pm]: Mr Deputy President, this is not my bill. I had no idea it was coming up so quickly. Could we go to another order of the day?

Point of Order

Hon SIMON O'BRIEN: As the member would know, the prerogative for the order of business typically rests with the minister. Even though this bill is next on the notice paper, it has been there for a little while. The lead speaker for the opposition is not available to debate the issue.

Hon Adele Farina: She has been urgently called away from the house on a private matter, which was unexpected.

Hon SIMON O'BRIEN: With your indulgence, Mr Deputy President, it appears to me that no other opposition members are ready to debate the second reading at this time as events have taken them by surprise. However, other members wish to speak to the second reading so there is no reason why we cannot proceed. I stress that if the opposition spokesperson was not able to contribute at this point and was in danger of missing out, we would adjourn proceedings. As we are in a position to proceed, we should make the most of the time available. I do not know whether Hon Ljiljanna Ravlich wishes to retain the call.

Hon LJILJANNA RAVLICH: I am wondering whether Hon Nick Goiran might take the call. We will be supporting this legislation but I want to be able to reserve my right to make some comments after I go to my office and get some information that is not readily at hand. To be honest, this course of proceedings has taken everybody by surprise, given that we expected that we would be moving into the committee stage of the previous bill that we were considering. I understand that Hon Nick Goiran is happy to make some comments while I collect a file. I seek leave to continue my remarks.

The DEPUTY PRESIDENT (Hon Michael Mischin): So that we can straighten things out, I will put the question again and give the call to whichever member is prepared to speak on the bill. The question is that the Retail Trading Hours Amendment Bill 2012 be read a second time.

Debate Resumed

HON NICK GOIRAN (South Metropolitan) [9.24 pm]: Like other members, I do not know that I am fully prepared to contribute to the debate on the Retail Trading Hours Amendment Bill 2012 this evening but I will give it my best shot. I note that members opposite are not prepared. I think one of the government backbenchers has to do the job for them.

Hon Ed Dermer interjected.

Hon NICK GOIRAN: I will not take the interjection from Hon Ed Dermer; I will continue with my remarks.

I rise to contribute to the debate on this bill, having been somewhat provoked due to the unsatisfactory history of reforms in this area in this term of Parliament. As you would be aware, Mr Deputy President, first we considered the Retail Trading Hours Amendment Bill 2009, which was to bring in weeknight trading until 9.00 pm. Then we had the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009, which changed the name "tourism precinct" to "special trading precinct" and created one of these in Joondalup. This was followed by the Retail Trading Hours Amendment (Midland Special Trading Precinct) Bill 2010 and the Retail Trading Hours Amendment (Armadale Special Trading Precinct) Bill 2010, which created special trading precincts in Midland and Armadale respectively. I note that these special trading precincts are to be very short-lived as they are to be abolished by this bill. Then we had the Retail Trading Hours Amendment Bill 2011, which adjusted the criteria for a retail shop to be defined as a small retail shop by allowing for 18 rather than 13 persons to work in the shop at any one time. Now we have the Retail Trading Hours Amendment Bill 2012

which would not only introduce Sunday trading on every Sunday of the year for general retail shops in the metropolitan area but also pave the way for ministerial orders to allow for general retail shops to trade on every public holiday except Anzac Day, Christmas Day and Good Friday. It has been put to me that I should not be concerned about these things because basically it is the equivalent of offering a child an ice-cream. If that child wants the ice-cream, we should give it to them and we should feel good about doing that. It is also said that too much ice-cream is not good for us either, and I regret to say that that is probably where I fall in this debate.

I turn to the issue of referendums. As a general principle, I do not support the Parliament creating the need for referendums. In my view, we have been elected to represent our constituents and to vote as we deem appropriate in each instance. It is illogical to pose certain questions to constituents, otherwise it follows that we should ask our constituents about every law before we vote, in which case we will become mere ballot boxes. However, I also hold as a general principle that once Parliament has determined that a matter requires the input of constituents via referendum, such input should be respected. In the event that Parliament holds a contrary view, it ought to test that again with the people of the state. Naturally, that would not apply to a referendum in which electors supported something that was inherently wrong, such as racial segregation or killing a category of human being. When members consider this matter, we have to consider the 2005 referendum. In 2005 the electors of Western Australia were asked quite explicitly in a referendum: do you believe that the Western Australian community would benefit if trading hours in the Perth metropolitan area were extended to allow general retail shops to trade for six hours on a Sunday? In my research I found that 672 478 electors—that is 61.4 per cent of those who voted on this question—answered no. That result alone should give us some pause to those who act as though all Western Australians, other than a handful of troublemakers, support Sunday trading. The bill before us would extend trading hours in the Perth metropolitan area to allow general retail shops to trade for six hours on Sundays from 11.00 am to 5.00 pm. The view of the majority of electors in the 2005 referendum is that this outcome would not benefit the Western Australian community.

It is interesting to re-visit the arguments put in the official no case distributed by the Western Australian Electoral Commission to the electors of Western Australia before they voted in the majority against Sunday trading. What did they find persuasive? Are these arguments still relevant today, seven years later? I will turn my mind to some of those issues now. The first is the issue of market share and the creation of what is known in simple economics as oligopolies. One of the key arguments against Sunday trading is that it would likely lead to a bigger share of the market being cornered by two supermarket giants—Coles and Woolworths. There are disputes over which type of statistical measure we should use to assess market share by these two supermarket chains. Page 691 of the Productivity Commission report entitled "Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments" states —

> … the combined market share of Woolworths and Coles is also, on average, lower in Western Australia …

That has to be for a reason. Presumably, it is because of the system that we currently have. Our present retail trading laws do something to level the field between the independent grocers and the two giant supermarkets. I think it is fair to say that Western Australians were, and are, concerned about Coles and Woolworths becoming such dominant players in the grocery business as they are in New South Wales and Victoria. Sunday trading could tip the balance, in my view, even further in favour of the two major players.

