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

DISTINGUISHED VISITORS — THIERRY MARIANI AND CHRISTINE CASERIS

Statement by President

THE PRESIDENT (Hon Barry House): I welcome into the President’s gallery Mr Thierry Mariani, Deputy of the National Assembly of France, and Ms Christine Caseris, the President of the Western Australian chapter of the French–Australian Chamber of Commerce and Industry.

BILLS

Assent

Messages from the Governor received and read notifying assent to the following bills —


NATIONAL DISABILITY INSURANCE SCHEME

Statement by Minister for Disability Services

HON HELEN MORTON (East Metropolitan — Minister for Disability Services) [3.04 pm]: Mr President, I am pleased to formally advise the house that Premier Colin Barnett and Prime Minister Tony Abbott have signed the agreements that provide the foundations for the trial of the National Disability Insurance Scheme in Western Australia. The agreements set out the details of the uniquely Western Australian arrangement that will see two different approaches—the WA My Way and commonwealth National Disability Insurance Agency models—which will be trialled over the next two years. Over 8 000 people with disability will benefit. The state and commonwealth governments will provide an additional $100 million over two years for the trials. Both models will be independently assessed to inform disability supports and services into the future. The agreements represent a dynamic new phase of growth and development in disability services and will allow WA to build on our nationally and internationally recognised disability programs and the enduring partnership approach that exists between government and the community-based sector. The state government fought hard to retain the key strengths of WA’s disability services model in the trial of the NDIS in this state. The WA NDIS My Way trial embodies these strengths.

WA NDIS My Way will make a difference to the lives of about 4 100 people with disability, including those with psychosocial disability. The NDIS trials will bring the funds required for reasonable and necessary supports to provide all eligible people with disability to live a good life. This is the first time that funding will be available as an entitlement rather than a rationed approach. The state government strives to put people with disability in the driving seat, to make their own decisions about the supports and services they access and what a good life looks like for them. These core objectives will continue with the WA NDIS My Way approach as WA builds on and further develops its tried and tested disability services programs. This government has increased funding for the disability sector throughout Western Australia by 96 per cent since 2008–09. Growth in funding will continue for all people with disability in the state whether they live in a trial site or not. Again, I advise that the state and commonwealth governments will provide an additional $100 million over two years for the trials. This is over and above existing funding for residents with disability living in the trial sites.

PAPERS TABLED

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

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Twentieth Report — “Inquiry into Pastoral Leases in Western Australia” — Tabling

HON LIZ BEHJAT (North Metropolitan) [3.09 pm]: I am directed to present the twentieth report of the Standing Committee on Public Administration titled “Inquiry into Pastoral Leases in Western Australia”.

The PRESIDENT: Does the member wish to make a statement on behalf of the committee?

Hon LIZ BEHJAT: Thank you, Mr President.

The inquiry was initiated by the committee on 8 August 2013 to examine the two broad areas affecting pastoralists—issues surrounding the 2015 pastoral lease, which is the responsibility of the Department of Lands;
and the management of fluctuations in stock numbers and the impact on pastoral lands, which largely falls under
the jurisdiction of the Department of Agriculture and Food and the Pastoral Lands Board. The government of
Western Australia has been issuing leases of crown land to pastoralists since the 1850s. Today, more than
500 pastoral leases cover nearly 35 per cent of Western Australia, and pastoralism is a significant contributor to
the economy of the state. All pastoral leases in Western Australia expire on 30 June 2015. There were 492 leases
eligible for renewal as a result of pastoralists accepting a conditional offer for a new lease. The Department of
Lands issued a draft lease to pastoralists in July 2013. The department maintained that the aim of this new draft
lease was to provide modernised provisions reflecting contemporary administrative practices. However,
pastoralists did not view the content of the draft in this light. The main issue for pastoralists was the insertion of
termination provisions that were viewed as draconian and unfair, and were not accompanied by provisions that
ensured natural justice would be observed in any termination action. The concerns ultimately led to meetings
between the Pastoralists and Graziers Association and the Department of Lands late last year. The committee
understands that the draft lease is currently being renegotiated. The committee found that there were
communication failures within the former Department of Regional Development and Lands and between the
department and pastoralists. These communication failures meant that the anxiety caused by the insertion of
the termination provisions was not anticipated by directors general of the responsible departments or, by extension,
the former Minister for Lands. One of the key recommendations of the report is that departmental decision-
makers should seek detailed information from stakeholders to ensure that their decisions are made not only
legally but also fairly.

The second focus of the report is on long-term concerns regarding the health of pastoral lands. The
environmental condition of pastoral lands varies from region to region, and depends on a range of factors
including drought, the type and number of animals grazed and the level of feral animals and pest weeds.
Unexpected events like the suspension of the live cattle trade to Indonesia and the suspected outbreak of bovine
Johne’s disease can have the effect of temporarily elevating stock numbers. Issues such as fire management also
have an impact on pastoral land health, especially in the Kimberley. The committee is aware that there are other
areas of concern facing pastoralists. After investigation, the committee feels that some of these areas, such as
tenure reform, are being adequately addressed by the Department of Regional Development; other areas are
briefly canvassed in the final chapter of the report.

The committee acknowledges and thanks the pastoralists and others who met with the committee, particularly
during its travel to regional areas. The committee also commends the work of the Pastoral Lands Board, whose
fresh approach to approving diversification permits are assisting pastoralists in their businesses. I would like to
thank my fellow committee members for their work on this important issue; the staff of the committee, Dr Julia
Lawrinson and Ms Lauren Mesiti; and staff who assisted the committee during its travel, Ms Judith Baverstock
and Mrs Jacqui Allan from Hansard, and Ms Hannah Gough, now Hannah Moore, from the committee office.

I commend this report to the house.

[See paper 1353.]

WORKFORCE REFORM BILL 2013

Second Reading

Resumed from 20 March.

HON MICHAEL MISCHIN (North Metropolitan — Minister for Commerce) [3.13 pm] — in reply: I will
continue my remarks in reply to debate on the Workforce Reform Bill 2013. However, before doing so I will
take the opportunity to say something by way of preamble before returning to where I left off on the last
occasion; that is, to indicate that it should be understood by the opposition that the government understands what
is happening, and will presumably continue to happen, in this debate and knows what the game is.

Hon Ken Travers: What’s that?

HON MICHAEL MISCHIN: I will get to that.

The opposition knows that the government is committed to reforming the public sector. It is doing so as part of
its responsibility to Western Australians and not to the narrow sectional interests of public servants or to the
unions that purport to represent their interests. It is doing so not because it has a hatred of public servants, as
suggested by Hon Stephen Dawson. It is doing so not because it wants to make the public sector unattractive, as
has been suggested by some members of the opposition during the course of the debate. It is doing so not
because of some eldritch logic that tries to equate reforming the public service with some privatisation strategy.
Only God knows how, but to have reached that far in the debate shows the desperation of the unions and their
mouthpieces to preserve their interests. The government is doing so because it is the responsible thing to do in
the current financial environment. Indeed, it is the responsible thing to do in any financial environment in this
new century of changing work practices, increasing demands and expectations on government and fluid labour
markets.
The bill, therefore, in some form or another is going to pass, so what is it all about? Just about every member of
the opposition who was not absent on urgent parliamentary business took up as much time as they could to
repeat the same tired and ill-informed arguments in opposition to the bill over a period of weeks. Why? Was it to
put things on the record? One might suggest that it was a scratched record considering that the speeches were
repeated ad nauseam?

We need to get back to some basics. This is what is expected of the opposition. The Australian Labor Party was
founded as the political wing of the union movement—it is a historical fact. It has been, it remains and is likely
always to be at its core the political voice of the union movement. It is ingrained into Labor Party functions. It is
union leaders who decide who is or is not to stand for Parliament.

Hon Ken Travers interjected.

Hon MICHAEL MISCHIN: It is not simply my opinion. Hon Linda Savage, who served in this place for the
remainder of the term of the late Hon Jock Ferguson, and did so thoughtfully, revealed as much following her
failure to be preselected. We have seen it in the nature of the current raft of ALP Senate candidates. We have
seen it in the unseemly brawling for the position of Prime Minister under the last federal government—
undignified union faction battles using the national government as a stage with control over the Australian
people as the ultimate prize. These speeches from the opposition, therefore, were to show just how committed
the members of the opposition are to their constituents—their constituents being union leaders and executives.
That is fine as far as it goes. Despite the rhetoric attempting to link what is good for public servants to what is
good for the state, it should not be forgotten that their real interest is to protect the interests of the unions.

Nothing in this bill is detrimental to dedicated public servants. It should never have been forgotten in this debate,
but it has been obscured, that public services are paid for by the government of the state on behalf of the people
of Western Australia to serve the people of Western Australia. It is not there to provide permanency for public
servants. The money comes from the people of Western Australia to provide services for the people of Western
Australia.

Hon Ljiljanna Ravlich: And not to be secondary and provide incompetent ministers and incompetent
governments.

Hon MICHAEL MISCHIN: I will get to incompetent governments in a little while, thank you very much,
Hon Ljiljanna Ravlich.

These speeches from the opposition amounted to just a delaying tactic, with respect, Mr President. They were
made to delay the bill as much as possible and thereby demonstrate to the union movement that the opposition’s
spokespeople in Parliament are loyal to their constituents—union leaders and the executive.

That is all very well, but it comes at a price. The government has other legislation that it desires to pass—indeed,
needs to pass. Much of it is uncontroversial legislation and much of it is for the plain benefit of the people
of Western Australia; for instance, amendments to the criminal law, amendments to mental health legislation, the
reduction of red tape and so on and so forth. Every minute that the argument in this debate was extended by the
opposition, every minute that the argument was repeated—whether at the second reading stage or in
committee—and every minute that this bill was stalled was a minute delaying the debate and passage of other
elements of the government’s legislative agenda.

Hon Ken Travers: You’re the lot who can’t manage your legislative program!

Hon MICHAEL MISCHIN: While I welcome analytical and robust debate on principle and on how legislation
can be improved, I deplore timewasting and tired arguments that are repeated over and again. I refer to the sorts
of arguments that have been repeated by every one of those who have spoken on behalf of the opposition in
contest of the Workforce Reform Bill over the past few weeks. Although the sentiments have been expressed in a
variety of ways by a variety of speakers, they say nothing new. A good argument does not get any better through
repetition, but a bad argument gets more and more exposed through repetition and becomes worse. That has
happened over the past few weeks. We have heard the tired old class warfare rhetoric and the platitudes about
so-called workers’ rights and how the government is behaving badly by changing “the rules of the game” as if
the benefit to the people of Western Australia is irrelevant and as if the important thing is to play a “game” in
which the unions win one round by getting some benefit in excess of what can be sensibly afforded by the people
of Western Australia and sensibly justified as having some kind of countervailing benefit for the public paying
for it; but we should ignore the public interest and just be good sports about it and let them win that point! We
have heard about threats of strike action and the withdrawal of services the public pays for and expects. That is
okay! But the government taking steps to ensure that people get value for money is somehow un-Australian
according to the opposition, as if the government is some kind of an independent employer which, because it
cannot be sent bankrupt, is a bottomless pit of money to be spent on employees rather than other services
expected by the public; as if the idea that a public servant who is not giving the service the public needs is
entitled to remain on the public payroll as some kind of expensive welfare case; as if no union, if it puts its mind
to it, cannot raise some kind of argument that its membership is special and should not only be better paid than their equivalents in this public sector as well as those in private enterprise and in other states and territories, but also should get bigger pay rises than everyone else! Every letter and submission provided to the Standing Committee on Legislation was read out at length and praised for its earnest and persuasive analysis. Given that the unions are plainly and rightly advocates for their own narrow interests, it is entertaining to see how members on the other side of the house seem to hold these partisan arguments up as some kind of holy writ as though they are disinterested and objective. I expect that the exercise will be repeated when the bill enters the committee stage. I expect long speeches as preambles to some anodyne question or a question mark added on to the end to somehow delay the progress of the bill.

Hon Ken Travers: This speech will certainly delay the committee progress for a while as we respond to it. That is what happens when you throw petrol out.

Hon MICHAEL MISCHIN: Well, Hon Ken Travers, if that is the game, I am sure —

Hon Ken Travers: It is not a game, minister. It is about responding to the rubbish you’re presenting to the house.

Hon MICHAEL MISCHIN: I am simply responding —

The PRESIDENT: Order, members! Hon Michael Mischin is the minister in charge of this piece of legislation and as the final member speaking on this debate, he is meant to sum up the debate and answer the points that were raised during the second reading debate. I have heard the words “public servants” mentioned a couple of times. I am sure the minister will draw the threads of his comments back to the bill.

Hon MICHAEL MISCHIN: Indeed, I was going to, Mr President. Thank you for bringing order to the debate.

I am, indeed, responding to the comments made during the course of the past several weeks. One of my objectives is to correct the misinformation that has been spread by the union movement and that informs the opposition’s attitude to the bill and the reforms that the bill underpins. I will tell the house what the bill does and what it will do when it is passed, which is not what the opposition and unions would like the public to think it will do. I will expose some of the hypocrisy of some of the comments and I will expose the misinformation, whether deliberate or ignorant, about some key areas that has been ventilated. I do not intend to expose all of the rubbish that has been said; there is no point doing that because it would take too long. However, I will deal with several key points and leave it at that and say that, having done so, anyone interested in the debate will be able to judge the quality of what has been said in opposition to the bill and simply dismiss the rest. The rest will be, at the very least, suspect. I will do it on the understanding that once I have set the record straight on some issues, I will not do so again in committee. I do not intend to repeat myself and to run through the same arguments thereby delaying the bill.

Secondly, I will address the issues of substance raised during the course of the debate and the recommendations of standing committee report 22. In that regard, I commend the Standing Committee on Legislation, which was ably chaired by Hon Robyn McSweeney, for the work it did on this reference. Many of the matters raised have merit and the government is prepared to accept amendments to the bill to address and adopt them, although it will propose its own amendments in preference to those of the committee for reasons that I will explain in due course. I will first address some of the more egregious pieces of misinformation disseminated by the opposition on behalf of the union movement. Firstly, it is true that the bill will require the Western Australian Industrial Relations Commission to consider and weigh up more specific matters than it is currently required to do when making decisions about the public sector. In that regard, a little context is necessary.

The public sector now comprises the largest employer group that remains within the state industrial relations jurisdiction. The government, on behalf of the people of Western Australia, employs some 139,000 public servants. State public sector wages comprise approximately 40 per cent of recurrent government expenditure—that is almost $11 billion per annum. The implications of that are obvious. A salary increase of just one per cent to pay an extra $350 million per annum, or more than that, for each of the next three years to not only maintain the real value of wages, but also increase the real value of wages at the public’s expense while doing the same job that they are doing presently. That is before we get to additional concessions and favourable conditions that the unions wish their membership to enjoy and so forth. Are Western Australian public servants disadvantaged compared with public servants in other states? The latest 12 months to December 2013 Australian Bureau of Statistics wage price index figures show that increases in Western Australian public servants total hourly rate of
pay have outstripped private sector increases in all states and in the public sector in all states, with the exception of South Australia. This is despite Western Australian public servants being the highest paid public servants at levels 1.1, 3.1 and 7.1 compared with their peers in other jurisdictions. Seasonally adjusted, the average increase across Australia was 2.5 per cent for the private sector and 2.7 per cent for the public sector, whereas the change in Western Australia was 3.7 per cent.

**Hon Ken Travers:** The private sector? Is that Australia-wide, or in WA?

**Hon MICHAEL MISCHIN:** In all states.

**Hon Ken Travers:** So what’s the WA figure for the private sector?

**Hon MICHAEL MISCHIN:** I do not have that figure with me.

**Hon Ken Travers:** Well, that’s the crucial one, isn’t it? Apples with apples?

**Hon MICHAEL MISCHIN:** No. I have already indicated —

**Hon Ken Travers:** What? Do you want public servants to leave the state?

**Hon MICHAEL MISCHIN:** I do not see them flooding out of the jurisdiction, Hon Ken Travers. On the contrary, people are coming into the state, not leaving it.

**Hon Ken Travers:** But you’ve got to have comparative wages, minister.

**Hon MICHAEL MISCHIN:** Hon Stephen Dawson thinks that the government hates public servants. If so, it has an odd way of showing it, given that it has ensured that its public servants are either the best paid, or among the best paid, in Australia.

Would the ALP do better? We know that it did not resolve the public schoolteachers’ dispute for more than 18 months, before being voted out of office in 2008. Now we have the best-paid teachers in the country. In fact, the opposition thinks we are too generous; on 11 February this year, shadow Treasurer Ben Wyatt, the member for Victoria Park, said on radio that the wages policy in the first term of this government should have delivered an absolute maximum wage growth during that period of just over 21 per cent. Instead, he said, we got 37 per cent growth for over $3 billion. I might suggest that we did not hear the unions or the opposition complaining about that at the time. He also said that that was fundamentally the problem we face and that, to be frank, he just did not have faith in the competence of the government to really rein that growth in. That is what he said, but the government is attempting to rein it in. The opposition on the one hand complains that the government is not reining it in, but on the other hand it tries to impede any ability of the government to do so. I presume, then, that the shadow Treasurer’s colleagues do not agree with his remarks.

We have heard from the unions, and heard it argued by some members opposite, that the requirement for the Western Australian Industrial Relations Commission to have regard to the state wages policy and supporting material will remove the commission’s discretion in arbitrating wage cases and so affect its independence. We have heard letters from the unions read out in this place in support of that proposition. That is hardly objective, one would have thought, but that is the best material the opposition has to work with. The evidence has been selectively quoted, and the assertion is simply and patently false and intended to mislead, as the Standing Committee on Legislation confirmed, having regard to not only the terms of a proposed amendment to the act, but also the evidence to the committee from the Department of Commerce, the Public Sector Commission, and the much-quoted Ms Maria Saraceni. In fact, the bill does not dictate to the WAIRC any particular outcome.

Ms Saraceni’s evidence to the committee has been quoted by the opposition in a fashion that has removed it from its context. I cannot put my figure on the specific quote, but it has been cited on several occasions. I will locate the quote in due course, but it has been repeated on several occasions, and appears in the committee’s twenty-second report. What the opposition does not quote is what else Ms Saraceni had to say on the matter, particularly on page 9 of her transcript of evidence to the Standing Committee on Legislation dated 13 February 2014. She stated, in response to a question from Hon Amber-Jade Sanderson —

I guess the difficulty I have —

That is, comments about the discretion of the commission —

with that is that that is presuming that the government, by doing this, is telling the commission what to do with its policy or what to do with the national economy figures or what to do with the state economy figures, and it is not. I have a problem with the way the question has been posed—not by you —

**Meaning Hon Amber-Jade Sanderson** —

but by the person who said that—because the commission is not having its hands tied; it is just being told, “You will consider (a), (b), (c) and (d). What you do with it is your business.” So to say that a public sector employer is advantaged because of it, I find it very hard to believe because the good faith bargaining provisions state–federal are all the same; that the financial position of the employer, private
or public sector, are open to be shown to the other side. There is nothing private in it. In fact, section 26(1)(d)(iii) talks about capacity to pay under the current legislation. So all that is doing is saying that the capacity to pay is one thing—a sort of Treasury thing—but, okay, the policy is this. I do not see how it is an advantage. I am just trying to think out loud, but I just do not see how it would advantage —

Hon Amber-Jade Sanderson then interjected —

**Hon AMBER-JADE SANDERSON**: I think the anxiety arises from whether it is binding on the commission or not.

**Ms Saraceni**: It is not binding.

**Hon AMBER-JADE SANDERSON**: That is the question we were asking you right up-front.

**Ms Saraceni**: It is not binding. It is binding to consider it, but not binding to accept it as —

**Hon AMBER-JADE SANDERSON**: To execute it as such?

**Ms Saraceni**: Yes.

So the idea that somehow the discretion of the commission is being lost and that it is being told what to do by legislative prescription in order to govern its outcome—a theme that has been constantly repeated by members opposite—is patently wrong. If they are wrong about that and have managed to ignore that evidence, and the conclusions of the committee, yet come up and say this because some union has put it forward as a thesis, it colours the quality of everything else that they have said. They would rather argue that white is black and white is grey than admit that white is white.

As to the policy behind it, it seems patent that it is fiscally responsible that, in considering what is reasonably affordable to the people of Western Australia, not only the government but any arbitrator should take into account the government’s financial position, its financial strategy, its wages policy and the financial position of the public sector entity employing and paying those wage earners. In these circumstances the government seeks to provide additional guidance to the Industrial Relations Commission when considering public sector wages and conditions. Section 26 of the Industrial Relations Act 1979 currently prescribes high-level obligations and considerable discretion for the WAIRC to consider relevant matters and the manner by which it acts when exercising its general powers. For example, the IR act does not define how the WAIRC is or is not to consider the state of the national economy, the state of the economy of Western Australia or the capacity of an employer to pay. Rather, it requires the WAIRC to act according to equity, good conscience and the substantial merits of the case without regard to the technicalities or legal forms. Importantly, the WAIRC is not bound by any rules of evidence but may inform itself on any matter in such a way that it thinks fit. The bill does not change this general position; it simply provides greater guidance by clearly linking the matters to be considered by the WAIRC to the government’s wages policy, its financial strategy and, importantly, its financial position.

It has been argued that the commission is presently able to take such things into account, and that is true so far as it goes. Presently, section 26(1) prescribes that in the exercise of its jurisdiction under the Industrial Relations Act the commission shall, among other things, “take into consideration to the extent that it is relevant … the state of the economy of Western Australia” and “the capacity of employers as a whole or as an individual employer to pay wages, salaries, allowances or other remuneration and to bear the cost of improved or additional conditions of employment”. That is currently there. However, the greater specificity intended by the proposed amendment will ensure that the commission has before it the most relevant information on the state of the Western Australian economy and the capacity of employing agencies to pay extra or to bear the costs of improved or additional conditions. The commission will be obliged to have regard to these specific matters in addition to its broad discretion to consider other matters as part of its deliberations on the consequences of its decision-making. So what could possibly be objectionable about that? Nothing, if one looks at it; yet it has been built up into some kind of bogey that is somehow inappropriate in the changing of the rules of some game involving industrial relations.

The commission’s discretion to make a decision it thinks fit based on available evidence and taking into account the prescribed materials is preserved. How it takes that information into account, and the weight it affords it remains within its discretion. I ask again: what could be wrong with that? How would the shadow Treasurer, who made all sorts of comments on radio about how, if he were in government, his cabinet would keep wages under control, hope to ensure that his government’s wages policy were maintained if the ultimate arbiter had a discretion whether to even look at it? There is nothing unique; there is nothing unseemly about this approach. It is used in just about every penal statute or other act of Parliament that prescribes principles that a tribunal or any other decision-maker should take into account when discharging their function. We have it in just about every piece of legislation that comes before this house. That it has been so egregiously distorted by the opposition speaks for itself about the opposition’s approach towards this legislation and, more generally, towards WA taxpayers.
I turn now to the government’s wages policy. We have heard criticism of it, essentially, because it is uncompromising about the need to restrain wage increases into the foreseeable future, something I thought the shadow Treasurer would applaud but apparently he and his colleagues do not. Over the past year we have heard about significant increases above CPI that were implemented under the previous 2009 wages policy. When the government formulated and announced this current policy, it did so giving ample notice that it would take effect prospectively, not retrospectively. The prospective application of the policy enabled negotiations that were underway to be completed consistent with the policy current at the time of the commencement of those negotiations. It is also entirely reasonable and proper that the WAIRC is fully informed about the government’s wages policy and the consequences of it not being adhered to. Rather than speak about it in the abstract, if one were to actually read the wages policy paragraph by paragraph one would see that there is nothing objectionable in that either. The wages policy provides that increases in wages and associated conditions should be capped at the projected growth in the Perth-based consumer price index as published from time to time by the Department of Treasury. A policy is published in the Department of Commerce website as, indeed, is the Treasury methodology relating to forecasting the Perth consumer price index. The use of the Perth CPI is well established as a measure taken into account by the WAIRC in wage cases and that was confirmed as being so by the WAIRC in the 2010 state wage case, reaffirmed in the education assistants’ arbitration of the same year.

It has been suggested that the use of the Perth CPI as a benchmark across the public sector disadvantages employees in regional areas. The argument seems to go something like this: if some are disadvantaged by exceptional cost-of-living expenses in some regional areas, all public servants should receive a generous pay rise to a level that deals with that hardship no matter where they live. Of course, the use of the projected Perth CPI is not expected to have an impact on the real wages of employees in regional areas because the government recognises regional differences through a number of generous allowances and arrangements. For example, differences in the rate of price increases in regional areas compared to those in Perth are taken into account through agreed methodology for district allowance payments. Public sector employees are eligible for a range of entitlements, depending on their position, where they are located and the individual circumstances of the appointment; for example, whether the position was difficult to fill. These entitlements may include attraction and retention payments, locality allowances, moving allowances and additional leave and travel provisions. The main monetary allowance paid to regional employees is the district allowance, which is approximately 50 per cent funded through the royalties for regions program. The methodology for calculating the district allowance was developed and agreed between the government and public sector unions and was registered in the WAIRC in 2010. The intent is to keep district allowance rates as adequate compensation for current cost-of-living differences compared to those in Perth, not by high, uniform increases to wages. For example, teachers receive a range of allowances based on location, including for working at schools considered to be hard to staff. Teachers in hard-to-staff schools in the metropolitan area also receive allowances as incentives. Police officers receive a range of regional provisions in addition to district allowances and housing arrangements, including a locality allowance and a regional incentive scheme. As an aside, a comment was made about how police are a special case and require exemption from the wage restraint and controls to which every other person on the public payroll is subject. Their regional incentive scheme is an example of how they are an exception. The government accepts that police have a demanding responsibility and their pay and conditions reflect that comparative to other public officers here and nationally. The real value of their remuneration should be maintained and will be by reflecting CPI; it does not follow that their pay increases should be greater than CPI and greater than that of fellow public servants. The state government has also invested heavily to normalise the cost of living in regional areas, and this was and remains a key role of royalties for regions. As a result, the government considers its wage policy to be fair and reasonable. By linking public sector pay outcomes to projected increases in the Perth consumer price index, the government has ensured that the wages policy is responsive to movements in the forecasts and maintains real wages for Western Australian public sector employees.

Once again, when looking at the parameters for paid bargaining in other states, we see that the current CPI figure of 2.5 per cent compares favourably with that of most of the other states. As mentioned, WA public servants are the highest paid public servants at levels 1.1, 3.1 and 7.1 compared with their peers in other jurisdictions. Seasonally adjusted, the Australian Bureau of Statistics December 2013 wage price index records the average increase across Australia as 2.5 per cent for the private sector and 2.7 per cent for the public sector, whereas the increase in WA was about 3.7 per cent. As a matter of example, in Queensland, the state considered to be most closely aligned to WA’s circumstances, wage policy increases supplemented from consolidated funds are fixed at a maximum of 2.2 per cent and are unrelated to CPI and associated cost-of-living movements. An additional 0.3 per cent is available to bring the outcome to 2.5 per cent if the additional increase is funded internally from cashable offsets through departments and employing agencies. In WA, that same outcome is available without any trade-offs in conditions of employment. Who knows? Perhaps the unions and the opposition would prefer the Queensland approach.

On the matter of the financial position of the entity concerned and employing the particular public sector officers, proposed section 26(2A)(c) contained in clause 4 of the bill also requires the Western Australian
Industrial Relations Commission to take into consideration the financial position of the public sector entity. This reflects the priority of the government that the Industrial Relations Commission has a detailed understanding of the budget available to specific government agencies and the consequences for an agency of outcomes in excess of that budget. Section 29 of the Public Sector Management Act 1994 sets out the functions of chief executive officers, which include responsibility for the financial management of their agency. Further responsibilities are prescribed by the Financial Management Act 2006 and the Government Financial Responsibility Act 2000. As a matter of financial responsibility, agencies of government have to live within their budgets and, whatever the case has been in the past, they should never assume that supplementary funding will be provided by Treasury outside of the normal annual budget process. Likewise, the WAIRC ought to be formally aware of this expectation of government and not assume that any increase that is not budgeted for—that is, one in excess of CPI—will somehow be made good by the Western Australian people from some money somewhere else. The additional requirement is therefore consistent with the legislative framework regulating public sector–employing authorities and, I would have thought, consistent with the sentiments expressed by the member for Victoria Park, the opposition’s shadow Treasurer, about keeping control of wage growth in this state.

I turn now to the provisions of the bill dealing with the amendments to the Public Sector Management Act and the introduction of involuntary severance as an option. Importantly, and it has been said on many occasions, it will be used after all other options are exhausted—in other words, as a last resort. Voluntary severance is, of course, a useful mechanism available to government to manage surplus public sector staff, and voluntary severance or redeployment will continue to be the preferred options. However, the government has a responsibility to not only be mindful of the interests of its employees, but also, on behalf of the public, manage its workforce in the most efficient and cost-effective manner. Hence, the government seeks to add, as a last resort, the ability to cease to employ those staff who are excess to requirements and who cannot be provided with alternative duties or who are unresponsive to attempts to find for them duties that would benefit the public. It is wrong to assert, as some members have, that the Public Sector Management Act already allows for involuntary severance of surplus staff; it does not. Section 94(3)(e) of the Public Sector Management Act addresses only the setting of terms and conditions involving voluntary severance. There are no specific equivalent provisions dealing with involuntary severance, save in the context of a refusal to obey a lawful order when the disciplinary outcome will be dismissal pursuant to section 94(4) of the act. Furthermore, the act specifically envisages that there should be offers of suitable alternative employment, not involuntary severance. Currently under the act, employees can be only terminated for substandard performance or dismissed for disciplinary reasons, which can include refusing an offer of suitable alternative employment, for which redundancy payments are not available.

For the Governor to make regulations providing for involuntary severance, a clear power to do so needs to be found in or inserted into the act.

The bill does not alter the mechanisms or powers under the Public Sector Management Act or any other act for the government to determine the most effective and efficient structure and manner by which it delivers services. For example, the capacity under section 35 of the Public Sector Management Act to create, amalgamate, divide or abolish departments remains unaffected. The policy intent of those provisions of the bill relating to involuntary severance is to be able, after all other avenues have been considered and exhausted, to bring an end to the employment of those employees who are surplus to the requirements of their organisation or whose positions have been abolished and who cannot be found ongoing meaningful work in the public sector. The introduction of an involuntary severance option in this state can be considered to simply complete the suite of commonsense personnel-management tools that should be available to any employer, including government. The Public Sector Management Act already provides for the redeployment, retraining and redundancy of employees who are surplus to the requirements of their organisation or whose positions have been abolished. However, it does not provide for the termination of an employee when all efforts to find that employee a job elsewhere in the public sector have failed. One can understand why public sector unions do not like the concept; after all, they do everything in their power to look after the interests of their members. However, it is unfortunate that the opposition has plumped for such a narrow sectional interest rather than the broader public interest. We would still have, I suspect, nightsoil carters, farriers and blacksmiths on the public payroll in this state if one were to maintain the philosophy that is being promoted on behalf of the union movement. People for whom a useful job cannot be found cannot retrain, but have to be hung onto because there is no other way that they can be got rid of because their positions are no longer required.

Some members have suggested that the way to engineer the discharge of public servants excess to requirements is to use the current limited powers under the Public Sector Management Act. It has been suggested, for example, that an employee who is not wanted be directed into a job and then sacked if they refuse to accept the offer of alternative employment. It is an interesting morality. One can only wonder whether the unions concur with that as an ethical and preferable approach to getting rid of unnecessary public servants. However, the government does not accept that it should treat its employees in that fashion; rather, that would not be a fair or, indeed, lawful way of dealing with public servants for whom no positions can be found. For example, the Public Sector Management Act allows only for employees to be directed into a suitable office, post or position. If there
is no suitable job, no such direction can be given. The involuntary severance proposed in the bill will be an option of last resort, as I have mentioned, as the existing redeployment or retraining opportunities and voluntary severance will continue to be afforded at both the organisation level and across the wider state government sector.

The details of arrangements in Western Australia may differ from those in other states in the commonwealth, but all other jurisdictions have a legal capacity to terminate employment on the basis of an employee being surplus or redundant. Other jurisdictions generally rely on a head of power in the relevant statute, with operational arrangements to be set out in administrative instruments, rules, circulars, policies and the like. In New South Wales new arrangements have recently come into effect that to a large degree mirror what is proposed in Western Australia. Unlike in most other jurisdictions, redeployment and redundancy arrangements in the Western Australian public sector have also been administered by a combination of regulation, industrial instruments and public sector standard and policy guidelines. Regulations arising out of this bill, if enacted, will be the subject of consultation with relevant interest groups. The regulations will continue to make provisions for all matters currently covered and, of course, the arrangements apply in the event of involuntary severance.

Speculation has been raised about the number of public servants covered by this bill and it is true that there may be differences of opinion between government departments about how many it should be; I suppose that one would expect Treasury to have a rather more radical view than other departments. However, the existing redundancy arrangements apply to approximately 139,000 public sector employees, of whom, at 14 March this year, 75 were registered for redeployment with the Public Sector Commissioner, and these employees will be immediately affected. We have heard speculation about how low-income employees will be dispensed with and most affected by this bill. I will go into a few figures to indicate the demographic. Of these 75 employees, 35, or 47 per cent, have been registered for less than a year; 30, or 40 per cent, have been registered between one and four years; and 10, or 13 per cent, have been registered for redeployment for over four years. The figures are rounded up to the nearest whole, so if these figures are added up, they will not quite match 100 per cent. Of these 75 employees, one person has been registered for over six and a half years.