Personally, returning to some of my studies in economics at Murdoch University, which happens to be in my electorate, I am concerned that an oligopoly in retail trading exists in this state. To the contrary, I am not overly concerned about the fact that this might create that situation. I think that, subject to satisfactory oversight to protect against collusion, this form of market structure can and does in many instances work very competitively and consequently very well. However, whether for this reason or others, the electors of this state do not desire the deregulation of retail trading hours on Sunday. That is what they said in the 2005 referendum, and we have not had anything to the contrary put before us. As I said at the beginning, in my view, we should never have gone to a referendum in the first place. But we did, and when we ask the people for their opinion, we have to respect it.

This bill contains no protection for workers against being required to work on Sundays. That is a point of great disturbance to me. It is claimed that federal industrial relations legislation would override any provision in the bill that attempted to provide such protection. The current enterprise agreements for Coles and Woolworths, as I understand them, contain provisions giving some freedom of choice to existing workers when trading hours change. However, the problem is that these provisions will not apply to new employees hired after Sunday trading becomes a reality in Western Australia. I would have thought that one approach to this problem could be to defer the proclamation of this legislation until these enterprise agreements are amended to extend freedom of choice about Sunday work to all employees.

I guess the matter that concerns me the most is the impact that this bill will have on family life in Western Australia. Since entering Parliament exactly three years ago, I have endeavoured to keep constantly in mind the

useful principles on reform espoused by G.K. Chesterton in the fourth chapter of his book *The Thing*, and I will take a moment to quote a slab of it. It begins as follows —

> In the matter of reforming things, as distinct from deforming them, there is one plain and simple principle; a principle which will probably be called a paradox. There exists in such a case a certain institution or law; let us say, for the sake of simplicity, a fence or gate erected across a road. The more modern type of reformer goes gaily up to it and says, "I don't see the use of this; let us clear it away." To which the more intelligent type of reformer will do well to answer: "If you don't see the use of it, I certainly won't let you clear it away. Go away and think. Then, when you can come back and tell me that you do see the use of it, I may allow you to destroy it."
>
> This paradox rests on the most elementary common sense. The gate or fence did not grow there. It was not set up by somnambulists who built it in their sleep. It is highly improbable that it was put there by escaped lunatics who were for some reason loose in the street. Some person had some reason for thinking it would be a good thing for somebody. And until we know what the reason was, we really cannot judge whether the reason was reasonable. It is extremely probable that we have overlooked some whole aspect of the question, if something set up by human beings like ourselves seems to be entirely meaningless and mysterious. There are reformers who get over this difficulty by assuming that all their fathers were fools; but if that be so, we can only say that folly appears to be a hereditary disease. But the truth is that nobody has any business to destroy a social institution until he has really seen it as an historical institution. If he knows how it arose, and what purposes it was supposed to serve, he may really be able to say that they were bad purposes, that they have since become bad purposes, or that they are purposes which are no longer served. But if he simply stares at the thing as a senseless monstrosity that has somehow sprung up in his path, it is he and not the traditionalist who is suffering from an illusion.

In other words what Chesterton was saying was: before you tear down a fence, you ought to find out why it was put up in the first place.

The notion of the week with a distinction between the ordinary working days and a weekly day of rest for refreshment and family time is one of the greatest gifts of Judaism and Christianity to our civilisation. With many families now needing both parents to be working, weekends are more important than ever for family time. Requiring those mums and dads who happen to work in the retail sector to work most Sundays is a major assault on family life.

I want to quote now, if I can, a letter that I received from the Retail Traders' Association of WA, which is dated 17 March 2011. It is a long letter. I will not read the whole thing, but I will quote from two paragraphs. It states —

> However, there are even greater concerns ahead.

Of course, this means that the association was already raising some argument, but—wait for it—there are greater concerns ahead, according to it. I continue —

> Simply put, current regulations are slowly strangling retailers here in Perth. You just need to ask yourself one simple question. With the percentage of double income families in Perth rapidly increasing (now approx 65-70%) when do they get the time to shop? By this, I mean, the time to research, investigate, communicate and find exactly what they really need.
>
> Sunday is the best and only time when both partners, in fact the whole family, can together really 'go shopping.'

This has to be one of the most unbelievable things written to me in three years. With all due respect to the writers of this letter, they obviously have absolutely no idea what it is to go shopping with children. I can tell you, Mr President, that when my wife wants to go shopping, the last thing she wants is me going with her. She would much rather that I stay home and look after the kids so that she can go and shop in peace. So the suggestion by the Retail Traders' Association that somehow we all need to go as a family, hold hands and look at the latest fridge, freezer or something that we need to purchase is absolute rubbish.

Hon Alyssa Hayden: I like my husband's advice when I go shopping.

Hon NICK GOIRAN: After that unruly interjection by my good friend and colleague, I suggest that the notion that a visit to the local Westfield on Sundays is a family activity is a fairytale invented by the retail giants. Our current laws allow the purchase of necessary groceries on Sundays from small independent grocers. There is absolutely no need to have seven-day-a-week access to the large shopping centres.

Some advocates of Sunday trading admit that seven-day trading for the general retail sector is just the beginning of the abolition of Sunday as a distinctive day of the week. They expect that banks and other service sector entities may also be required sooner or later to open on Sundays. Indeed, once the notion of Sunday as a special

weekly day of refreshment and family is abandoned, it is hard to make a consistent argument against treating all days the same. Mr President, welcome to the anthill. Let me say now that when the house is compelled to sit on Sundays, I will seek a permanent pair to enable me to keep honouring Sunday by attending worship and by spending it with my family.

Several members interjected.

Hon NICK GOIRAN: Sunday as a day when most businesses and shops are closed is like Chesterton's fence; it is there for a reason. The advocates of Sunday trading have failed to convince me that they see the purpose of Sunday as a non-trading day, so I am not inclined to help them pull down this particular fence.

In the time that remains this evening, I turn to the issue of Easter Sunday. In the other place, the opposition moved an amendment to clause 4 of the bill, which would have had the effect of ensuring that general retail shops could not trade on Easter Sunday. Clause 6 of the bill would prevent the making of an order to authorise general retail shops to open on Anzac Day, Christmas Day and Good Friday. In response to the opposition's amendment, it was implied that because Easter Sunday was not a public holiday, this was a reason for not giving it the same protection as Anzac Day, Christmas Day and Good Friday. This is not logical. Easter Sunday always occurs on a Sunday. Public holidays, by definition, apply to the working days of the week, which is Monday to Friday. That is why when a public holiday falls on a weekend, the subsequent Monday is usually gazetted as a public holiday. Easter Sunday has never had to be declared a public holiday because it was always on a Sunday and therefore already a holiday. For Christians, Easter Sunday is the most solemn and significant day in the year. It commemorates the resurrection of Jesus Christ from the dead. This event is the foundation of the Christian faith; indeed, it is precisely because this event took place on a Sunday that Christians meet weekly for worship on a Sunday, rather than on a Saturday as do our Jewish brethren. A change to the law that could result in Christians who happen to work in the retail sector being forced to work on Easter Sunday is certainly in my view undesirable. I would certainly support—I hope that the Leader of the Opposition is listening—an amendment to ensure that this undesirable outcome is not brought about by this bill.

Hon Sue Ellery: Move it yourself!

Hon NICK GOIRAN: I will take the interjection because when this bill was debated in the other place, I had the misfortune of sitting in one of the guest seats in the chamber. What I watched was a rather remarkable display. I came into the place and thought, "What on earth has gone on here?" What had happened was that the ALP had moved an amendment to create a public holiday for Easter Sunday. All members of the government opposed the amendment. I happen to know, because I was sitting there, that there was effectively an attack on certain members in my party because it was suggested that they were being hypocrites or somehow inconsistent with previous policy positions that they had espoused. I also happen to know that those members were not excited about what happened on that day, but I have great sympathy for them for voting against the amendment put up by the ALP because no notice was provided. If the opposition was serious about the amendment, it would make sure that government members had an opportunity to consider the amendment. However, if it was just a stunt for political purposes, the opposition would do it in exactly the way it was done on that day. Therefore, I am saying to the Leader of the Opposition that if it was not a stunt and if the opposition is serious about Easter Sunday, it can count on my vote to support the amendment.

Hon Sue Ellery: Move it yourself! Have the courage of your own convictions.

Hon NICK GOIRAN: The opposition will not do it! We will watch and see what members opposite will do. Their actions on this matter will ensure that we know for sure whether it was a stunt or whether they really meant it.

Hon Sue Ellery: We know for sure what you're doing! Are you going to move it or not?

Hon NICK GOIRAN: If the opposition really means it, I will be there on its side of the chamber.

Hon Sue Ellery: Do you want me to draft it and give it to you?

Hon NICK GOIRAN: I will be there on the opposition side of the chamber, but if not —

Hon Sue Ellery: No, I want you to move it.

The PRESIDENT: Order! It is not wise to invite interjections and it is not wise to interject continuously. Noting the time, I will interrupt the debate, which stands adjourned until the next sitting of the house.

Debate adjourned, pursuant to standing orders.

CHILD SAFETY — WINDOW BLIND CORDS

Statement

HON WENDY DUNCAN (Mining and Pastoral — Parliamentary Secretary) [9.45 pm]: I rise tonight to update the house on the issue of blind cords and window covering regulations. It is an issue that I have been involved in since early 2008 and brought to the attention of the house in November 2008.

Current statistics from the Australian Competition and Consumer Commission indicate that since the early 1990s, 15 children in Australia have died as a result of strangulation by blind cords. In America, 200 children died by the same means between 1991 and 2005. The deaths are entirely preventable. Unfortunately, inquests and coronial inquiries tend to find that the cause of death of the children is asphyxiation or strangulation but do not expressly state that the cause of death is blind cords, thus we are unaware of the actual figures.

Either directly or indirectly, we are all aware of this issue. Every once in a while there may appear in the media a story of a child dying by getting caught in a blind cord. The cause of the problem is so simple that it may not even occur to many parents that blind cords pose a danger to their children. We place childproof locks and protective devices on our toilets, cupboards, electronic devices, doors and stairs to name a few, but blind cord restraining devices are often not dealt with by many people.

This matter came to my attention via Mr John Williamson, spokesman for the organisation Parents for Window Blind Safety. I first met John in 2008 after he wrote to me describing his tragic story and the lack of regulation for blind cords. He lost his granddaughter Meesha to strangulation by a looped cord on a vertical blind on 29 September 2006.

Hon Ljiljanna Ravlich: I think you'll find that's being addressed.

Hon WENDY DUNCAN: If the member listens, she will find that I am about to move onto that.

Meesha was watching a video and playing in her bedroom while her mother went out to the washing line. It appears that she climbed down from the end of her bed, looped the cord from the window around her neck, killing her. Mr Williamson, when speaking to his local doctor later, was told that between eight and 12 children die in this manner annually, so he started to campaign on this issue. As a result of that, Parents for Window Blind Safety was awarded the Kidsafe WA Award at the Consumer Protection Awards in March. Mr Williamson's tireless work and commitment to this cause has seen him attain international recognition for his knowledge and technical expertise, and his recognition was well overdue. It has been an honour to work alongside John in his quest to raise both government and public awareness of this issue. As Hon Ljiljanna Ravlich noted, his efforts have achieved results.