As I said, it has been claimed that the new power will discriminate against lower paid workers and that is then inevitably linked to the wholly unrelated debate about gender wage parity and the claim that it will somehow discriminate against low-paid women. The evidence, should the opposition be interested in it, suggests the contrary. It is true that of the 75 employees registered for redeployment to which I have referred, 44 per cent are men and 56 per cent are women; however, that means that 33 of them are men and 42 of them are women—only nine more women than men. Eleven of those 75 employees, or 15 per cent, fall within the $53,150 to $60,000 per annum salary range, based on 2013 annual rates—again, the figures are rounded up or down to the nearest integer; 22, or 30 per cent, fall within the $60,001 to $75,000 per annum salary range; eight, or 11 per cent, fall within the $75,001 to $90,000 per annum salary range; 20, or 27 per cent, fall within the $90,001 to $105,000 per annum salary range; nine, or 12 per cent, fall within the $105,001 to $130,000 per annum salary range; and five of the 75 employees, or seven per cent, fall within the over $130,000 per annum salary range. They are hardly the lowest paid in the public sector. To develop the thesis further, seven of the 75, or nine per cent of the total are level 1 officers; one, or one per cent of the total more or less, is a level 1 to 2 officer; three, or four per cent, are level 2 officers; 12, or 16 per cent, are level 3; 10, or 13 per cent, are level 4; eight, or 11 per cent, are level 5 officers; 20, or 27 per cent, are level 6 officers—we are getting into the middle management, not low-paid cleaning staff; nine, or 12 per cent, are level 7; four, or five per cent, are level 8; and one, or effectively one per cent of the total, is a level 10 officer.

It has been confidently asserted that proper management will be able to achieve the cessation of employment for these people. Presumably, if they cannot subtly, with the union’s cooperation, be found a job that they will rebel against so that they can be fired, there are other strategies to persuade them to provide useful service and value to the public who pays them while they occupy a full-time equivalent position and perhaps draw a salary. Perhaps I can provide a couple of examples. One example is that of a level 8 officer whose gender and agency I will not mention; I will call this person X for convenience. X earns between $121,625 and $132,105 per annum and was operating in a marketing and stakeholder management role with industry-specific experience and expertise. X had no performance or conduct issues that would warrant disciplinary action. The agency was restructured and it implemented a new business model that changed the focus of its operations and resulted in X’s position being abolished. Since that time the agency has been providing X with interim project work, but there has been little or no prospect of continuing work or of an internal transfer to another position. In 2012, X was registered for external redeployment elsewhere in the state public sector, some 18 months after the job had been abolished. X has been provided with direct case management support in an attempt to find alternative employment. During this period only three potential public sector placement opportunities have arisen for which X would be eligible for priority appointment without the need for a competitive assessment of merit and X has been referred for redeployment to those positions. Unfortunately, and notwithstanding the case management support provided, X has not been able to secure alternative employment. It would not be prudent for X to be directed into a position
X was not able to perform, and given the limited opportunities for someone of X’s specific experience and skills, it seems unlikely that X will be able to secure an alternative public sector position in the immediate future.

By way of another example, a level 6 officer, who I will call Y, went through a series of redeployment strategies including redeployment, referrals for assessment of suitability where possible matches exist, priority focus on external interim placements to broaden Y’s skill base and provide exposure to different work environments in other public sector agencies, canvassing targeted agencies offering Y as a funded resource, general approaches to larger agencies regarding the availability for funded placements, identification of possible retraining options, skill enhancement, annual redeployment action plans tailored to reflect Y’s circumstances and so on. Unfortunately, despite the significant effort and the no doubt significant cost to the public associated with the case management process—more than one would have available from any private employer—after six referrals in three and a half years, there was limited demand for Y’s skill profile at level 6, among other things, because of Y’s lack of computer literacy and contemporary skills in Y’s area of expertise. Therefore, Y is basically someone for whom a job cannot be found. Y cannot or will not be retrained, is excess to requirements and is being paid as a level 6 officer. One would expect that Y would participate in identified training options, but Y declined to participate.

This is the sort of arrangement that this bill seeks to discontinue. It will be effective in a variety of ways. It will place a greater onus on both the employer and the employee to be more active in managing these arrangements; it will give more incentive for the employee to take advantage of the generous opportunities provided to continue their employment; and it will provide an endpoint for the public service if the employee does not take advantage of them.

However, perhaps there is a better way. Perhaps, in looking at how best to balance the interests of employers against the rights of workers, we should take guidance from a union that is not lame and middle of the road—as Hon Stephen Dawson pointed out about the public sector unions—but is a true champion of labour ethos. Perhaps we should take guidance from a union that fights for its members, gives no quarter when faced with an employer that cribs on members’ rights, and is prepared to even break the law to promote its members’ narrow interests.

**Hon Sue Ellery:** This is your second reading summation, is it?

**Hon MICHAEL MISCHIN:** That is the CFMEU model.

**Hon Sue Ellery:** How is this your second reading summation?

**Hon MICHAEL MISCHIN:** The CFMEU model is to simply cut jobs, with redundancies linked to the fact that the union had fines imposed on it through the misconduct of its officials.

**Hon Sue Ellery:** If you want to go on for hours, that’s fine by me. But this is not a second reading reply. You are not replying to anyone.

**Hon MICHAEL MISCHIN:** It was just before Christmas, as I understand it, that the CFMEU model was imposed on its staff.

**Hon Sue Ellery:** Keep going!

**Hon MICHAEL MISCHIN:** I take it that Hon Sue Ellery is getting a little upset about this.

**Hon Sue Ellery:** You would not know a second reading reply speech if one stood up and hit you in the face!

**The ACTING PRESIDENT (Hon Liz Behjat):** Order!

**Hon MICHAEL MISCHIN:** I am not sure whether that is unparliamentary, but I will let it ride.

**The ACTING PRESIDENT:** Minister, perhaps you could just stay firmly on the point and direct all your points through the Chair and not across the chamber, please.

**Hon MICHAEL MISCHIN:** Yes, the CFMEU model. Perhaps we should try to impose that model. I am prepared to entertain any amendments that the opposition might want to put forward during the committee stage to implement the CFMEU model of dealing with redundancies. I notice that there has been no criticism of that union’s approach by the opposition, although there has been criticism of the very measured and sensible approach that is promoted in this bill. One can only wonder why.

**Hon Sue Ellery:** Can you tell me which bit of the second reading speeches you are responding to?

**Hon Donna Faragher:** What was said by Hon Peter Katsambanis.

**Hon MICHAEL MISCHIN:** Madam Acting President, I am prepared to indicate how it is relevant. A considerable amount was said, by Hon Stephen Dawson for a start, about how this bill demonstrated some kind of prejudice and hatred of public servants, and presumably workers generally. I am simply meeting that by saying that there is a fair bit of the pot calling the kettle black in this. The opposition has been talking about how
this bill is somehow unfair on a particular group of employees—a group of employees who have been provided with every opportunity, at the public expense, to have a job found for them if they are in excess of requirements; have been provided with every facility, at the public expense, to be retrained and redeployed; and have had everything done that can reasonably be done to find an end point to the process and remove them from the public service if they cannot be found some useful service to perform for the public. We have been criticised by the opposition for doing that, yet members opposite are oddly silent when the union movement takes a rather more robust, shall we say, approach to labour relations.

Hon Sue Ellery: Are we legislating about that? No.

Hon Michael Mischn: As I have said, I am looking forward to the amendments to introduce the CFMEU model.

I will now make a couple of points about the right to have redeployment and redundancy decisions reviewed. The bill in practical terms provides significant appeal access for public sector employees. Contrary to the information imparted by some members, the bill provides for all decisions relating to redeployment and redundancy to be reviewed by the WA Industrial Relations Commission. All affected employees will have a common right of access to the Industrial Relations Commission to challenge any decisions made under the regulations as those decisions occur, up to, but not including, the end point of a decision to terminate. Involuntary severance will occur only after an employee has exhausted all avenues of appeal or has chosen not to exercise appeal rights prior to termination of employment. For example, an employee identified under the new arrangement as registrable on the basis of being surplus to requirements can challenge the decision of their employer in the WAIRC if they believe they have been treated unfairly in that decision, and the Industrial Relations Commission can exercise its discretion to remedy that. Importantly, unlike other jurisdictions and, indeed, the public sector, the bill does not require employment to cease before these matters are addressed. In this way, the bill respects the interests of all employees concerned and treats their situation with fairness and due process. An employee who has reached the end of the process and been the subject of an involuntary severance decision will have the right to have the decision reviewed by the commission within a specified period of time. However, the commission will be confined to determining whether the employee has been provided with the benefits to which he or she is entitled under the regulations. Given the extensive capacity to have intermediate decisions reviewed prior to termination, there is no warrant for those decisions to be again the subject of review once the decision has been made to terminate employment. So there is no second bite at the cherry, so to speak, and the commission will not have the jurisdiction to reinstate or otherwise compensate the employee.

A question has been raised regarding existing contracts of employment or industrial instruments that would be overridden by this bill. The committee recommends that during the second reading debate on the bill, I advise the Legislative Council on the government’s position on the suggestion that there be transitional provisions for prospective arrangements. As a matter of policy, the government has determined that inconsistent provisions in industrial instruments relating to redeployment or redundancy should be overridden by this legislation. This will apply to current contracts of employment and to those entered into after the regulations take effect. Following the decision to draft the bill, the Department of Commerce liaised with the Public Sector Commission on a range of matters, including the issue of transition, in respect of existing industrial arrangements that would be inconsistent with the provisions intended by the bill. Given the government’s policy position and the difficulty of drafting transitional arrangements, specific options were not canvassed. In that regard, it is not uncommon for laws passed by Parliament to change the conditions of employment as a matter of policy. Indeed, the Labor government has been doing that over the last several years federally, the issue of broad-banding being another example.

The bill has been drafted in such a way that termination of employment can occur only if an employee is registered for redeployment. It will be only after registration that involuntary severance may be an outcome; and, as such, it will be a decision of the employing authority to seek to register an eligible employee. It would be open, of course, for a future government, by way of policy, to advise employing authorities not to seek to register a registrable employee with contractual or industrial conditions that differ from the redeployment and redundancy provisions. The government’s policy is to provide an arrangement under which all employees receive equal treatment under its redeployment and redundancy framework, and no legal uncertainty arises from inconsistent industrial instruments or contracts of employment. The precedence of the bill over other inconsistent arrangements can be regarded as an extension of the existing mechanism whereby section 95 of the Public Sector Management Act currently provides for redeployment and redundancy regulations to override any award or order under the Industrial Relations Act 1979. The bill effectively reinstates the restriction under the former section 99 of the Public Sector Management Act, which was repealed in 2010, and which excluded, among other things, such other matters concerning the management or structure of the public sector as could be prescribed by regulation, thus preventing matters of redeployment and redundancy from being the subject of industrial agreements. Indeed, sections 51 and 52 of the Queensland Public Service Act 2008 have the same effect as clause 14; namely, if an industrial instrument or contract of employment is inconsistent with the act or
subordinate legislation, the act or subordinate legislation prevails to the extent of the inconsistency. Clause 14 has been tailored to meet the complexities and composition of the WA industrial relations system, and it should not be presumed that provisions in contracts or industrial agreements will be more generous than those provided for by the bill.

We have heard a lot about the unfairness of all of this. I suppose there is another way we could have gone about trying to achieve wage restraint. We could have simply legislated to impose a cap arbitrarily on the wages of all public sector employees, or perhaps only on those over a certain level; we could have taken away the jurisdiction of the Industrial Relations Commission with regard to arbitration; and we could have prescribed that any contract or agreement that is contrary to or circumvents the cap is invalid. That is in fact what a Labor government did.

The Temporary Reduction of Remuneration (Senior Public Officers) Act 1983 provided the model for that approach. One of the first acts of the then Burke Labor government was to impose a cap on salaries over $29,500, to deny the Industrial Relations Commission of the day any jurisdiction to deal with it and to deny any possibility of a pay increase for salaries over that cap. Perhaps amendments might be proposed to introduce that scheme, given that the ALP back in that day thought it was such a great idea and showed its love of public servants.

Two issues concerning Henry VIII clauses have been raised. The first is in relation to commissioner’s instructions and the view that such instructions may override provisions of the Public Sector Management Act. The second relates to the provision that allows regulations to override, to the extent of any inconsistency, any other provisions of the act, other than sections 7, 8 or 9. The government accepts the undesirability of subsidiary legislation overriding parliamentary enactments; however, there is a trend, about which I have commented in the past, that any power to enact regulations is somehow regarded as suspect. Some simplistic views have been expressed about the width of regulation-making powers. However, in respect of this bill, proposed sections 94(2A)(b) and 95A(4) which deal with the Public Sector Commissioner’s instructions proposed to be inserted by clauses 13 and 14 of the bill are not, in the government’s view, Henry VIII clauses because they merely enable purely machinery arrangements to be implemented within the parameters set by the Public Sector Management Act. They do not authorise the Public Sector Commissioner to issue instructions inconsistent with the Public Sector Management Act and the commissioner’s instructions cannot amend the Public Sector Management Act. Sections 22A(2) and 108(2) of the Public Sector Management Act expressly prevent that happening. They are not, therefore, considered to undermine Parliament’s sovereignty in determining the policy and scope of the Public Sector Management Act. Proposed new section 95B(2) simply replaces and repeats in material terms section 95(1), which was the subject of no objection from the Parliament that passed the provision in 1994. It has operated for over 20 years without any complaint from successive Parliaments. Nevertheless, we will address that issue.

The government appreciates the recommendations of the Standing Committee on Legislation and it will move amendments to the bill consistent with its policy. They will be drafted in a manner that will properly reflect the current provisions of the legislation and will also, to the extent that it is consistent with government policy, reflect and respect the views of the standing committee.

With respect to the obligations of the Industrial Relations Commission, the government will move amendments during the Committee of the Whole stage to ensure greater clarity is provided to the industrial commission on the matters it is to take into consideration when making public sector decisions. Importantly, in moving the amendments, the government is seeking to ensure that the independence of the commission is not compromised in fact or by implication. Unfortunately, the committee’s redrafted clause proposes reliance on government submissions alone, which is not wholly acceptable, and it will ensure that a more specific direction is provided as to the documentation associated with consideration of the financial position of a public sector entity to reduce the likelihood of appeals and reviews that were commented on by the committee.

The government has considered the amendments proposed by the committee to clause 4 of the bill, which amends section 26 of the act, and, in particular, it has taken into account what the report has said about the independence of the commission, as I mentioned, and the potential for review. It will maintain the thrust of the clause the committee has already considered and determine that it does not affect the independence of the commission, but it will make more specific the material that the commission is to rely on.

The government will also move similar amendments to clause 19 of the bill, which deals with the Salaries and Allowances Tribunal’s determinations. With regard to Henry VIII clauses, the government supports the bill being amended to deal with the committee’s concerns about commissioner’s instructions. However the government’s view is that the recommendation of the legislation committee as drafted is unsatisfactory. In order to ensure consistency with government policy and to provide comfort about the operations of the commissioner’s instructions, the government will move an amendment to delete those references in clauses 13 and 14.

I have already said that proposed section 95B(2) simply replaces and repeats the existing section 95(1). Notwithstanding that, the government appreciates the concerns expressed by the standing committee and it will be moving amendments to delete the reference in proposed section 95B to regulations prevailing over
inconsistent provisions in the act. The government considers sufficient safeguards will remain to ensure that the redeployment and redundancy arrangements are binding on relevant parties and, in that regard, members will note that the amendments will provide for part 6 of the act to prevail in the event of inconsistencies arising. That should remove any doubt, for example, that the commissioner may direct the employment of surplus employees, notwithstanding any broad discretionary powers residing in chief executive officers and employing authorities under the act to manage their staff and their agencies.

Further demonstrating its confidence in the fairness and soundness of the involuntary severance regime, the government will move an amendment to ensure that the minister must cause a review of the operation and effectiveness of part 6 of the Public Sector Management Act to be carried out as soon as practicable four years after clause 15 of the Workforce Reform Bill 2013 comes into operation. That will ensure proper scrutiny of the new redeployment and redundancy arrangements applicable to the Western Australian public sector.

Lastly, recommendation 1 of the legislation committee asks that consideration be given to amending commissioner’s circular 2010–03, “Policy for Public Sector Witnesses Appearing Before Parliamentary Committees”. The government proposes that the commissioner’s circular be amended to refer readers to the advice provided by the Legislative Council. The Public Sector Commissioner’s Circular 2010–03 sets out the commission’s policy for public sector witnesses appearing before parliamentary committees. It provides short and general guidelines to assist public officers with particular reference to the powers of such committees and obligations and entitlements of public sector officers dealing with or appearing before parliamentary committees. The circular is based largely on 1987 guidelines issued by the then Premier in Premier’s Circular 1987/07 to avoid repetition and potential inconsistency with future possible changes made to the Legislative Council’s advice. In keeping with the short and general nature of the guidelines attached to the commissioner’s circular, it is proposed that the commissioner’s circular refer readers to the advice provided by the Legislative Council.

That concludes my reply on the diverse matters raised by the opposition and the Greens about the bill. I now commend the bill to the house and urge that it be read a second time.