The Trade Practices (Consumer Product Safety Standard—Corded Internal Window Coverings) Regulations 2010 were implemented on 31 December 2010. Until those regulations had been passed, there were no minimum standards for blind cord restraining devices. When these changes came into effect, it seemed that the problem was resolved and that the required changes had been made. Unfortunately, that is not entirely the case. The national regulations came into effect on 31 December 2010, with a six-month transition period to assist states and businesses to comply. However, there are still a few problems. The glaringly obvious omission in the regulations is their complete failure to address the issue of blind cord restraining devices already in residences. The only thing that the regulations have achieved is to remove the more unsafe products from sale, but even this has not been completely achieved. There are problems with individual states having varying degrees of safety, and interpretations of "firmly" for the purposes of the regulations, which stipulate that a cord must be "firmly attached" to a wall or other solid structure. There are questions about what "firmly" means: does it mean double-sided tape, glue or screws? This needed to be clarified. There are also questions about whether the requirements for the cord restraint fixtures apply only on installation or in the long term. Currently, they are being assessed only on installation. There has been quite some debate about what the strength of the fixture is, and the regulations state that it must remain firmly attached when subject to a force of 70 newtons in 10 seconds. The issue is that very few parents actually understand what a newton is and how that should work. John Williamson has been working with the Australian Competition and Consumer Commission to get it to talk more about the weight in kilograms that a window cord fixture can carry. The cord and fixture manufacturers will make it their business to understand what a newton is and how to accurately measure cords to comply with these regulations. We need to ensure that parents understand what the requirements are as well.

In relation to blind cord restraining devices currently installed in homes throughout Australia, my ultimate aim is to have blind cords assessed as part of the core structure of the residences alongside things such as smoke alarms. I am advised by the office of the Minister for Commerce, Hon Simon O'Brien, that currently under the federal building code standards and regulations, smoke alarms are deemed to be part of the core structure of the home and as such must be inspected as part of the standard building inspection, but blind cords and window treatments are actually seen as a fixture or a chattel and therefore do not come under those same regulations. In October 2011, the ACCC released a discussion paper providing background and inviting comment on the new regulations. Many of the problems I have discussed will, I think, be rectified through this process. I must commend the Minister for Commerce who has supported me on this issue. Also, his department put a submission in to the inquiry and a discussion paper in to the ACCC after raising this issue with it in February. His department has put out brochures that help to explain to Western Australian parents what the issues are. I think raising awareness is one of the most important things that we need to do in order to understand that it is actually not a very expensive process to make blind cords safe. The cord needs to be tensioned and the tension is to be

screwed to the wall, not stuck on with double-sided tape, and, if there are loose cords, a cleat needs to be attached to the wall and the cord tied around it. We have come a long way in resolving the problem, but it is the homes where there are not small children all the time that we need to be concerned about. If little children are visiting their grandparents or an aunt and uncle who are not used to having them around, those people need to understand the importance of keeping them out of reach.

I rise tonight because we have a motion on the books calling for a select committee into blind cord safety. I think in view of the progress that has been made in the time since that motion has been on the books, and of course the late stage of this Parliament, when that motion comes before the house I will seek to withdraw it. I feel that it is now not necessary to have a select committee. I know that at that time I will probably not have an opportunity to speak at length, therefore I thought I would take the opportunity tonight just to say that this issue has come a long way, but we all need to be very much aware of blind cord safety in the home.

NORTHAM YOUTH FORUM

Statement

HON MIA DAVIES (Agricultural) [9.55 pm]: I rise tonight to talk about a youth forum that I attended in Northam yesterday entitled "Have Courage: Communication Counts". Four schools participated in the forum—Toodyay District High School, St Joseph's Secondary School, Bindoon Catholic Agricultural College and Northam Senior High School. There were some 300 students at the Northam Recreation Centre and the forum was supported and sponsored by the local community. The number of sponsors for the forum shows that there is great community support. I will read them out because there is a wonderful array of people who turned out to show that they cared about some of the conversations that these kids were having about some pretty serious subjects. The sponsors were Regional Home Care Services, Toodyay and Districts Community Bank, Bendigo Bank, the Department for Child Protection, Toodyay Op Shop, Toodyay Lions Club, Avon Youth Family Services, Water Corporation, Holyoake Wheatbelt Community Drug Service Team, Regional Development Australia Wheatbelt Inc's Youth Connections Program, Rural Youth Mental Health Services, Wheatbelt Mental Health Services, Grove Wesley Art Designs, and Toodyay Bakery, which put on a wonderful feed for all the students.

The forum really came about as a response to the loss of a young man's life. He completed suicide in Toodyay and his family knew that the community and his friends were really suffering. It is very hard for a young person to know how to deal with grief and loss if they have not been faced with it before. The group was formed and included student representatives from the four schools I mentioned. The idea of hosting a youth forum came about with some very strong influence from the parents of this young man. The steering committee wanted to cover topics like cyberbullying and internet safety, but also peer pressure, how to communicate and who to communicate with as a young person, and to explore some of those issues around the burden of keeping secrets, loneliness, self-esteem problems, building confidence and giving young people confidence to talk to the right people when they need to.

Speakers on the day included a representative from WA Police who gave students information about cyberbullying and the importance of being safe when using Facebook, Twitter and all of the things that every young person uses these days. Mrs Pamela Walsh and Mr Karl Walsh talked about dealing with grief and coping, and mechanisms for dealing with that within a person's immediate peer group, and also as a school organisation and community. The keynote speaker was Gary "Angry" Anderson, which was a pretty big coup, because the kids had got together and said that they really wanted him, given that he had had some involvement with youth issues and they had seen and heard about him in that forum. They wanted to invite him to come to speak about some things that he had been through. The subjects covered were pretty grim; it was not a light-felt day, although there were some of those moments. We know that at any point in time, young people in the community are dealing with these issues every day, and sometimes in isolation.

Members might not be aware but "Angry" Anderson was a victim of sexual and physical abuse as a child and his abuse started at the age of five. He told the forum that he was a very isolated and introverted child who grew up into an angry, violent adult. In his own words, rock 'n' roll legitimised his behaviour, but by his own admission he was in a pretty self-destructive place. His message to the students was about having the confidence and courage to speak out when they are in trouble and when they feel like things are getting out of control, and to make sure that they do not deal with things by themselves. Very clearly, he was saying that life could be tough and that people will get knocked down; he did not pull any punches. He said people will get knocked down, but their resilience, and what they need to do, is about getting back up and knowing where to go for help.

As I have read out, there were many support organisations in the room that day to offer kids really good advice about how to go about dealing with times of crisis, but also ongoing problems in their own families and friends' groups. I think they left the forum knowing that there were organisations in their communities that were there to help when they got to a point in their lives at which they could not cope by themselves.

There was also a strong thread running through the whole forum of building understanding between Aboriginal and non-Aboriginal people. I think it is true to say that so much conflict experienced by young people is about being different—whether someone is Aboriginal or non-Aboriginal, whether they dress differently, whether they look different or whether they speak differently. When someone is young problems seem insurmountable, and it is very unfortunate that sometimes in that situation they think they have nothing left to do apart from completing suicide. Certainly, there were tales of that being talked about during this day. Like I said, it was not a light-hearted day for many students because they were dealing with the grim reality that some of their friends had completed suicide and they were now dealing with the aftermath.

I would like to record my appreciation and commend those who were part of the organisation of the day, in particular Mr and Mrs Karl and Pamela Walsh, and all the students who had input into creating the day. I would really like to see that those students who went through this process continue to organise forums like this into the future and be able to pass that skill on to students coming up through the ranks. It is really important that they are able to participate in the design of things that are there to assist them and I think they had a really strong sense of ownership, along with Pamela, Karl and others. Dealing with loss, stress, anxiety or mental illness as a young person does sometimes seem insurmountable and I think if the event can evolve into a regular forum for and by young people, something good has happened out of what was really a very, very tragic event. These people have taken it and done something positive for the community and I really commend them for that.

House adjourned at 9.59 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

NUMBAT RECOVERY PLAN

5369. Hon Giz Watson to the Minister for Mental Health representing the Minister for Environment

(1) Will the Minister please table a copy of the numbat recovery plan?

(2) If no to (1), why not?

(3) Does the Minister acknowledge that numbats have been seen at the Warrup forest logging coupe?

(4) Given the statement by the Department of Environment and Conservation (DEC) that 'After a vigorous reintroduction campaign led by DEC, there are now eight self-sustaining populations but probably less than 1000 animals in existence' (http://www.dec.wa.gov.au/content/view/5761/1808/), has there been an assessment of the impact on numbats of —:

  (a) logging at Warrup; and

  (b) removal of ground habitat at Warrup?

(5) If no to (4)(a) and/or (b), why not?

(6) If yes to (4)(a) and/or (b) —

  (a) what is that assessment;

  (b) will the Minister please table the research supporting that assessment; and

  (c) if no to (6)(b), why not?

(7) What studies have been done regarding the effects of the following on numbats —

  (a) jarrah forest logging;

  (b) karri forest logging;

  (c) post logging burns;

  (d) post logging increased predation by foxes; and

  (e) post logging increased predation by cats?

(8) Will the Minister please table these studies?

(9) If no to (8), why not?

(10) What is the relationship between the Kingston fauna habitat zone and the species' presence at Warrup forest?

(11) Will the Minister please table the research supporting this assertion?

(12) Was the species studied as part of the research into fauna in the Kingston study?

(13) If no to (12), why not?

(14) If yes to (12), will the Minister please table the research?

(15) If no to (14), why not?

Hon HELEN MORTON replied:

(1) No

(2) There is no current numbat recovery plan. A recovery plan is in preparation.

(3) Department of Environment and Conservation records indicate numbat sightings in Warrup forest block, but no confirmed sightings in Warrup 06 forest coupe.

(4) (a)–(b) The Forest Management Plan 2004–2013 (FMP) provides for a range of measures from the broad to fine scale to minimise the impact on fauna species, including numbats, from timber harvesting. Monitoring the impact from disturbance activities on sensitive fauna species, including numbats, is carried out at a whole of forest and landscape level.

(5)–(6) Not applicable

(7) (a)–(e) No specific studies have been undertaken of the impact on numbats from harvesting in jarrah forests, post harvest burns or post harvest predation by foxes or cats. There are no known numbat populations in karri forest. Predation by foxes and cats has been shown in other studies to be a key threat to numbat survival.

(8)–(9) Not applicable

(10) Ministerial Condition 3 of the FMP required a greater concentration of fauna habitat zones in the Kingston area. The report prepared for the Conservation Commission of Western Australia, A Review of High Conservation Values in Western Australia's South–West Forests (2002), provides an overview of biodiversity values, including threatened fauna, in Dudijup, Kingston, Mersea and Warrup forest blocks. Portions of these blocks are incorporated into the Kingston fauna habitat zones. A copy of this report is available from the Conservation Commission's website at www.conservation.wa.gov.au.

(11) Not applicable

(12) No

(13) The cryptic nature of numbats makes them a difficult species to study and the scale of disturbance in the Kingston study would have made it difficult to determine any specific impacts on the numbat.

(14)–(15) Not applicable.

FORESTS — SILVICULTURAL GUIDELINES

5370. Hon Giz Watson to the Minister for Mental Health representing the Minister for Environment

I refer to the answer given to my question without notice No. 82 on 21 March 2012, and I ask —

(1) How many mature or over-mature marri trees have been poisoned, cut down or burned as a result of logging or other silvicultural practices since 27 January 2004 (the date of the Fauna Nomination Form)?