Division

Question put and a division taken with the following result —

Ayes (16)

Hon Martin Aldridge
Hon Peter Collier
Hon Robyn McSweeney
Hon Liz Behjat
Hon Peter Collier
Hon Michael Mischnin
Hon Jacqui Boydell
Hon Mark Lewis
Hon Helen Morton
Hon Jim Chown
Hon Rick Mazza
Hon Phil Edman (Teller)

Noes (8)

Hon Ken Travers
Hon Alanna Clohesy
Hon Susan Ellery
Hon Samantha Rowe (Teller)

Pairs

Hon Simon O’Brien
Hon Sally Talbot
Hon Ken Baston
Hon Stephen Dawson
Hon Alyssa Hayden
Hon Lynn MacLaren
Hon Donna Faragher
Hon Darren West
Hon Brian Ellis
Hon Adele Farina

Question thus passed.

Bill read a second time.

[Interruption.]

The PRESIDENT: I will pretend I had bad hearing there for a minute, but it cannot happen again.

QUESTIONS WITHOUT NOTICE

DEPARTMENT OF EDUCATION — BUDGET

296. Hon SUE ELLERY to the Minister for Education:

I refer to rallies across the state today by school staff and parents in protest at funding cuts that the minister made to public schools. Will the minister now concede that the cuts are too deep and it is time to fix the damage he has caused?

Hon PETER COLLIER replied:

I will make some comments about the strike today. I do not support the strike. To start with, the strike is unlawful. I thought it was unnecessary and unwarranted. As I have said over and over again, we well resource our schools in Western Australia. They are the best resourced of any state in the nation. The State School
Teachers’ Union of WA, along with two other unions and the Save Our Schools organisation, decided to strike. They in fact were very intent on ensuring that they would make as much disruption as they possibly could to the half-senate election, which is what occurred today. That is exactly what occurred.

Several members interjected.

The PRESIDENT: Order, members!

Hon Ljiljanna Ravlich: Sorry!

The PRESIDENT: In this case it was not Hon Ljiljanna Ravlich I was referring to; it was actually to a couple of other members wandering around the chamber.

Hon PETER COLLIER: I have a pretty good working relationship with the union, I have to say. I work with members of the union quite cooperatively but in this instance they have got it wrong. They should not strike on an issue like this, particularly prior to a federal election. It is exactly what happened in September when all the Labor luminaries were out there on the steps of Parliament House, including Bill Shorten. I wonder whether Bill rocked up today.

Several members interjected.

Hon PETER COLLIER: Did he? Right; Bill Shorten rocked up today.

Several members interjected.

The PRESIDENT: Order, members! The question has been asked and the answer is being given. Members may not like the answer but it is the answer of the minister. Members have to give the minister the opportunity to provide the answer.

Hon PETER COLLIER: Thank you very much, Mr President.

To get to the point at hand, the union decided quite legitimately to survey the teachers, the principals and the parents of Western Australia about their thoughts on education in Western Australia. The union then intended to work on its response once it got the results of the survey. The survey was due to be returned to the union on 28 March. Interestingly enough, the union called the strike three weeks ago before the results of the survey. I am not surprised that the union did that because the survey is quite enlightening. It refers to surveying schools, principals, teachers and parents.

Several members interjected.

The PRESIDENT: Order, members! Standing order 106 says that answers to questions must be concise and relevant, but I also have to take into consideration the opportunity that a minister answering a question has to actually answer the question. It has already been about three minutes by my reckoning, but only about one and a half minutes of those would be classified as effective time.

Hon PETER COLLIER: Precisely, Mr President. I would like to finish my comments, and I will very shortly, to give members an opportunity for further questions. The question was asked and this is the response I am giving.

The survey asked teachers, principals and the public what they thought about education budget cuts, both generally and specifically, in relation to class sizes. I will quote directly from the survey. The survey sent to teachers elicited a response from 636 participants—that is, from all teachers across the state; the principals’ survey elicited a response from 23 participants; and the parent–carer survey —

Hon Sue Ellery: What about the 400 who signed the letter?

Hon PETER COLLIER: Do you mind? Did the Leader of the Opposition hear the President?

The PRESIDENT: Order! Leader of the Opposition, let the minister provide the answer to your question.

Hon PETER COLLIER: The parent–carer survey had 25 participants. All up, that is 636 teacher participants out of a workforce of 21 000; 23 principal participants out of a total of 800; and 25 parent participants out of a total of what—600 000 parents? My point in identifying those issues in the survey is that perhaps there were other motives for the strike. If they really did take heed of the minuscule responses to the survey, they might have had second thoughts. I have said consistently that I appreciate that schools have had to tighten their belts this term. Having said that, we are talking about a 1.5 per cent on average cash resource reduction for each school. Our schools remain the highest resourced of any schools of any state in the nation and our teachers remain the highest paid teachers of any state in the nation.

PREMIER’S OFFICE — STAFF INTERVIEWS

297. Hon SUE ELLERY to the Leader of the House representing the Premier:

I refer to a report on Saturday, 22 March 2014 in The West Australian that the Department of the Premier and Cabinet has interviewed key staff in the Premier’s office.
(1) Has an inquiry been established under the Public Sector Management Act; and, if so, under what section and what are the terms of reference?

(2) Who conducted the interviews?

(3) Who was interviewed and where did these interviews take place?

(4) What was the subject of the interviews?

(5) Has the department also interviewed anyone outside the Premier’s office; and, if so, what are the details, as asked in (1) to (3), of those interviews?

Hon PETER COLLIER replied:

I thank the honourable member for some notice of this question. The Department of the Premier and Cabinet advises —

(1) Public sector chief executive officers have a responsibility under the Public Sector Management Act 1994 to manage and direct their employees. In this capacity the director general of the Department of the Premier and Cabinet has caused preliminary inquiries to be made to determine whether any employees may have been involved in misconduct.

(2) The preliminary inquiries were conducted by a senior departmental officer with experience in conducting these types of matters.

(3) Having regard for privacy issues, it is not appropriate to reveal personal details. However, the inquiries included all persons whom the inquirer considered could reasonably provide relevant information.

(4) The matter involved the actions of departmental officers arising from events on 22 and 23 February 2014.

(5) Other public sector officers were involved in the conduct of the preliminary inquiries, but it is not appropriate to identify them.

CABINET RESHUFFLE — COSTS

298. Hon KATE DOUST to the Leader of the House representing the Premier:

I refer to the cabinet reshuffle resulting from the former Treasurer’s resignation.

(1) What was the total cost of the reshuffle?

(2) What is the breakdown of that total in terms of —

   (a) redundancy payouts, including —

      (i) the number of officers;

      (ii) the ministerial offices they came from; and

      (iii) the individual amounts paid;

   (b) office relocations; and

   (c) other costs—please specify?

Hon PETER COLLIER replied:

The Department of the Premier and Cabinet advises that it is not possible to provide the information in the time required. I therefore ask the honourable member to place this question on notice.

MEMBER FOR VASSE — ROAD TRAFFIC INCIDENT

299. Hon KEN TRAVERS to the Leader of the House representing the Premier:

I refer to the former Treasurer’s ministerial vehicle.

(1) Where is the vehicle currently located?

(2) Has the vehicle been repaired; and, if so —

   (a) what company undertook the repairs;

   (b) what was the total cost;

   (c) who paid for the repairs; and,

   (d) was an insurance excess applicable; and, if so, how much?

(3) If no to (2), has the vehicle been assessed and repair costs estimated; and, if so —

   (a) who did the assessment and estimate;

   (b) what is the estimated cost of repairs including any insurance excess; and,
(c) what company will undertake the repairs?
(4) If no to (2) or (3), will the vehicle be written off?

Hon PETER COLLIER replied:

The Department of the Premier and Cabinet advises —

(1)–(4) The former Treasurer’s ministerial vehicle remains in the hands of the Western Australia Police as part of its investigation into the incident on the weekend of 22 and 23 February 2014.

DEPARTMENT OF EDUCATION — MISCONDUCT ALLEGATIONS

300. Hon LJILJANNA RAVLICH to the Minister for Education:

I refer to the minister’s response to question without notice 130 asked in the Legislative Council on 11 June 2013 that shows that 120 child protection allegations under central management in 2011–12 were referred to the Corruption and Crime Commission.

(1) When were these 120 cases referred to the Corruption and Crime Commission; and, what has happened to these cases since they were referred?
(2) Did the Department of Education notify the parents of the children concerned about the referral of the cases to the CCC; and, if not, why not?
(3) If yes to (2), by what means were parents notified?
(4) Has the department received a report or reports from the CCC on any investigation surrounding these 120 child protection allegations; and, if not, what has the department done about it?

Hon PETER COLLIER replied:

(1) Reports are made to the Corruption and Crime Commission under section 28 of the Corruption and Crime Commission Act 2003 as soon as an initial assessment is made that the matter may be misconduct. Each case is then allocated to a Department of Education investigator to complete an investigation.
(2) Formal advice of referrals to the CCC is not routinely provided to parents at the time the referral is made. However, during the course of any subsequent investigation, department investigators would generally discuss the matter with parents and advise whether the matter has been referred to external agencies, such as the Corruption and Crime Commission and Western Australia Police.
(3) Discussions with parents can be in person, by telephone or in writing.
(4) Pursuant to sections 33(1)(c) and 37 of the Corruption and Crime Commission Act 2003, the CCC referred each of these matters back to the department to address and requested a report from the department under sections 40 and 41 of the Corruption and Crime Commission Act 2003.

HARLEQUIN MINE — PROHIBITION NOTICES

301. Hon ROBIN CHAPPLE to the minister representing the Minister for Mines and Petroleum:

I refer to question without notice 198 regarding the Harlequin mine and the new Sir Major decline.

(1) Will the minister table the prohibition notices issued by Inspector Jan De Lange on 16 February 2014 and 18 February 2014?
(2) If no to (1), why not?
(3) Will the minister table improvement notice IC 18111?
(4) If no to (3), why not?

Hon KEN BASTON replied:

The Department of Mines and Petroleum advises —

(1) Yes. I table the requested information.
(2) Not applicable.
(3) Yes. I table the requested information.
(4) Not applicable.

[See paper 1354.]
KENWICK TRAIN STATION — UPGRADES

302. Hon SAMANTHA ROWE to the parliamentary secretary representing the Minister for Transport:

I refer to question without notice 235 and the suggestion that commuters who usually use the train service from Kenwick could access bus routes 220 and 229 as alternatives to connect them to the city during the closure period.

(1) Does bus route 229 take commuters to the city?
(2) If not, what other public transport services are available to commuters needing to reach the city?
(3) What time does the last bus on route 220 leave the city in the afternoon/evening?
(4) What arrangements have been put in place for people who leave the city after the time of the last route 220 bus service?

Hon JIM CHOWN replied:

(1) No.
(2) Passengers residing in the Kenwick station catchment can use the 229 Transperth bus service on Kenwick Road and Wannaping Road to travel to Cannington station and then transfer to a train to the city. Alternatively, they can use the 220 Transperth bus service on Albany Highway, which terminates at Esplanade Bus Station.
(3) The last bus leaves at 6.35 pm.
(4) None.

MORLEY POLICE STATION — UPGRADE

303. Hon AMBER-JADE SANDERSON to the Attorney General representing the Minister for Police:

I refer to the upgrade to the Morley Police Station as part of the west metropolitan accommodation upgrade program.

(1) Of the $11.7 million allocated to the program, how much has been allocated to upgrade the Morley Police Station?
(2) Which police stations has the government already committed to upgrade as part of the program?
(3) What is the current capacity of the Morley Police Station?
(4) Is the minister willing to provide any information on the “bad tender” for the program; and, if so —
   (a) what was the value of the original tender for the program and why was it rejected; and,
   (b) what is the value of the re-tender for the program and has the new tender process been finalised?
(5) If the minister is not willing to provide any information on the “bad tender” for the program, why not?

Hon MICHAEL MISCHIN replied:

On behalf of the Minister for Police I thank the honourable member for some notice of this question.

(1) A sum of $2.226 million.
(2) The Warwick, Mirrabooka, Morley and Scarborough Police Stations, and the west metropolitan district office relocation and fit-out.
(3) There is capacity to accommodate up to 41 FTE.
(4) Yes.
   (a) An adverse tender result in excess of $1.8 million over the original tender estimate was received. At that stage, the Department of Finance did not consider this to be value for money.
   (b) Following a review of the cost plan by the quantity surveyor, the value of the re-tender was $11.449 million. The tender has been awarded, with staged construction underway.
(5) Not applicable.

QUADRIPLEGIC CENTRE

304. Hon ALANNA CLOHESY to the parliamentary secretary representing the Minister for Health:

I refer the minister to the Quadriplegic Centre annual report for 2012–13, and specifically its statement that the centre’s accommodation assets had long ago reached the end of their effective economic life and, in some respects, safe use.
(1) Has the government given a commitment to replace vital equipment and to refurbish this facility; and, if so, when will it be replaced?
(2) If no to (1), why not?

Hon DONNA FARAGHER replied:
On behalf of the parliamentary secretary representing the Minister for Health, I thank the member for some notice of this question. The following information has been provided by the Minister for Health.
(1) No.
(2) A business case for the replacement of the Quadriplegic Centre is currently being prepared and is expected to be finalised at the end of June 2014.

SCHOOLS — SEMESTER 1 ENROLMENTS

305. Hon SUE ELLERY to the Minister for Education:
What was the 2014 first semester census enrolment at Western Australian public schools?

Hon PETER COLLIER replied:
I thank the honourable member for some notice of this question. There were 283,739 full-time students as at the semester 1, 2014 student census.

BURU ENERGY — YULLEROO 3 AND 4 WELLS

306. Hon ROBIN CHAPPLE to the minister representing the Minister for Mines and Petroleum:
I refer to question on notice 760, asked in the Legislative Council on 20 February 2014.
(1) Was the answer to question (a) incorrect, given that all ponds had overtopped in the week preceding, when the photos were taken, and the ponds had been drained as per the answer to question (e), and that it had rained consistently up until the time the photos were taken?
(2) Given that the answer to question (c) indicates that it was not permissible for the fluid to have escaped from the lined dam, will the minister table the conditions that prescribe this, and indicate what action the minister will take against Buru Energy Ltd for having failed to comply with this requirement?
(3) If no to (2), why not?
(4) With respect to (2), was Buru prosecuted or issued an infringement notice for this breach?
(5) If yes to any part of (4), will the minister table either the prosecution or the infringement notice?
(6) If no to any part of either (4) or (5), why not?

Hon KEN BASTON replied:
I thank the honourable member for some notice of this question. The Department of Mines and Petroleum has provided the following advice.
(1) No.
(2) Commitments within environment plans are confidential under the provisions of the Petroleum and Geothermal Energy Resources Act 1967. There was no action taken against Buru for the April 2013 incident, due to this incident being considered insignificant and causing no environmental damage.
(3)–(4) See answer to (2).
(5)–(6) Not applicable.

LAW REFORM COMMISSION OF WESTERN AUSTRALIA — ANNUAL REPORT

307. Hon KATE DOUST to the Attorney General:
I refer to a paragraph in the Law Reform Commission of Western Australia’s annual report 2012–13, page 16, under the heading “Significant Issues Impacting the Agency”, which states, in part, “A reduction in funding in 2014–15 may have a significant impact on the Commission’s ability to undertake any future references.” What provision, if any, is to be made for the commission to carry out its non-administrative, substantive functions during 2014–15 and beyond?

Hon MICHAEL MISCHIN replied:
I thank the honourable member for the question.
I do not have in front of me precisely what the report had to say, but it has been no secret that, from the coming financial year, the administrative functions that are performed by the Law Reform Commission will be absorbed and carried out by the Department of the Attorney General, along with —
Hon Kate Doust: I’m asking about its non-administrative functions and substantive functions.

Hon MICHAEL MISCHIN: Sorry, Mr President; can I get to it—support functions. There is currently a cash reserve in the Law Reform Commission that can be applied to terms of reference; any other terms of reference will be funded out of either budget allocations or by specific allocations as the need arises. I am not aware of any problems so far being expressed that affect any current or anticipated terms of reference.

FREMANTLE RAILWAY LINE — OVERHEAD WIRE

308. Hon KEN TRAVERS to the parliamentary secretary representing the Minister for Transport:

I refer to the incident on 24 March 2014 involving an overhead wire on the Fremantle line.

(1) Has the cause of the incident been identified; and, if yes, what was it?

(2) If no to (1), what investigations are being undertaken to identify the cause?

(3) Were there any issues or concerns with any aspect of the overhead wiring on the Fremantle line prior to this incident occurring?

Hon JIM CHOWN replied:

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

(1) No.

(2) A full investigation into the cause of the incident is being conducted by the Public Transport Authority, as is normal practice and in accordance with directives of the Office of Rail Safety.

(3) No specific issue, noting that the PTA has overhead teams doing maintenance on each line on a continuous basis and equipment is replaced when required.

KENWICK TRAIN STATION — UPGRADES

309. Hon SAMANTHA ROWE to the parliamentary secretary representing the Minister for Transport:

I refer to question without notice 235 and the suggestion that commuters who usually use the train service from Kenwick could access Park ‘n’ Ride facilities at nearby adjoining train stations during the closure period.

(1) At the Maddington station Park ‘n’ Ride facility, is it usual for there to be vacant car parks between 7.00 am and 9.00 am?

(2) At the Beckenham station Park ‘n’ Ride facility, is it usual for there to be vacant car parks between 7.00 am and 9.00 am?

(3) Are there sufficient Park ‘n’ Ride facilities at train stations adjoining Kenwick to cope with additional cars?