(2) Did the Minister disagree with the principal zoologist's identification (at paragraph 5 of the Fauna Nomination Form) of logging/woodchipping as one of the main reasons for changing the status of Forest Red-Tailed Black Cockatoos from P3 to Threatened Species?

(3) If yes to (2) —

(a) will the Minister please table the research or other evidence supporting your position;

(b) why did the application for change of status succeed; and

(c) will the Minister please table the documents setting out the reasons why the application for change of status succeeded?

(4) Does the Minister consider marri trees to be a primary species for —

(a) food and nesting habitat for black cockatoo species;

(b) protection of black cockatoo species; and

(c) protection of biodiversity in the south west forests?

(5) If no to (4)(a), (b) or (c), will the Minister please table the research or other evidence supporting your position?

(6) If yes to any of (4)(a), (b) or (c) —

(a) what steps will the Minister take to improve the rate of retention of marri trees in logging and other silvicultural operations; and

(b) which of those steps will be implemented before the expiry of the current Forest Management Plan?

Hon HELEN MORTON replied:

(1) Silvicultural guidelines include a range of requirements to protect habitat elements, including marri trees, in areas subject to timber harvesting. The guidelines also provide for the felling or culling of trees not marked for retention so as to encourage the growth of retained trees and to facilitate regeneration. The Department of Environment and Conservation does not record the number of mature or over-mature marri trees felled or culled.

(2) No

(3) (a)–(c) Not applicable

(4) (a)–(c) Yes

(5) Not applicable.

(6) (a)–(b) Marri trees are retained in harvesting and other silvicultural operations as required by Appendix 5, Silviculture Guidelines, of the Forest Management Plan 2004–2013 (FMP). Silvicultural practices in south–west forests were examined by an expert panel established in

response to Action 34.1.4 of the FMP. The findings of the expert panel will be considered in the preparation of the next forest management plan, and will be released as supporting information to the draft Forest Management Plan 2014–2023.

YOUNG PEOPLE IN CARE — TRAINING COURSE FEES

5374. Hon Sue Ellery to the Minister for Child Protection

I refer to the announcement of an agreement between Western Australia State Training Providers and the Department for Child Protection to waive training course fees for young people in care, and I ask —

(1) What is the cost of this initiative and which agency is meeting that cost?

(2) How were the costs determined?

(3) How many young people are expected to take up this opportunity in —

(a) 2012; and

(b) 2013 and beyond?

(4) Are any courses exempted from the waiver scheme and if so, which ones?

Hon ROBYN McSWEENEY replied:

(1) The cost is incurred by individual State Training Providers (TAFE). The cost is expected to be no more than $13000.00 in lost fee revenue in 2012.

(2) Costs include tuition and resource fees and vary between approximately $120.00 and $1100.00 per course.

(3) (a) Approximately 25 young people are expected to be granted access a fee waiver in 2012.

(b) It is anticipated that this number may increase slightly in 2013.

(4) No.

VAHLAND AVENUE, WILLETTON — SPEEDING VEHICLES

5376. Hon Sue Ellery to the Minister for Finance representing the Minister for Transport

I have been contacted by a number of residents expressing their concerns about the speeding along Vahland Avenue in Willetton, and I ask —

(1) What is the most recent data Main Roads has collected about speeds along this road?

(2) What is the number of vehicles that use this stretch of road on a daily basis?

(3) When were these latest traffic figures taken?

Hon SIMON O'BRIEN replied:

Main Roads West Australia advises:

Vahland Avenue is a local government road under the care and control of the City of Canning. Council should be approached about the latest traffic and speed counts for this local road.

(1)–(3) The most recent speed data collected by Main Roads on Vahland Avenue was in June 2008 for the proposed Leach Highway Truck Restriction which showed Average Weekday Traffic was 15,534 vehicles per day south of Leach Highway and 12,890 vehicles per day north of South Street.

TREES IN URBAN AREAS — PROTECTION

5378. Hon Giz Watson to the Minister for Energy

Regarding trees that may interfere with power transmission, I ask will the Minister please provide full details regarding what Western Power can do to assist local governments to retain such trees (for example installation of covered conductor, undergrounding a power line)?

Hon PETER COLLIER replied:

Western Power works collaboratively with local governments to facilitate mutually beneficial outcomes relating to the duty of land occupiers to manage vegetation near power lines in accordance with Section 54 (1) of the Energy Operators (Powers) Act 1979, which states:

It shall be the duty of the occupier of any land on or over which vegetation is growing to fell or lop, or to remove or otherwise deal with, in such manner as is reasonable in the circumstances, so much of any vegetation as is necessary to prevent it interfering with or obstructing, or becoming likely to interfere with or obstruct, the construction, maintenance or safe use of any supply system.

Western Power recognises the need of local government authorities (LGAs) to balance competing priorities in fulfilling this duty. To this end, Western Power is committed to working with LGAs to retain trees in proximity to power lines.

Where appropriate, Western Power considers options that fall broadly into two categories:

1. Vegetation Management Activities and Programs

Western Power/Local Government Vegetation Working Group

Western Power participates in a vegetation working group with the Western Australian Local Government Association (WALGA) and LGAs to build strong relationships and facilitate vegetation solutions including:

- Pruning standards (for public safety);
- Safe work practices; and
- Tree amenity activities (target pruning, minimum clearances, tree ownership/responsibility and visual amenity).

Tree Replacement

Western Power recently collaborated with the Shire of Kalamunda (and affected residents) to remove trees that impact power lines and replace them with suitable tree species known to have limited growth characteristics.

This program aligns with Western Power's vegetation management strategies and is available to other LGAs and the wider community.

Register of Significant Trees

Western Power works with LGAs to protect significant trees in proximity to power lines through Vegetation Control Agreements. These agreements allow LGAs to identify, manage and maintain trees of significance in their community where they would otherwise be removed or significantly pruned in accordance with vegetation management obligations.