Hon JIM CHOWN replied:

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

(1) The Public Transport Authority undertook a survey of car parking availability across the network last month and on average found that the Maddington station car parking facilities were generally full by 7.30 am.

(2) The same survey found that the car parking availability at Beckenham station is generally full by 10.00 am.

(3) Given that the car parking availability is limited at adjoining stations, as it is across the public transport network, the PTA recommends that during the closure of Kenwick station, passengers utilise Transperth bus route 220 from Albany Highway and 229 from Kenwick Road and Wanaping Road, which connect with the Esplanade bus station and Cannington station respectively.

MIDLAND HEALTH CAMPUS — RESTRICTED SERVICES CLINIC

310. Hon AMBER-JADE SANDERSON to the parliamentary secretary representing the Minister for Health:

I refer to the restricted services clinic at Midland Health Campus. How much land will be excised to build the clinic next to the Midland Health Campus?

Hon DONNA FARAGHER replied:

On behalf of the parliamentary secretary representing the Minister for Health, I thank the member for some notice of this question.
The decision regarding the size of the land excision on the Midland health clinic is yet to be made and will be dependent upon the proposed facility requirements.

**TAXIS — MULTIPURPOSE TAXI JOBS**

311. **Hon ALANNA CLOHESY** to the parliamentary secretary representing the Minister for Transport:

(1) What are the statistics for multipurpose taxi jobs not covered for inner and middle suburbs in each month of —
   (a) 2011–12; and
   (b) 2012–13?

(2) What are the statistics for multipurpose taxi jobs not covered for outer suburbs in each month of —
   (a) 2011–12; and
   (b) 2012–13?

(3) What are the statistics for total multipurpose taxi jobs not covered for metro in each month of —
   (a) 2011–12; and
   (b) 2012–13?

**Hon JIM CHOWN** replied:

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

It is not possible to provide the information in the time available and I request that the member place the question on notice.

**BURU ENERGY — YULLEROO 3 AND 4 WELLS**

312. **Hon ROBIN CHAPPLE** to the minister representing the Minister for Water:

I refer to question on notice 760 asked in the Legislative Council on 20 February 2014.

(1) What role does the Department of Water have in relation to events and breaches described in this question and answer?

(2) If the answer to (1) is none, why not?

(3) Was the DOW made aware of the breaches in 2013 and 2014; and, if so, by whom and on what dates?

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

(5) What action will the DOW take to ensure that wastewater, drill cuttings, drill fluid and cement from these ponds do not contaminate any standing water in the region?

(6) Has Buru Energy Ltd beached any standards, licences, conditions or requirements of the DOW?

(7) If yes to (6), what action will the minister or his department take against Buru on these matters?

(8) If yes to (6) but no to (7), why not?

**Hon KEN BASTON** replied:

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

(1) None.

(2) Oil and gas exploration and production is regulated by the Department of Mines and Petroleum under the Petroleum and Geothermal and Energy Resources Act 1967. Environmental pollution is regulated by the Department of Environment Regulation under the Environmental Protection Act 1986.

(3) No.

(4) See response to (2).

(5) None. Monitoring for the purposes of detection of contaminates and drilling fluids around drill sites is regulated by the Department of Mines and Petroleum.

(6) No.

(7)–(8) Not applicable.

**DEPARTMENT OF EDUCATION — BUDGET — SALARIES COMPONENT**

313. **Hon SUE ELLERY** to the Minister for Education:

(1) What is the associated employment on-costs for the salary increases by award and additional forecast school-based staff?
(2) How much of the budget supplementation of $40 million for 2012–13 is for salary expenditure growth, inclusive of on-costs?

Hon PETER COLLIER replied:
I thank the honourable member for some notice of this question.
I cannot provide the information today, but I will definitely provide it tomorrow. I apologise for that, but I have been rather busy today.

DEPARTMENT OF THE ATTORNEY GENERAL — CONTRACTUAL COMMITMENTS

314. Hon KEN TRAVERS to the Attorney General:
I refer to the Attorney General’s answer to question without notice 95.
(1) Why did the Department of the Attorney General seek additional funding from the Economic and Expenditure Reform Committee if it had sufficient internal resources for the contracts?
(2) What activities does the Department of the Attorney General intend to cancel, defer or in any way change to fund the activities?

Hon MICHAEL MISCHIN replied:
I thank the honourable member for some notice of the question.
(1) The department did not have a specific budget allocation for the additional costs, hence the submission to the Economic and Expenditure Reform Committee seeking the committee’s determination on appropriate funding, as is normally the case.
(2) The department is making every effort for programs to be funded from existing resources through other efficiencies and savings. Services to the public will be unaffected.

INTERNATIONAL TRADE OFFICES

315. Hon KATE DOUST to the Leader of the House representing the Premier:
(1) Can the Premier confirm that all international state trade offices report directly to the Department of State Development?
(2) If no to (1), to which department does every single Western Australian trade office report directly?

Hon PETER COLLIER replied:
I thank the honourable member for some notice of the question.
(1)–(2) The International Trade and Investment Offices in Jakarta, Singapore, Shanghai, Hangzhou, Mumbai and Seoul report to the Department of State Development, while offices in London, Kobe, Tokyo, Dubai and Nairobi—through Dubai—report to the Department of the Premier and Cabinet.

SOUTH METROPOLITAN HEALTH SERVICE — OPERATING COSTS

316. Hon SUE ELLERY to the parliamentary secretary representing the Minister for Health:
I refer to page 40 of the 2013–14 Government Mid-Year Financial Projections Statement which states that the operating costs of the reconfigured South Metropolitan Health Service were unknown and remain a significant risk.
(1) Since the publication of the 2013–14 Mid-Year Financial Projections Statement, has the Minister for Health established the full operating costs of the South Metropolitan Health Service?
(2) If no to (1), why not?
(3) When will the minister know the actual impact of the operating costs of the South Metropolitan Health Service?

Hon DONNA FARAGHER replied:
On behalf of the parliamentary secretary representing the Minister for Health, I thank the member for some notice of this question. The following information has been provided to me by the Minister for Health.
(1)–(3) I refer the honourable member to the response provided to question without notice 241 in the Legislative Council on 19 March 2014.
BURU ENERGY – YULLEROO 3 AND 4 WELLS

317. Hon ROBIN CHAPPLE to the minister representing the Minister for Mines and Petroleum:
I refer to question on notice 760 asked in the Legislative Council on 20 March 2014.

(1) Regarding the answer to (c)(iii), on what date in May 2013 did Buru make modifications to ensure that there will be no further overflow?
(2) Regarding answer to (c)(iii), what was the actual date in April 2013 that the department was advised of this initial event?
(3) Regarding answers to (c)(iii) and (1) and (2) above, on what date was the department advised of the overtopping event that occurred in early February 2014?
(4) If the department was not informed of the overtopping in 2014, why not?
(5) Has the department visited the sites since the flooding events of February 2014?
(6) If no to (5), why not?
(7) If yes to (5), will the minister table the inspector’s report?
(8) If no to (7), why not?

Hon KEN BASTON replied:
I thank the honourable member for some notice of the question.

The Department of Mines and Petroleum advises as follows —

(1) The department is unaware of the exact date the modifications were made.
(2) The department is unaware of the exact date the modifications were made.
(3) The department is unaware of an overtopping event in early February 2014.
(4) The department is not prepared to speculate.
(5) No.
(6) The department has no reason to vary its planned inspection schedule.
(7)–(8) Not applicable.

MIDLAND HEALTH CAMPUS – RESTRICTED SERVICES CLINIC

318. Hon AMBER-JADE SANDERSON to the parliamentary secretary representing the Minister for Health:
I refer to the restricted services clinic at Midland Health Campus. The market sounding brief outlined significant access issues to the clinic, including issues resulting from the Lloyd Street redevelopment, that access via Cowie Close will require agreement from St John of God Health Care, and there are potential problems in using Clayton Road to access the clinic. What steps is the government taking to ensure there will be proper public access to the clinic?

Hon DONNA FARAGHER replied:
On behalf of the parliamentary secretary representing the Minister for Health, I thank the member for some notice of this question. The following information has been provided to me by the Minister for Health.

The government will take all available steps to ensure that the proposed facility has sufficient and adequate vehicle and pedestrian access for its clients. The facility access issues can be considered only once the facility design has commenced.

PUBLIC TRANSPORT PLAN – RELEASE DATE

319. Hon KEN TRAVERS to the parliamentary secretary representing the Minister for Transport:
I refer to the draft “Department of Transport: Public Transport for Perth in 2031”, plan which was released in July 2011.

(1) Can the minister explain why the final plan has not been released?
(2) When does the minister expect the final public transport plan for Perth to be released?

Hon JIM CHOWN replied:
I thank the honourable member for some notice of the question.

(1) The finalisation of the public transport network plan has had to take account of a number of factors, including major changes to forecast population growth for Perth, passenger projections and the time frames for projects in line with budget forecasts for the state.
The Department of Transport is anticipating submitting the final plan to the government for consideration by mid-2014.

SCHOOLS — SEMESTER 1 ENROLMENTS

Question without Notice 151 — Answer Advice

HON PETER COLLIER (North Metropolitan — Minister for Education) [5.09 pm]: Hon Sue Ellery asked question 151 on Tuesday, 11 March regarding Western Australian public enrolments. I provided that information today when the member asked a similar question. The answer is as follows —

(1) In the 2014 student census, as at the first semester there were 283,739 full-time students.

(2) The percentage increase on the 2013 first semester enrolments is 2.7 per cent.

QUESTIONS ON NOTICE 750, 935 AND 710

Papers Tabled

Papers relating to answers to questions on notice were tabled by Hon Michael Mischin (Attorney General) and Hon Jim Chown (Parliamentary Secretary).

WORKFORCE REFORM BILL 2013

Committee

The Deputy Chair of Committees (Hon Liz Behjat) in the chair; Hon Michael Mischin (Minister for Commerce) in charge of the bill.

Clause 1: Short title —

Hon SUE ELLERY: I forgot to raise in my second reading contribution the issue that the Minister for Commerce dealt with at the end of his second reading summation relating to the first recommendation in the Standing Committee on Legislation report about the difference between advice provided by the Public Sector Commission to witnesses and advice provided by the Legislative Council. I am pleased that the minister advised the house. I understand that the minister’s advice was that the Public Sector Commissioner will direct witnesses to the Legislative Council advice. The recommendation states that the commissioner should advise the Legislative Council of his decision on this matter within 28 days of this report being tabled. I assume that the Public Sector Commissioner intends to write to the Council in those terms.

Hon MICHAEL MISCHIN: Yes; it is my understanding that he will do so in accordance with the recommendation of the committee.

Hon SUE ELLERY: I will now turn my attention to what is more properly a clause 1 contribution. I think we find ourselves in a position in which there remain some unanswered questions that go across the scope of the bill, so I think this clause is the right time for me to raise them. One of the issues that I think the minister will think he has addressed is the proposition that no evidence has been put to us that the current system is broken. Although the minister referred in his second reading summation to the case of person X and person Y, I remain unconvinced that the evidence is that under sections 80 and 94 of the Public Sector Management Act a person cannot be terminated, such as in the case that the minister gave the house in which person Y lacked computer skills—I think that was the terminology the minister used to describe their skill deficit—and refused to undergo training. That is exactly the circumstance in which it would be perfectly reasonable for management to direct the person to undertake training. Failure to follow that direction would trigger the elements of sections 80 and 94 of the Public Sector Management Act. What is it in those two sections that prohibits the government from using those provisions now to terminate someone who in that particular case does not follow a direct order—for example, to undergo training in computer skills?

The other area that I think the minister did not address is that the language in the changes in the bill to section 26 of the Industrial Relations Act is that the commissioner of the Western Australian Industrial Relations Commission is to have regard to a range of financial policy positions of the government of the day. That is the language of the bill. The language used by the former Treasurer when he described this bill in the other place was that it was the government’s policy intention that the industrial relations commissioner pay appropriate regard to a list of financial policy statements, and the former Treasurer referred to them. The minister did not address that in his second reading summation, so I invite him to make it perfectly clear to the chamber that the government’s policy is that the words in the bill do not place any greater weight than “have regard”. They are the words in the bill. What is the government’s intention, given the description from the former Treasurer?

The other issue that the minister did not canvass in his second reading summation, and I invite him to do that now, is that the government’s position on the purpose of the bill as outlined by the former Treasurer is that it is—these are his words—a tool to save money. The expectation is that $2.9 billion will be saved across the forward estimates by using the forced termination provisions. I invite the minister to assist the chamber to
understand how that amount will be reached. Some level of modelling must have been done for the government to put in its budget papers that it anticipates savings of $2.9 billion. The minister made the point in his second reading summation that there is a pool of, I think, 75 people who, according to the government, are now unable to be moved on. He went through the numbers and identified how many of them were earning how much money. He tried to refute the proposition that the policy of the bill was directed at slashing public sector jobs, in particular the public sector jobs of low-paid workers. Clearly, some work will have been done in Treasury, I would imagine—hopefully it has shared it with its colleagues in the Public Sector Commission and the Department of Commerce—about how many jobs are to go to get to that sum of $2.9 billion. Some work must have been done on that. The former Treasurer told the public of Western Australia that the whole purpose of this bill was to save money, and he did that with significant pride. He said that that was a responsible thing to do and that this bill was part of a suite of measures to save money. It would assist the chamber to understand what modelling was done and how that figure of $2.9 billion was reached.

The other issue that I invited the minister to respond to but he did not in his second reading summation was that, through this bill, the government requires that increases in wages and associated conditions be capped at the growth in the Perth consumer price index. This is the government wages policy. There might be a few extra words in it, but, essentially, the government of WA requires that increases in wages and associated conditions be capped at the Perth CPI. I have raised the question about how that will apply to district allowances, for example. The minister set out in some length the other measures that will be put in place to provide recompense for people who live outside metropolitan Perth, but I am interested in the advice that the minister has about what is captured by those words “wages and associated conditions” in the government’s wages policy. What is meant by “associated conditions”? It is at least arguable that that includes district allowances. If it does not, let us make that perfectly clear and then there will be no issue about the Perth consumer price index being applied to district allowances. I would appreciate getting some understanding of that.

The other issue the minister did not provide a response on—perhaps he did at the beginning of his speech when I was otherwise distracted, in which case I would invite him to remind me of it—is exactly what consideration was given to transitional arrangements. The argument from this side of the house is that the policy purpose of this bill is in no small part a way to get over the existing enterprise bargaining agreements that prevent terminating people’s employment through forced redundancies. If that is not case, why was consideration not given to putting in place some transitional arrangements to at least honour the commitments that those people think the government entered into in good faith when they signed up to those agreements in December 2012? What range of transitional matters did the government consider; and why is it not possible to put some of those transitional arrangements in place? Those EBAs have an end life. For example, the United Voice ones end on 31 December 2015, which is not that far away; that time will come. I wonder whether the minister can give us a response to those questions as well.

Hon MICHAEL MISCHIN: I will deal with each of those in turn. The only power in section 80 of the Public Sector Management Act deals with breaches of discipline in the event that an employee disobeys or disregards a lawful order, contravenes provisions of the act applicable to the employee or any public sector standard or code of ethics, commits an act of misconduct, is negligent or careless in the performance of his or her functions, or commits an act of victimisation within the meaning of section 15 of the Public Interest Disclosure Act 2003.

Regarding retraining, a person cannot be directed to be retrained. Retraining provisions are set out in regulations. The regulations do not provide for termination and the terms and conditions of retraining require the agreement of all parties. Therefore, there is currently no power that can accommodate that in section 80 of the Public Sector Management Act. If someone simply does not want to acquire the skills that may make them more useful to the public service and allow them to be provided with a position with the public service, it will not be a basis for a breach of discipline proceeding.

Proposed section 26 does not state “have regard to”; it states that the commissioner must take into consideration various things. Therefore, that question is based on a false premise.

I am not sure where the figure of $2.9 billion came from. But if I can go back to that, there was the suggestion that someone said something in the course of debate and a query about whether it means the same thing that is in the bill. I may be wrong, but I thought once the bill was passed and made law, what is referred to is what the act of Parliament states rather than what the Treasurer or anyone else might have said that is contrary to or not reflected in the terms of the act of Parliament. I may be wrong about that, but I would have thought that was patent. The terms of the act that is passed are what the Industrial Relations Commission or any other court will take into regard.

Hon Sue Ellery: Of course you are right on that point, but I was questioning whether we ought to take account of the then Treasurer’s view that in fact that regard or consideration had to be weighted—that is the point I was making.
Hon MICHAEL MISCHIN: I will take a supplementary question on this, but I am just answering those that were asked of me.

I am not sure where the figure of $2.9 billion comes from.

Hon Sue Ellery: From the Treasurer.

Hon MICHAEL MISCHIN: Perhaps the reference can be pointed out so I can see the context.

Hon Sue Ellery: With respect, I did; I gave you the Hansard reference in my contribution to the second reading debate, but I will give it to you again.

Hon MICHAEL MISCHIN: I am sorry, I do not carry all the references in my head, but if the member can point out that particular passage I can look at it and have regard to it. I would have thought that the Treasurer would have been referring to the entire workplace reform package to come to that sort of figure as an estimate.