2. Alternative Infrastructure

In the design and construction of its infrastructure, Western Power considers vegetation management, cost and public safety and bushfire risks and engages LGAs to ensure designs and solutions are appropriate to their needs.

Covered Conductors

The use of low-voltage-aerial-bundled cables allows trees to grow closer to power lines and can reduce the number of trees that would otherwise be pruned or removed on the low-voltage network.

Western Power recently trialled a high-voltage covered conductor solution (Hendrix) in areas where vegetation management or undergrounding was not feasible. The trial commenced in 2010 and results are currently being reviewed to determine the suitability of the solution and in what areas it would be of most benefit.

Covered conductors result in fewer trees being removed or pruned.

Undergrounding Power Lines

Undergrounding power lines reduces street-tree pruning requirements allowing trees to grow to their natural height.

Western Power installs underground power lines where it is appropriate to the environment and the nature of supply. Considerations for undergrounding include safety, reliability, in-situ vegetation, ground condition and cost.

Undergrounding of power lines also occurs through the State Underground Power Program.

<u>Supplementary Information</u>

Tree and Power Line Safety Brochure

Western Power produces a consumer Tree and Power Line Safety brochure that summarises the core requirement (to keep trees and power lines apart), safe distances and owner responsibilities. This brochure can be viewed online at www.westernpower.com.au

Planting Guide

A Planting Guide is published on Western Power's website www.westernpower.com.au giving guidance on good planting practices near power lines and recommending 'power line friendly' plant species including Western

Australian and Australian natives and exotic plants. The planting guide assists LGAs and the community by enabling them to make wise planting (in proximity to power lines) decisions that will limit future maintenance requirements.

Guidelines for the Management of Vegetation near Power Lines

EnergySafety has published guidelines that clearly communicate the responsibilities and obligations of Western Power, LGAs, land owners/occupiers and state government agencies. The document is available via the following link:

http://www.commerce.wa.gov.au/energysafety/PDF/Publications/Guidelines_Managemen.pdf.

MANGLES BAY MARINA–BASED TOURIST PRECINCT

5381. Hon Lynn MacLaren to the Parliamentary Secretary representing the Minister for Lands

I refer to the proposed Mangles Bay Marina Based Tourist Precinct, and I ask —

(1) If the consideration for the developer being able to sell and/or lease this land involves the provision of infrastructure and/or services or some other form of consideration, will the Minister please —

  (a) describe such infrastructure and/or services or other form of compensation; and

  (b) provide its value and how this figure has been calculated?

(2) What other conditions would the developer have to meet in order to be able to sell and/or lease this land?

(3) What infrastructure and services would LandCorp and other State Government agencies provide in relation to the project?

(4) What is the estimated cost of such infrastructure and services?

HON WENDY DUNCAN replied:

(1) (a) The developer will provide standard infrastructure as required to service an urban development including, but not limited to, roads, water, sewer, power, gas and drainage.

  (b) The detailed designs, and therefore the value, have not yet been finalised.

(2) The developer would have to meet all conditions as required by the Western Australian Planning Commission. These conditions will be known subsequent to the development application.

(3) Please refer to answer (1a).

(4) This is yet to be determined.

GOVERNMENT EMPLOYEES SUPERANNUATION BOARD — REDUNDANCY PAYMENTS

5382. Hon Giz Watson to the Minister for Finance representing the Treasurer

Regarding redundancy payments made to former employees of the Government Employees Superannuation Board (GESB), I ask —

(1) What termination payment did former GESB Chief Executive Officer (CEO) Ms Dolin receive?

(2) How was this payment calculated?

(3) Who has been working as CEO since Ms Dolin left GESB and at what annual remuneration?

(4) When was the long term appointment for a new Chief Executive Officer made and at what annual remuneration?

(5) For each Executive Officer who left GESB last financial year, or this financial year, or who is known to be leaving GESB this financial year —

  (a) what is his/her name;

  (b) what was/is his/her position; and

  (c) what was/will be his/her termination payment? Please provide total and a breakdown showing each component.

(6) If not contained in the answer to (5), please provide similar information regarding the termination payments for —

  (a) Ms Michelle Ahearn;

  (b) Ms Collene Hansen; and

  (c) Ms Sharon Hicks.

(7) For each termination payment at (5) or (6), was it made from the general budget of GESB, or general revenue?

(8) How did Ms Ahearn's employment with and departure from GESB impact on the liability of Gold State Super?

(9) Regarding section 11(2) of the amended *State Superannuation Act 2000* which allows the Board to employ staff outside public service terms and conditions as determined by the Board —

(a) how many GESB staff are employed on other terms and conditions;

(b) what guidance is provided to the Board as to how to use this provision;

(c) how is the Minister ensuring transparency of the process; and

(d) what mechanisms are in place to ensure there is no repetition of the extraordinarily high past salaries at GESB?

Hon SIMON O'BRIEN replied:

(1) Ms Dolin received a termination payment of $519 385.11 which represents 12 months' salary. In addition to this Ms Dolin was paid out statutory entitlements such as unpaid annual and long service leave.

(2) The payment was calculated in accordance with the contract of employment and the requirements of section 101 of the Public Sector Management Act 1994.

(3) GESB has had two acting CEOs since Ms Dolin's departure.

Mr Fabian Ross acted from 11 June 2011 until 9 September 2011 and Mr Larry Rudman acted from 10 September 2011 until 31 January 2012. Both received remuneration of $341 869.78 per annum while acting as CEO.

(4) The substantive appointment of a CEO was made on 30 January 2012. Remuneration applicable to the role is $365 313.50 per annum and is determined by the Salaries and Allowances Tribunal.