Regarding the question of district allowances, they are a reimbursement, in a sense, provided outside of pay negotiations. They may be able to be renegotiated at some time in the future, but they are essentially a reimbursement. They are settled by an agreed methodology for the cost of living in isolated geographic areas and they are not subject to pay claims. If they do become the subject of a pay claim, things may change, but they are additional to the agreements negotiated with government and they receive the ratification of the Industrial Relations Commission, so they ought not to be taken into account at this time. Unless their status changes and they are included in a pay claim, they are not affected by this bill.

Regarding transitional arrangements, it is simply government policy that everyone ought to be dealt with similarly. I have to say that as a matter of policy it is odd that there is a provision in an employment contract that someone can never be made redundant even though circumstances may change and their job may no longer be of any use to the public service; however, there is obviously a difference of philosophy there. The government’s policy is that everyone be brought to the same playing field and in the future all public servants will be subject to the policy set out in the bill.

Hon SUE ELLERY: In respect to the reference to the $2.9 billion, it is from Hansard in the Assembly on Wednesday, 23 October 2013. The then Treasurer was answering a question on public sector workforce management from the member for Forrestfield and he is specifically addressing the issue of the redundancy provisions. The “it” the Treasurer is referring to are the redundancy provisions he mentioned before the section I will quote. The Treasurer then said —

It is an important tool because, ultimately, it will save money. Across the forward estimates the government anticipates it will save $2.9 billion, with $1.44 billion alone in 2016–17. That will reduce pressure on state debt. We will achieve a saving of almost $3 billion from this suite of reforms across the forward estimates.

Earlier in that debate the Treasurer said —

We have introduced into this house today changes to the Public Sector Management Act that will introduce involuntary redundancy provisions, which mean that if, after an extensive process, a person cannot be redeployed in the WA public sector, then they can be made redundant.

As I have said, the then Treasurer went on to say, “It is an important tool because, ultimately, it will save money”. Some work must have been done to reach that figure of $2.9 billion. That is a fairly significant policy objective. Some calculations must have been done, such as if we dismiss 400 level 3s, it will generate this amount of money; or we have a problem in department X and we want to shed 50 jobs; or we have a problem in agency Y and we want to shed 200 jobs. The then Treasurer must have reached that figure of $2.9 billion based on something.

Hon MICHAEL MISCHIN: Where was that said?

Hon Sue Ellery: It was question without notice 659 in the other place, “Public Sector Workforce Management”, from the member for Forrestfield, on 23 October 2013.

Hon MICHAEL MISCHIN: I am obliged to the member for that. I do not have that Hansard. I do not know what the then Treasurer was referring to. It might have been some internal modelling from his department. I will not speculate on how that was derived. But I will make some further inquiry at a later time, and if I can come up with an answer, I will. However, the government’s position has generally been set out in other comments directly pertinent to the bill in the course of debates.

Hon SUE ELLERY: I refer to the answer given by the minister about the term “associated conditions”. What sorts of things are captured by that term? We are talking about the CPI. That has a dollar or monetary value. Therefore, it cannot apply to conditions such as the number of hours that people work. It must apply to things that have a monetary value. If it does not apply to district allowances, what sorts of things are captured by that term?
Hon MICHAEL MISCHIN: Is the Leader of the Opposition saying that the then Treasurer used the term “associated conditions”?

Hon Sue Ellery: No. It is in the government wages policy. It is in the document that we are going to incorporate into this legislation.

Hon MICHAEL MISCHIN: Where is the phrase “associated conditions”?

Hon Sue Ellery: It is at clause 3.

Hon MICHAEL MISCHIN: Sorry. Yes; I see. It would apply to the sort of stuff that would ordinarily go into an EBA. An EBA would deal with not only the level of remuneration—wages as it is termed in the policy—but a variety of other terms and conditions and benefits that might flow to employees. Trade-offs would not be included, because that is not something that would affect the ability of the government or department to pay. It would include anything that would ordinarily be the subject of negotiation and be put into an EBA for the purposes of registration. So it is a fairly broad term.

Hon SUE ELLERY: Indeed it is, and that is my point. I do not see how the minister can say that district allowances are not captured by the phrase “associated conditions”. During the second reading debate, we asked the minister what will be captured by the words that the Perth CPI will be applied to wages and “associated conditions”. We have a concern about applying the Perth CPI to the district allowances that are given to people who live in places in which a loaf of bread or a newspaper cost five times what it costs in Perth. The response from the minister was that we do not need to worry about district allowances, because they are set according to the particulars that apply in the districts, and a different multiplier is used. That justifies the perfectly logical position I reached that “associated conditions” does indeed include allowances, in particular district allowances.

Hon MICHAEL MISCHIN: The government wages policy states that it is to apply to all industrial agreements that expire after 1 November 2013 and will remain in force until those agreements are replaced. That statement is to be read in conjunction with various other circulars and the like. The policy is that the government of Western Australia requires that increases in wages and associated conditions in all industrial agreements be capped at the projected rate of growth in the Perth CPI. District allowances are not part of industrial agreements.

Hon Sue Ellery: Yes, they are.

Hon MICHAEL MISCHIN: They can, in future, be part of industrial agreements if they are the subject of negotiation. They are provided for by a different methodology, and they are not, as presently envisaged, covered by the wages policy but are separate from it. They are affected by different considerations, and they can go up and they can go down, depending on what the CPI is in those particular regional areas. We have recently seen some adjustment of them based on the methodology agreed between public sector unions and the government over time, but they are not associated conditions in the context that is meant in the wages policy.

Hon SUE ELLERY: In the debate earlier the point was made that we are entering an era of uncertainty and that there is some concern that some of these elements will have to be tested in the Industrial Relations Commission. Is that what we want to do? Do we want to set ourselves up to further test these matters? District allowances are canvassed in enterprise bargaining agreements. Unions go before the Industrial Relations Commission and argue about a whole range of allowances, including district allowances. When the commission turns to the legislation to determine a question about how to amend upwards or downwards or how to respond to a union claim about district allowances, it will look at the government wages policy, which states that everything related to money has to be capped at Perth CPI. I think we are setting up this matter to be tested in the Industrial Relations Commission. That is not a neat and finite way of making law. It is the case that allowances about all sorts of things are covered in EBAs—they always have been—and there is no reason that will not be the case in the future. I think we are setting ourselves up here.

I want to turn now, though, to the question of whether someone can be directed to retrain. I invite the minister to say where in the current legislation it provides that an employer cannot say, after having gone through all of the processes of finding someone another position, that the single or major obstacle to finding that person another position is that they do not have, say, computer skills and that person does not want to be trained in that area: “If we are going to find you another job, you have to pick up those skills and I, as the employer, will pay for you to get whatever training you need to pick up those skills”? Where does it say that an employer cannot direct them to do that? I have never heard of that.

Hon MICHAEL MISCHIN: Section 94 of the Public Sector Management Act provides —

the retraining of a registered employee and for the terms and conditions (including remuneration) which are to apply to the registered employee

Hon Sue Ellery: Minister, can you take me to where you are?

Hon MICHAEL MISCHIN: Section 94(3)(d) of the Public Sector Management Act. Regulation 14 of the Public Sector Management (Redeployment and Redundancy) Regulations deals with the retraining of registered
employees, and provides at regulation 14(2) that the arrangements for the retraining of a registered employee and the terms and conditions that apply to the retraining are to be as agreed between the employee and the employing authority and others. As it presently stands, there is no power to direct someone to be retrained in any particular way. It has to be done by way of agreement. As it currently stands, if the employee does not agree, then there is no basis for disciplinary action that can lead to discharge.

Hon SUE ELLERY: Who made the regulations?

Hon Michael Mischin: How regulations are ordinarily made.

Hon SUE ELLERY: Indeed; so, what is it, other than changing the regulations that is preventing a lawful order to direct? Is it not the regulations made by the government of the day? What is stopping regulations which say that a person can be directed?

Hon MICHAEL MISCHIN: If the honourable member is suggesting that she would be happy with a regulation being made that a person —

Hon Sue Ellery: I am saying you have got the power to do it now.

Hon MICHAEL MISCHIN: Wait a minute. Does the member want me to answer the question or not?

Hon Sue Ellery: I don’t think you know what you’re talking about.

Hon MICHAEL MISCHIN: If the member thinks it would be appropriate to have a regulation that requires an employee to be directed to be retrained in any sort of a fashion, without any specificity, and in the failure of being retrained or accepting retraining can be subjected to disciplinary proceedings, then perhaps that is a debate for another day. But I would have thought that it could be objectionable that someone’s job be lost for simply not accepting a direction in a regulation that requires, in broad terms, some form of retraining. The government is taking a step that provides for a structured process that when all the other means of dealing with the employee are exhausted, then by legislative sanction under an act of Parliament that employment can be terminated, not by way of a failure to comply with a regulation regarding retraining in some vague form.

Hon SUE ELLERY: I find it extraordinary that the government is relying on something that prevents it from giving someone a lawful order to undergo training when it has said—to use the case of Y in the minister’s earlier case study—that they were offered retraining and they refused. In the case that the minister gave us, that person is still being paid, without fulfilling their tasks on behalf of taxpayers, and cannot be moved because they do not have the skills to be moved. The existing legislation allows regulations to be made, and that does not limit whether someone can be directed to undergo training or not; it allows regulations to be made about training. It is extraordinary to me that the government has the regulation-making power now to affect its policy yet it is choosing not to exercise it. I cannot remember how much the person in the case study was earning, but it is extraordinary that the government is not using the powers it has now to deal with that situation.

Hon MICHAEL MISCHIN: It comes down essentially to the adage: you can take a horse to water but you cannot make it drink. At the moment the Public Sector Management Act provides that an employee who is surplus to requirements, whose job is abolished or whatever must be found a suitable position elsewhere. Great efforts are expended on trying to find a suitable placement for a public servant in some other department or agency that is commensurate with their level of remuneration and the like and where they can give value for that level of remuneration. If that involves acquiring some new skills that the person is incapable of acquiring, or says that they are unable to acquire, that is not a basis for taking disciplinary action to terminate their employment. That is the position faced by the person whose example we have been referring to.

It is one thing for someone to say, “I’m going to sit in my office.” But if there is no place that we can put them because they purport to be incapable of acquiring a skill—for example learning a particular computer program used by an agency that can use their services if they are competent in that program—and claim they cannot get the hang of it, that person is still sitting there. That is the sort of person to whom we would say after the process has been exhausted, “All right, you might be better off finding a place somewhere else where you can sell your skills, because the public sector can’t use you.” It is all very well to support an employee into the future by keeping them on the payroll occupying a full-time equivalent position, but there comes a time, after all efforts have been made, when the person is unwilling or unable to acquire a skill that is useful to the public sector and it is simply not in the public interest to retain that employee.

Hon SUE ELLERY: I could not agree more with the minister. It is extraordinary to me that the employing agency has not turned up at the Western Australian Industrial Relations Commission and said, “This person is the only person in the public services who says they are incapable of learning a particular skill.” It is extraordinary to have an employee use the argument that they are incapable of learning a skill. It is extraordinary that it has got to the point that the person is earning money, yet unable to be productive and the minister cannot compel them to undergo training. In the example the minister gave, he said that the person claimed to be incapable of learning, and now he is saying that they claim to be incapable of learning. I find that extraordinary. I
think, frankly, it reflects poor management and that the matter should have been and could have been dealt with a lot earlier. Nevertheless, let us move on.

Hon LJILJANNA RAVLICH: I want to pick up on the point of the Leader of the Opposition about the $2.9 billion of savings across the four years to 2016–17. Obviously, that will entail a cap on general government agencies’ budgets at 2012–13 estimated outturn levels, with increases from 2013–14 onwards limited to projected growth in the Perth consumer price index, unless explicitly approved otherwise by cabinet. It also includes the introduction of a new public sector wages policy from November 2013 that caps wages and conditions. I think the honourable member covered the concerns surrounding the conditions. We are talking about substantial savings of $2.9 billion over four years. Information on how those savings will come to the government can be found on page 6 of the 2013–14 Economic and Fiscal Outlook. We see in the way the $2.9 billion is constructed no saving in 2013–14 but a cost to government of $15 million. In 2014–15 we see a financial impact of minus $501 million. Then in 2015–16 it is minus $928 million, which is a saving. Then in 2016–17 we see another saving of $1.445 million. That gives a total over the forward estimates of $2.869 million worth of savings. Some of those savings will also come from implementing an integrated package of management tools to increase public sector workforce flexibility. I wonder whether the minister can provide the chamber with information on what that will in fact consist of.

Hon MICHAEL MISCHIN: Apart from the enhanced voluntary severance that was part of the government’s initiative at the end of last year and what is proposed by the public sector reforms in this bill, I would have thought a variety of other initiatives would be used to save that sum, but I cannot comment on how that figure has been arrived at. As I indicated to the honourable Leader of the Opposition, I will explore that further if I can and find out the particular modelling that the Treasurer had in mind and was done by his department. I will do that at some stage before the conclusion of the debate, not necessarily today but at some stage before we finish with this bill.

Hon LJILJANNA RAVLICH: I suggest to the minister that, on my reading of all the components of the expense measures, it is quite clear that a considerable amount of work has been done. That is because the government could not know that it would have a $2.9 billion saving over the forward estimates with a breakdown on a year-by-year basis over the next four years, yet not understand how it got to that $2.9 billion worth of savings. I can accept that some assumptions might have been put into the modelling. I can accept that that is probably what Treasury does. However, the notion of telling the chamber that there will be 1 000 voluntary redundancies and that we cannot have any other information because the government does not know how any of these savings will be made is totally unacceptable. I do not think it reflects what has really been happening and the work that the government has been doing to bring this fiscal action plan into law and be implemented in this state.

One of the key components of the fiscal action plan is the enhanced redeployment arrangement. One of the objectives or the outline of this bill deals with the notion of an enhanced redeployment arrangement. I wonder whether the minister will provide the chamber with some information on just for whom the arrangement has been made, because I do not see any benefit to workers from the provisions of this bill. There may be some benefit to government but I cannot see any net benefit to workers. Can the minister therefore explain to us why the minister will provide the chamber with information on what that will in fact consist of.

Hon MICHAEL MISCHIN: I am informed that the phrase “enhanced redeployment arrangement” is a misnomer; what was meant is “enhanced arrangements” which refers to two areas of reform. One is the enhanced voluntary severance offer which is a maximum of 72 weeks’ pay and is the most generous ever offered by government to encourage public servants to leave the service. The other is the cessation of employment provisions that are currently under consideration in this Workforce Reform Bill 2013.

Hon LJILJANNA RAVLICH: I want to get this right for the record. The minister is saying that there is no such thing as an enhanced redeployment arrangement—according to the bureaucrats. Minister, going back to the $2.9 billion in savings over the forward estimates, apparently part of the fiscal action plan, and I quote —

A new, systematic approach to program and service evaluation will be embedded across the public sector, with recurrent savings of $150 million targeted over the forward estimates period and further net debt savings of $200 million also targeted.

If I read that correctly, that is $350 million saved from a new systemic approach to program and service evaluation. In my mind, program and service evaluation obviously means that there will be some services and programs that are likely to be cut so I am wondering whether the minister might identify for the house the priority areas that the government will target as part of making these savings.

Hon MICHAEL MISCHIN: I believe that was an extract from the fiscal action plan document which is a broader area than this particular bill; so it is a matter that really does not fall within the scope of this particular piece of legislation.
Hon LJILJANNA RAVLICH: I accept what the minister is saying, but clearly where there are likely to be program cuts and service cuts it follows that there are likely to be staffing cuts. Within this context, those staffing cuts or the redeployment of people who will be moved from the areas that they are currently working in, may in fact no longer have the programs or indeed, the services being delivered. If the government cuts programs and services the likely impact will be to redeploy staff from those areas because those services and programs will no longer be available. Alternatively, people will have to be redeployed or made redundant. Have any priority areas been identified for the program and service evaluations and what is the likely impact of this on public servants?

Hon MICHAEL MISCHIN: It has nothing to do with this particular piece of legislation. As with any budget process, the government, through the Economic and Expenditure Reform Committee, makes recommendations to cabinet, cabinet makes its decisions as to what its priorities are and the budget is set accordingly. If that means that certain programs are trimmed or discontinued for one reason or another, whether for economic purposes or simply because they have outlived their usefulness, that is a matter for the budget process and the consequences flow from that. It really has nothing to do with this legislation at hand.

Hon LJILJANNA RAVLICH: Let me try this. In terms of the asset investment program, which has identified $1 billion worth of net debt savings over the forward estimates, clearly a review has been completed and obviously some government assets will be sold or privatised—let us take ports.

Hon Michael Mischin: It has nothing to do with this bill.

Hon LJILJANNA RAVLICH: I am sorry?

Hon Michael Mischin: This bill is dealing with workforce reform.

The DEPUTY CHAIR (Hon Liz Behjat): I remind the member that we are dealing with the Workforce Reform Bill 2013. It has nothing to do with ports.

Hon LJILJANNA RAVLICH: Madam Deputy Chair, the point I am trying to make is that if there are asset sales, there are clearly going to be implications for public sector workers. Those public sector workers may have an option to voluntarily take a severance or they may not be given that option and alternatively, be redeployed somewhere else. I think it is fair to ask the question of what is likely to occur as a result of assets being sold. What is the likely impact on the public sector workforce? This is the public sector Workforce Reform Bill as I understand it and I think that that is a reasonable question to ask.

The DEPUTY CHAIR: Before I give the call to the minister, I remind the member that she has asked the question on a number of occasions and the minister has given her a response. The member’s comments have been, “let me try it this way” but I do not think the member can ask the same question in different ways and expect a different answer.

Hon MICHAEL MISCHIN: I am prepared to answer in order to assist the member understand this. So far as ports, for example, are concerned, it is my understanding that they are not public services, they are private trading enterprises so they would not fall within the scope of this legislation anyway. If there were to be asset sales, then the consequences that would flow from that for the needs for particular public servants with particular skills is something that would be determined down the track. It has nothing to do with the policy behind this bill, which is to provide the government with additional means to reform the public sector itself.

Hon KEN TRAVERS: The minister raised an interesting point in his most recent comments. Can he advise us which public sector agencies this bill will apply to?

Hon MICHAEL MISCHIN: All those that are covered by the Public Sector Management Act.

Hon KEN TRAVERS: Does the minister have a list of those agencies that are covered by the Public Sector Management Act? It is an important point on the short title that this house fully understands who exactly the government intends this bill to apply to—both who it applies to today and whether or not the government intends to change it. If not, how does the government intend to manage these issues in those agencies that are not covered by this bill?

Hon MICHAEL MISCHIN: If they are not covered by the act, they are not covered by the act. I really do not understand the point of this. The extent of the public sector has not changed between the introduction of this bill and its passage. “Public sector” is defined in the Public Sector Management Act. It means all agencies, ministerial officers and non–senior executive service organisations. The definition is not being changed. No, I do not happen to have a list of every public sector agency nor do I happen to have a list of every public sector employee; nor is it relevant.

Hon KEN TRAVERS: It is relevant, minister, because one of the things I am interested in is whether there is an intention to try to capture other people employed in the—I will use the term “service of the public”—

Hon Michael Mischin: The definition is not being changed.
Hon KEN TRAVERS: There is always capacity for the government to seek to broaden who is covered by these acts.

Hon Michael Mischin: When that happens, you will get to hear about it because a bill will be introduced.

Hon KEN TRAVERS: Except one problem with this bill is that a lot of things can be done by regulation. I am seeking absolute confirmation from the minister that he is saying nothing in this bill will allow the government to expand coverage of who will be impacted by this bill; that is whether they are employed within government trading enterprises or other agencies. Is there any capacity in this bill to do that by way of regulation?

Hon MICHAEL MISCHIN: I would have thought it patent that if the definition in the Public Sector Management Act is not being changed, there is no way that a regulation could expand the scope of the act. If the honourable member can point to a provision in the bill that allows for the extension of the definitions that are governed by the principal legislation being extended—in other words, a Henry VIII clause of some form—then I am happy to entertain that and fix it.

Hon KEN TRAVERS: We know from the committee report that there is. I do not want to pre-empt debate about Henry VIII clauses. When talking about the short title, it is appropriate for us to have full and complete understanding about whether the government intends to expand the scope of this legislation to cover anybody by way of regulation. The minister talked about everyone in the second reading debate. I do not know whether it was supposed to be an attack on us or whatever it was; that monologue that he gave to the house earlier tonight —

Hon Michael Mischin: It was a reply.

Hon KEN TRAVERS: The minister alluded to some “games”. There are no games going on here. The Labor Party is very concerned about the legislation. We want to know the full details of this legislation and what the government’s intent is. I was listening to my colleagues’ second reading contributions. There may have been some common areas, but I think every one of us added a different aspect to the way in which this bill has been captured. One of the issues that I spent a lot of time on during my second reading contribution related to the issue of skeleton legislation. When we get into the detail, one problem with a bill like this is actually understanding what the detail is. That is why during the short title debate, it is incumbent upon an opposition to get the minister to put on record exactly what the government’s intent is. There is a danger that even though we get the minister on record, he can turn around tomorrow and say, “Oh, at the time that was the government’s intent but it has since changed its mind.” We get that all the time from this government. We ask if it plans to privatise something. Hon Ljiljanna Ravlich asked about redundancies within port authorities. She equally could have asked about privatising sections of the Department of Transport. This government is clearly on a campaign to privatise large chunks of the Department of Transport. When we ask if the government plans to do that, the answer is always, “No, the government is not looking at that at this time.” Surprise, surprise, a couple of weeks later it comes up. I think it is incumbent upon us to ask. The minister may not want to give these answers but he does need to answer it; or, by obfuscation, give a clear indication that the government has an agenda that it is not prepared to put on record tonight.

The minister has an obligation to tell this chamber, in answer to our questions, exactly what the scope of this bill is. We know it contains Henry VIII clauses because we have a committee report that makes that point. To the best of my recollection from reading the report—a committee member can correct me if I am wrong—that point was unanimous. It was not a minority view of the committee that there are Henry VIII clauses; it was a view of the whole of the committee. It did good work. We know the minister has the capacity to change substantive legislation by way of regulation. It is not unreasonable for the Committee of the Whole to ask the minister exactly what the government’s intention is and whether it is the government’s intention to try to use those vast regulation-making powers contained in this skeleton bill. As we go through the debate this evening, the minister will be asked lots of questions about the government’s intent. Unfortunately, that is the only way we will know. I will ask one other question before I sit down: has the government started drafting the regulations that will attach to this legislation; and, if not, when is it expected the bill will be brought into operation if the regulations have not been done?

Hon MICHAEL MISCHIN: Dealing with the question, I understand that regulations are currently in the process of being drafted. Consultation is taking place as part of that process, but otherwise no drafts have been produced yet.

Hon LJILJANNA RAVLICH: I do not want to be a pain about this, but I have just seen on the Public Sector Commission of Western Australia’s website the public sector standards in human resource management. There are currently a number of standards including employment, performance management, grievance resolution, redeployment, termination and discipline. The application of these standards applies to a range of entities listed in schedule 1 of the act. The last dot point states —

- some corporatised bodies such as Port Authorities and the Water Corporation.
This is from a government site. I am happy to photocopy this and hand it to the minister. I think it is fair enough for the chamber to ask for a conclusive response about whether ports are in or out and whether the Water Corporation is in or out, and what is the position of government trading enterprises in the context of this legislation. I will get this page printed off. Perhaps the minister might want to clarify it; I do not know.

Sorry, Madam Deputy Chair, I understand that it does not apply to entities in schedule 1. My apologies!

The DEPUTY CHAIR: I assume that the minister will not provide that list. We will move on.

Hon KATE DOUST: I return to the issue of regulations that was canvassed by Hon Ken Travers. The minister has informed us that consultation relating to the drafting of the regulations is being undertaken. Who was part of that consultation process, and can the minister provide a list of who was involved in that process? I am not too sure whether he gave us a time frame for when those regulations will be finalised. I ask that because I note that today the Retirement Villages (Recurrence Charges, Prescribed Matters and Exemption Certificates) Amendment Regulations 2014, as gazetted on 21 March 2014, were tabled in the house. That is fantastic. It is a shame that the Retirement Villages Amendment Bill passed through this place in November 2012. All those people who live in retirement villages and who had such a keen interest in these regulations had to wait so long for these regulations to be drafted, finalised and ultimately tabled more than 18 months later. Will people working in the public sector and the respective organisations that represent them also have to wait an extended period before they find out what the government is going to hide away in regulations, with any nasty little surprises, or will this be dealt with in an expeditious manner and be brought into this place a lot faster than the Retirement Villages Act regulations?

Hon MICHAEL MISCHIN: No time frame has been set. The government would hope that the matter is concluded as soon as practicable this year. I understand that the consultation is currently internal and is being dealt with between the Public Sector Commissioner and the Parliamentary Counsel’s Office.

Hon KATE DOUST: I listened to parts of the minister’s reply earlier tonight. Sometimes when the minister provides his reply, it is just an opportunity for him to get a few things off his chest, and I suppose it is quite cathartic for him, though not necessarily for us sitting on the opposition benches.

Hon Michael Mischin: I would imagine it is not.

Hon KATE DOUST: It is entertaining, not painful.

Hon Ken Travers: Knowing that I am helping the minister was cathartic for me.

Hon KATE DOUST: I thank Hon Ken Travers for his assistance with what I am saying.

I noted that the minister complained that the government was not able to proceed with other legislation that it was keen to get through this place. That is its problem. In fact, the Leader of the House is responsible for the management of this place and the carriage of business. It is his job to determine the bills that we deal with in this place; it is not the opposition’s job. As bills are put on the notice paper, we work our way through them appropriately. I had cause to look at the list. I am not too sure what the minister is referring to —

Hon Michael Mischin: Is this relevant?

Hon KATE DOUST: It is relevant. The minister should listen to what I have to say. A number of things are on the notice paper, including the consumer protection legislation, one of the minister’s bills, the Petroleum and Geothermal Energy Legislation Amendment Bill 2013 and the Unclaimed Money (Superannuation and RSA Providers) Amendment and Expiry Bill 2013. We support these bills. I do not know why the government does not put them on the business program so we can get on with them. These bills are supported —

Hon Peter Collier: Get through this one and we will start.

Hon KATE DOUST: The Leader of the House organises the agenda. All I am trying to say —

Point of Order

Hon MICHAEL MISCHIN: This does not even in the most extreme concept have anything to do with clause 1 of this bill.

The DEPUTY CHAIR (Hon Liz Behjat): Deputy Leader of the Opposition, you have the call. I am certain that you are backgrounding the chamber in relation to your contribution to clause 1 of the bill. We know that it is a very wideranging debate but I am sure you are about to bring your remarks back to the Workforce Reform Bill just as quickly as you can.

Committee Resumed

Hon KATE DOUST: I am indeed, and I thank you for your guidance, Madam Deputy Chair. It is common in clause 1 to reflect upon the comments made by ministers in their reply to all the speakers. The minister made these comments with great gusto and I feel obliged, on behalf of my colleagues, to defend our side and say it is
not our fault that this government cannot progress its own agenda. It is not the opposition’s fault that this government does not have an agenda with priorities. I will leave that there.

The Workforce Reform Bill is a bit of a misnomer. Having listened to the extensive debate and the minister’s comments, I said to my colleagues tonight that I was reminded of that song by Chris Martin from Coldplay called White Noise. I was tuning out a little and thinking about that music. It reminded me of the title of the bill and the words “workforce reform’. This is not about reform; this is about cost cutting, and the minister knows it.

I refer to the evidence provided to the committee by the Civil Service Association of WA. I do not know whether the minister addressed this issue because it was canvassed by virtually all members who spoke. Prior to the election, the Premier said that no-one in the public sector will be sacked and then we get this dramatic change, this seismic shift in government policy, without any coherent explanation as to why it has to happen. The government has not been able to articulate what other measures it looked at. The minister cannot provide any modelling. That was already canvassed by Hon Sue Ellery. The government cannot provide any detail as to why this bill is its only solution to provide reform in the public sector.

If we look at the CSA’s submission and the evidence it gave to the Standing Committee on Legislation, we see that it talked about a range of other options that have been canvassed time and again during a series of negotiations over a number of years that could quite easily lead to productivity improvements in the public sector. I would hope that this is what this government is trying to seek with its so-called reform. It is not what it is seeking under this proposal, which is really just about saving dollars. It has not talked to anyone in this place about why it did not look at any of the other options and why it did not look at how departments are structured, how they operate, how they are staffed, how they are skilled up and the type of technology that applies. None of those options has been put in place. At the end of the day, the public sector should be about the best service to the community that it can provide. This bill will not deliver that. This bill is about the government saving some shillings. It is not about community service or providing the best service.

As part of the process that the government hopefully went through to come to this policy position, I would be interested to know what other types of reform were looked at and assessed and why they were rejected in favour of cutbacks in terms of dollars. Why is this bill seen to be the saviour for the government as opposed to genuine and proper reform that a range of employers look to in their workplaces when they are trying to save money, which is perfectly acceptable and understandable for an employer to want to do? The private sector, with which I have experience, tries to be a lot more creative in how it can reorganise its workplaces rather than looking at ways to force people out of the workplace. I want to know what other options were looked at and why they were rejected.

Distinguished Visitor — Matt Birney

The DEPUTY CHAIR (Hon Liz Behjat): Before I give the call to the minister, I would like to welcome to the President’s gallery the former Leader of the Opposition in the Legislative Assembly, Mr Matt Birney. You are very welcome here this evening.

Committee Resumed

Hon KEN TRAVERS: Is the minister not going to respond?

The DEPUTY CHAIR: He indicated not.

Hon KATE DOUST: I asked a pretty legitimate question about what options the government had looked at and why they were rejected in favour of this option. That is a perfectly reasonable question to ask, and I do not understand why the minister does not want to respond. Madam Deputy Chair, I ask that you encourage the minister to respond.

The DEPUTY CHAIR: I did give the call to the minister. He chose not to respond. I leave to the minister whether he chooses to respond, as that is his call. I cannot compel him to answer the question.

Hon KEN TRAVERS: I will ask one quick question: why will the minister not respond to the member’s question?

Hon MICHAEL MISCHIN: It is very simple.

Hon Ken Travers: Understand, minister, that playing games will make this debate longer, so stop playing them!

The DEPUTY CHAIR: Member, you have asked a question. I have given the call to the minister.

Hon MICHAEL MISCHIN: I am sure the opposition will ask the same question 20 times, drift off the point and then complain that I am not answering. It is quite simple: the policy underlying this bill has already been decided. There was a vote on it earlier this evening that said all those policy considerations, whatever they may be, have been settled. This bill has had its second reading. Now we are canvassing the operation of the bill and whether it fulfils its function, not what alternatives there may be to this bill—end of story. I thought that was blindingly obvious, but plainly it needs explanation. It needs explanation in order to help spin out the debate in
order to achieve what I said was the opposition’s motive in this, which is to delay the passage of this bill as long as possible, knowing it will be passed. It would be helpful, if there are worthwhile amendments to these terrible Henry VIII clauses and all these other egregious features of the bill —

Hon Ken Travers: I am glad you agree with us on those points!

Hon MICHAEL MISCHIN: — allegedly egregious features and things that have been identified by the committee as requiring attention. I am happy to deal with them, but we need to get past clause 1 for a start. I understand that that will not happen for a while, but I am not going to contribute to it. I have said my bit. Any more questions that depart from the scope of this bill and its operation, I will not answer.

Hon KATE DOUST: Part of the reason we have to canvass these questions is that in the minister’s reply to the second reading debate, although he felt it appropriate to attack the opposition on a whole range of side issues, he did not respond to the broad range of matters canvassed by members in their speeches. The minister has not explained why the government got to the point it did in some of those issues, so it is reasonable to ask these questions. There were other options that the government could have considered that the minister has not dealt with. I understand that about 20 per cent of the current workforce is non-permanent. If the government really needed to save money, what has it done about those non-permanent staff and the fact that it continues to use recruitment agencies to hire staff, whereby the employee gets paid $30 an hour and the recruitment agent is paid $20 an hour? Surely there are savings to be made in other ways that the government could have considered that would have been a lot less harsh than simply going down this path and using the option of forced redundancies and making the legislation retrospective. Surely there were smarter ways of dealing with this. The reason we canvass this is because the minister has not responded to those matters. If the minister chooses to use his reply to attack the opposition and he goes us because of our union support, then, of course, we will continue to raise these matters. It just means that we will get clever about how we canvass this matter during the committee stage.

The DEPUTY CHAIR: Members, the question is that clause 1 do stand as printed.

Hon Nick Goiran: Aye!

Hon KEN TRAVERS: Just wait a minute, Hon Nick Goiran; it will not be long! I want to get to my point, but I want to respond to what the minister said. The minister is absolutely right. We have had the second reading debate of the bill. The policy has been set. We are now going through the detail, so the question that Hon Kate Doust asked about other alternatives for achieving the policy of the bill was a very legitimate question on the short title. Can I say, for what it is worth, that I completely reject what the minister has said. The opposition’s goal is to scrutinise this legislation, because it is skeletal and dangerous legislation.

Hon Michael Mischin: Let’s get on with it.

Hon KEN TRAVERS: Skeletal legislation is often dangerous legislation and more time is needed to scrutinise it than bills in which the intent of the government is clearly laid out in the detail of the legislation. The minister thinks it is a game, but the way in which he responded to the second reading debate and is now playing games trying not to answer the questions will prolong the debate, not shorten it. If our game was simply to delay this bill, the minister is our greatest ally; in fact, the minister’s carrying on will delay it further.

Hon Michael Mischin: By how much?

Hon KEN TRAVERS: It depends on how silly the minister’s behaviour is.

Hon Michael Mischin: That begs the next question: what time can we finish tonight?