(5) (a)–(c)

Name	Title	Termination Payment[(a)]
Ms Michelle Ahearn	General Manager, Risk & Governance	$220 713.48
Ms Collene Hansen	General Manager, Strategy & Corporate Affairs	$116 611.32[(b)]
Ms Sharon Hicks	Chief Investment Officer	$168 374.33
Mr Fabian Ross	General Manager, Wealth Management	$139 895.29
Mr Lance Brockway	General Manager, Services and Technology	Nil

Note:

(a) Termination payments do not include any relevant payment for accrued leave entitlements.

(b) Previous Legislative Assembly Question on Notice 6657 indicated Ms Collene Hansen's voluntary redundancy payment was $108 236. The difference of $8 375.32 relates to an amount for pro rata Long Service Leave for Ms Hansen. This figure was omitted from the first Parliamentary Question by GESB as they understood at the time that payments of this nature were not included in the severance amount.

In addition to the above, an amount of $218 275.20 was paid to Mr Damien Stewart who was acting as an Executive Officer in the role of Acting General Manager, Government Relations and Compliance.

(6) (a)–(c) Not applicable.

(7) The termination payments made to Ms Ahearn and Ms Hansen were charged to the Government Reform Budget. The termination payments made to Ms Hicks and Mr Ross were charged to GESB's administration budget.

(8) Information that discloses or has the potential to disclose an individual's benefit with GESB will not be provided. It should be noted that one individual's entitlement in any of GESB's schemes will not have a material impact on State liability.

(9) (a) 158.

(b) The Board take internal, independent external advice and consult with the Public Sector Commission (PSC).

(c) Remuneration for the CEO is now set by the Salaries and Allowances Tribunal. Consultation occurs on all other remuneration arrangements between GESB and the PSC in accordance with the amended requirements of Section 11 of the State Superannuation Act 2000.

(d) See part (9)(c).

GNANGARA GROUNDWATER MANAGEMENT AREA — LICENCE CONDITIONS

5386. Hon Alison Xamon to the Minister for Mental Health representing the Minister for Water

I refer to the answer to question on notice No. 4776, in which 232 licensees in the Gnangara Groundwater Management Area were identified as failing to report their meter readings in accordance with their water licence conditions, and I ask —

(1) Other than formal warning letters, what compliance actions (if any) has the Department of Water engaged in regarding these missing meter readings?

(2) Please specify how many licensees have belatedly complied with the metering and reporting condition of their licence?

(3) How many of these newly reported meter readings showed licensees extracting more water than they were entitled to?

(4) Have any fines been imposed for failing to report meter readings? If yes to (4), please specify how many fines, and the value of the fines?

Hon HELEN MORTON replied:

(1) A non-compliance incident has been registered. Escalated enforcement action will be taken if there is future non-compliance activity.

(2) 103

(3) 11

(4) No

(5) Not applicable.

WATER ALLOCATION LICENCES — METER READINGS

5387. Hon Alison Xamon to the Minister for Mental Health representing the Minister for Water

I refer to the answer to question on notice No. 4443 regarding the Department of Water's *Strategic Policy 5.03 — Metering the Taking of Water*, in which it was identified that of the 1,786 licences entitled to draw more than 50ML per annum, only 801 were required to meter and report their usage, and of that 801, only 259 were doing so, and I ask —

(1) What, if any, compliance actions will or has the Department of Water taken regarding these 542 licensees that are not meeting their obligation to meter and monitor their water usage?

(2) Have any actions other than warning letters been undertaken?

(3) If yes to (2), please specify?

(4) Have any fines been imposed for failure to report meter readings?

(5) What are the reasons, if any, that 985 licensees that are entitled to extract more than 50ML per annum do not have a condition to meter and monitor their water usage?

(6) Have any of the 542 missing meter readings been delivered to the department?

(7) If yes to (6), please specify how many licensees have belatedly complied with the conditions of their licence?

Hon HELEN MORTON replied:

(1) The Department of Water has registered a non-compliance incident for each of these to support escalated enforcement action to be taken if there is further non-compliance activity.

(2) No

(3) Not applicable

(4) No.

(5) Under Strategic Policy 5.03 — Metering the taking of water. Only licensees with entitlements to draw 500 megalitres per annum or more are required to meter and monitor their water usage, or where it has been assessed (on a case-by-case basis) that a meter is required.

(6) Yes

(7) 46 (as at 31 March 2012).

WASTE AVOIDANCE AND RECYCLING — FUNDING

5391. Hon Robin Chapple to the Minister for Mental Health representing the Minister for Environment

With regard to the article in the *West Australian* on Monday, 5 December 2011 and the letter dated 12 December 2011 from the Western Australia Local Government Association, and I ask —

(1) Does the Government agree with Peter Fitzpatrick, the Chairman of the Waste Authority when he said 'spending on recycling was rapidly falling behind what was needed'?

(2) If no to (1), why not?

(3) If yes to (1), what action will the Minister take to increase spending on waste avoidance and recycling?

(4) Will the Minister support Peter Fitzpatrick's call for an increase in funding to go into recycling from the landfill levy?

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

(6) If yes to (4), what action will the Minister do to provide more funding from the Waste Avoidance and Resource Recovery account?

Hon HELEN MORTON replied:

(1)–(6) The Minister for Environment has discussed the issues raised in the article with the Chairman of the Waste Authority.

On 6 March 2012 the Minister released the Western Australian Waste Strategy "Creating the Right Environment".This strategy sets the long-term strategic directions and priorities for the State with a focus on the next decade.

Detail on the delivery of these priorities will be included in the Waste Authority's annual business plan, which the Minister expects to receive soon after the Waste Authority's May 2012 meeting. The business plan will outline the program of activities and expenditures proposed by the Waste Authority to utilise the estimated accumulated balance at the end of 2011/12 of approximately $16 million, plus an additional amount of approximately $10.5 million to be added to the Waste Avoidance and Resource Recovery Account in the next financial year.

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