Hon KEN TRAVERS: My aim is always to finish legislation as quickly as possible. The sole determinant is how quickly the minister gives proper answers to questions. My experience has been that when ministers do not give proper answers to questions, they elicit further questions. That applies to not only this opposition, but also oppositions for as long as I have been a member in this place. I have seen both sides of politics sit on this side of the chamber and ask the sorts of questions that are being asked tonight. I have seen both sides of politics sit in the minister’s chair and both sides of politics delay the bill.

The DEPUTY CHAIR: I thank the member for the history lesson. Let us come back to clause 1 of the Workforce Reform Bill 2013.

Hon KEN TRAVERS: The smarter the minister tries to be, the longer the bill will take. That has gone on for as long as I have been a member in this place.

During the minister’s response to the second reading debate, he spent quite a bit of time talking about questions raised and comments made by Hon Amber-Jade Sanderson at the Standing Committee on Legislation. The minister was keen to make the point that this legislation is not binding on the Industrial Relations Commission.

Hon Michael Mischin: No, that is not what I said.

Hon KEN TRAVERS: Effectively, the minister was saying that it is binding insofar as the IRC has to give consideration to the government wages policy. The minister can correct me if I am wrong, but these are my
reflections on what the minister said and I obviously do not have an uncorrected version of Hansard. The minister said that the government wages policy is binding on the Industrial Relations Commission in that it has to give consideration to these matters, but having considered that, it is free to come up with decisions that are contrary to that wages policy. Am I correct in my interpretation of what the minister said?

Hon Michael Mischin: I was dealing with the interpretation that had been put on the proposed amendments to section 26 of the Industrial Relations Act in which it was claimed that the Industrial Relations Commission was being forced into making particular decisions—or words to that effect.

Hon Kate Doust: Coerced!

Hon Michael Mischin: Coerced, if the member likes, or whatever—but that construction of the amendments is still wrong. It is contrary to the evidence that was presented to the Standing Committee on Legislation and also contrary to the plain construction of the words in the amendments.

Hon KEN TRAVERS: The issue I wanted to get to is that my understanding of the advice given is that the other part of that advice was that the amendments in that part of the bill were unnecessary because that is already what the Western Australian Industrial Relations Commission has to do. I am trying to understand why a range of those proposed sections are necessary to achieve the policy of the Workforce Reform Bill 2013. I ask that at this point because it has an impact on a couple of different sections of the act.

Hon Michael Mischin: I am happy to deal with that when we get to that clause of the bill.

Hon KEN TRAVERS: No, minister; the point I make is that it does not just affect section 26 of the Industrial Relations Act, but the same principles and concept will also apply to the Industrial Relations Commission, I would have thought. Section 26 deals with the Industrial Relations Commission, but there are also later clauses that deal with the Salaries and Allowances Tribunal and make similar provisions. It ranges over a number of clauses, so it is appropriate for us to understand the detail of what the government is seeking to achieve by those references. The minister raised it in his response to the second reading debate and said that the interpretation was wrong, but as I understand it, the same people who were giving that interpretation to the committee were also suggesting that those things already exist and are required, and therefore those requirements are unnecessary. I think it is appropriate for us to be asking, in terms of achieving the policy of the bill, why are those clauses—it is not just one; it is a number—necessary for this legislation.

Hon MICHAEL MISCHIN: I would be happy to expand on all this when we get to the clauses. But let us just say that at the moment, yes, the commission can consider a variety of things. What is proposed is to focus the commission’s attention on certain materials the government considers germane to the manner in which it makes its decisions without binding its discretion as to how to deal with those materials. But we will get on to any specific questions when we get to those clauses of the bill.

Hon KEN TRAVERS: Is there any evidence that the commission is not already focused on those matters when making determinations?

Hon Michael Mischin: I will get to that when we get to the clause.

Hon KEN TRAVERS: I have made the point that it ranges over a range of clauses; it is not just a single clause.

Hon Michael Mischin: Which ones?

Hon KEN TRAVERS: I just gave the minister section 26, and those provisions later in the bill that deal with the amendments to the Salaries and Allowances Tribunal.

Hon Michael Mischin: Which ones? Which clauses are we dealing with at the moment? Clause 4? Which other ones?

Hon KEN TRAVERS: Yes, clause 4 and part 4.

The DEPUTY CHAIR (Hon Liz Behjat): I think, member, if you are talking about things that relate to clause 4 and part 4 of the bill, as the minister has indicated, we can deal with those when we get to them during a later stage of the Committee of the Whole House, perhaps.

Hon Michael Mischin: I look forward to getting to them.

Hon KEN TRAVERS: The minister might not want to deal with them now, but the opposition wants to get an understanding of them at the short title stage. It is our right. I do not think it is out of order under the standing orders of this place to be asking the questions I have asked at this point in time. The minister can continue to frustrate the debate by not wanting to deal with those matters now. I assure the minister that when we get to those clauses, there is a lot more detail that I could start to get into. I am not trying to get into the detail of this point in terms of a whole range of those provisions in the government’s financial strategy statement. When we get to the clause, I will get down into that level of detail. Trust me on that, because I think it is really important to understand exactly what the government means. As I mentioned in my second reading contribution, I think
one of the big areas that is unclear is the government’s actual intent with those provisions. I am more than happy to wait until we get to the clauses to get down into the detail about those sorts of matters, even though, again, it appears in a number of clauses throughout the bill. But I do think that it is reasonable during the debate on the short title for us to try to get from the government a clear understanding of, firstly, why. The minister has said that it is to focus its mind. I also think it is reasonable for us to be asking what the evidence is that it is not taking those matters into consideration at this point in time under the existing provisions. I think that is a not unreasonable thing to do during the short title debate. Is there any evidence that it is not currently focusing on those matters?

Hon Michael Mischin: I will deal with it when we come to the clause.

Hon KEN TRAVERS: I am sure the minister has been given training on trying to get debates going through this house.

Hon Kate Doust: Are you sure?

Hon KEN TRAVERS: I suspect so, because I have seen a change in the way in which he handles legislation, and I suspect that it was “do not engage the opposition”. That is not actually how to get legislation through the house; that just prolongs it. I would give the minister the advice that Hon Nick Griffiths, who was probably one of the better people at getting legislation through a house that was far more hostile in terms of the numbers than this house is, would never just sit there and refuse to engage or answer the questions. He understood that that prolongs and delays the debate.

Hon Michael Mischin: When we get to the clause, I will deal with the questions.

Hon KEN TRAVERS: No, minister. The opposition is entitled to an understanding of all the clauses and how they interrelate at this stage of the bill, which is what I am trying to do. When we get to the clauses, I am happy to get into their detail. But I am trying to get an understanding of how the clauses across the bill interrelate. That is what my questions are about. The minister will just prolong the debate with his silly games by not answering the questions I am asking at this stage.

Hon Michael Mischin: It has nothing to do with the interrelation of the clauses; you want the evidence to back up the policy decision behind them. I will deal with that when we get to the clause.

Hon KEN TRAVERS: It goes across a number of clauses that relate to the interrelation.

Hon Michael Mischin: Two.

Hon KEN TRAVERS: Two is more than one, minister.

Hon Michael Mischin: Good! Well done!

The DEPUTY CHAIR (Hon Liz Behjat): Members, perhaps at this point I will draw the chamber’s attention to part of a ruling given on 16 October 1996 by the then Chairman of Committees, Hon Barry House, just for members to focus themselves on what we are dealing with here. The ruling reads —

The short title debate does no more than give members the opportunity to range over the clauses of the Bill, foreshadow amendments and indicate, consistent with the policy of the Bill, how its formal content may be improved. It is not a vehicle for continuing debate on policy; rather, if members do not wish the Bill to proceed, the action they should follow is to vote to defeat clause 1 of the Bill as it stands.

I bring members’ attention to that very good ruling given by the Chairman of Committees at that time in relation to what we are dealing with here. We range over clauses; we are not dealing specifically with section 26 or part 4. I would not consider that to be ranging over a number of clauses.

Hon KEN TRAVERS: Thank you for that advice. Of course, one of the advantages of being able to range over clauses during the short title debate is that it gives us an understanding of our ability to look at whether or not we want to foreshadow amendments. There is already a fairly long supplementary notice paper—by the standards of this place these days it is probably longer than most supplementary notice papers we get—with some government and committee amendments and the like. That is why I think it is not unreasonable for us to try in that ranging debate to get—I accept that the policy has been set—from the detail of the Workforce Reform Bill and how it will operate a sense of what the government is trying to achieve and what is the problem. It is only by getting a focus on those matters as we start to proceed through the detailed debate of the clauses that we can then determine whether amendments will be required. The problem that we now have is the intransigence of the minister in his refusal to answer the very simple questions that I have put to him, which is actually frustrating the passage of the bill. That prevents the opposition from making its comments in terms of the ruling of Hon Barry House, and I am sure that the current President would concur with that ruling of the former Chairman of Committees —

The DEPUTY CHAIR: One would hope so!
**Hon KEN TRAVERS:** We would think that he would see it as an excellent ruling of the former Chairman of Committees.

As an opposition, we are able to achieve what we want to achieve only if the government is prepared to fulfil its obligations during debate on the short title of the bill. I do not even know what time we started in committee, but I suspect that as a result of not answering the question, the minister has prolonged the debate for significantly longer than it otherwise would have been. When we get to the end of considering this piece of legislation, we will be able to look back and say that the bill took so long because the minister would not answer the simple questions. I will ask the minister one more time —

**Hon Helen Morton:** Nobody believes that, other than five over there.

**Hon Kate Doust:** We know it’s true because —

**Hon Helen Morton:** Nobody believes it other than five people sitting on that side of the chamber, so carry on!

**Hon Sue Ellery:** It’s like you people believe there’s no problem with school cuts; you’re deluding yourselves!

**Hon Helen Morton:** Just keep wasting time if that’s what you want to do!

**Hon Sue Ellery:** You’re deluding yourself.

**The DEPUTY CHAIR:** Members!

**Hon Sue Ellery:** And that is called interjecting and that adds to the length of the debate.

**Hon Helen Morton:** Yes, yes; keep going! Listen to them interject as well.

**Hon KEN TRAVERS:** Wow! Hon George Cash was out there earlier tonight. He taught me many things when I was in this chamber —

**The DEPUTY CHAIR:** And was that to stay with clause 1 of the bill?

Several members interjected.

**The DEPUTY CHAIR:** Members, we allowed a bit of a break then, because we have been going for a while, for a bit of across-the-chamber debate, but let us bring it back to Hon Ken Travers and his contribution to the question that clause 1 do stand as printed.

**Hon KEN TRAVERS:** If I am not distracted by unruly interjections by the Minister for Mental Health, I will get on to my points!

**Hon Peter Collier:** I’m listening!

**Hon KEN TRAVERS:** I am glad that the Leader of the House is listening because the problem we have is that those sorts of silly remarks by the Minister for Mental Health in a short title debate just elicit a response. If the Leader of the House looks at some of the lessons that Hon George Cash —

Several members interjected.

**The DEPUTY CHAIR:** Members on my right! Hon Ken Travers has the call.

Several members interjected.

**Hon KEN TRAVERS:** I do not want to interrupt the interjections—just whenever you have all finished!

**The DEPUTY CHAIR:** Hon Ken Travers, you have the call; continue, please.

**Hon Peter Collier:** You’re not getting interjections; let us get on with it!

**Hon Sue Ellery:** But we are—it’s hilarious!

**Hon Peter Collier:** We’ve had a minute of silence; can we get on with it?

**Hon KEN TRAVERS:** You lot—seriously! Go and have a look at what Hon George Cash —

Several members interjected.

**The DEPUTY CHAIR:** Members! I have now heard “Go and have a look at what Hon George Cash” four times. I am sorry, but can we stay with the —

Several members interjected.

**The DEPUTY CHAIR:** Members! Members know that when the person who is in the chair calls members to order, that is what they do, thank you. Hon Ken Travers in continuation of what Hon George Cash said.

**Hon KEN TRAVERS:** Madam Deputy Chair, you are absolutely right. I am going to say it for a fifth time, because for the first four times I had an interjection before I finished even the first sentence coming out of my mouth. In fact, if members opposite read what Hon George Cash would often say to members of this house when
I was a new member, they would understand that the sorts of interjections that they are making across the chamber —

**Hon Kate Doust** interjected.

**The DEPUTY CHAIR:** Deputy Leader of the Opposition!

**Hon KEN TRAVERS:** Members opposite would understand that the sort of nonsensical rubbish interjections by people such as the Minister for Mental Health that come across the chamber just prolong the debate. They draw out the debate. If the Leader of the House’s government seriously wants this legislation not to be unnecessarily delayed, I suggest that he send some of the government’s more prolific interjectors out to have a cup of tea so that we can get on with debating this legislation in a proper way.

**Hon Peter Collier:** We’re listening now.

**Hon KEN TRAVERS:** Yes, but “Old Snide Remarks” next door to the Leader of the House is still going on, though! She cannot help herself.

Several members interjected.

**The DEPUTY CHAIR** (Hon Liz Behjat): Members!—seriously! If we wanted a break from proceedings, I could vacate the chair until the ringing of the bells. I do not propose to do that. We have had our five minutes of frivolity and now we return to the question that clause 1 of the Workforce Reform Bill 2013 do stand as printed.

**Hon Ken Travers:** I will definitely try not to, Madam Deputy Chair. Whether or not you and I are successful in that process will be another matter.

There is another matter that I wanted to raise in the short title debate. It is clear that the minister is keen for us to prolong the debate as we go through the later clauses and we will have to deal with that. I hope when we get to those later clauses that if the minister says that a matter should have been dealt with on an earlier clause, he will support us in going back to that earlier clause. One thing that we can certainly do in the short title debate is clarify where we need to raise matters.

The final matter that I want to canvass is whether amendments are required. It goes to potential future amendments for the bill and extends from the points that I was trying to elicit from the minister earlier. It relates to part 4 of the bill and its application to the Salaries and Allowances Act 1975. As members know, when we get to that part of the bill, we can have a more detailed discussion about those particular clauses. However, at the moment what I am looking at is if —

**The DEPUTY CHAIR:** Members!

**Hon KEN TRAVERS:** Sorry; I was being distracted then.

**Hon Helen Morton:** I’m not talking to you.

**Hon KEN TRAVERS:** But the Minister for Mental Health is still very distracting.

**The DEPUTY CHAIR:** I am sorry; I was distracted myself, Hon Ken Travers. Members, if you want to have a conversation, could you take it outside the bounds of the chamber, please. Hon Ken Travers has the call.

**Hon Michael Mischin:** He’s lost his train of thought—start again!

**Hon KEN TRAVERS:** No; I am not going to start again, minister! The minister might want me to start again so that he can make up some claim about games.

However, the point I was making is that part 4 of the bill has a number of similar provisions to those that will apply to the Western Australian Industrial Relations Commission. The Salaries and Allowances Tribunal will be required to provide for certain categories of determinations relating to ministers of the Crown, the parliamentary secretary of the cabinet and a parliamentary secretary appointed under section 44A(1) of the Constitution Acts Amendment Act 1899. It does not include members of Parliament and officers of the Parliament, but it does include public service holders in the special division and a person holding an office of a full-time nature created or established under a law of the state. I understand that the government’s position, at this stage, is some argument about the separation of powers. Considering there is an act of Parliament that sets our wages, I struggle to see the argument about the separation of powers. On that clause—this is why I asked the questions I did earlier—is there a suggestion that those bodies are not giving due regard to the policies that it is claimed this bill requires them to? I am trying to understand why those areas are exempt. I know we can get into a more detailed
discussion when we get there, but I think it is useful to understand what the government’s intention is and why those sections are exempt. There is another area that comes into play in terms of that particular application of the legislation. It has been put to me that the original bill presented to the Liberal Party room included members of Parliament, and that this reference was subsequently removed. I do not know whether that is true or not, but could the minister clarify that at this stage of the debate? Did the original draft of this legislation that was taken to the Liberal Party room also cover members of Parliament?

Hon MICHAEL MISCHIN: I am happy to deal with those issues when we get to the clause.

Hon AMBER-JADE SANDERSON: I wish to make a few comments on the short title of the bill and address a point made by the Minister for Commerce in his second reading reply. He said that the opposition was claiming that the government should employ people as well as provide services. The Minister for Commerce said that the opposition suggested that employing people would take away from the provision of services when, in fact, it is the employees who provide those services. Those services cannot be provided without the people who work in the public sector. It is people who are child protection officers, who clean hospitals and who sit in our schools supporting our children. We cannot provide the services without those people. This bill will give the government broad powers that will reduce the public service’s ability to deliver those services, because essentially there will be a lot fewer people to deliver those services.

I have a range of questions to canvass and my remarks will range over the clauses. This bill gives very broad powers to make compulsory redundancies. We have heard conflicting evidence in public hearings from the minister and from government members that this legislation is for a narrow range of public servants but also that it is about structural reform. A very senior Treasury official stated that he would like to see this bill used to put a lot more people on the redeployment list. I seek evidence that this legislation is for narrow application. There is a complete lack of evidence demonstrating that the current redeployment and redundancy regulations processes are not working. Figures from the Public Sector Commissioner show that hundreds of public sector workers go through the RRR process a year, and at the moment there are only 70 workers on the list. Thirty workers on that list of 70 are “long-termers”, so to speak. To me, that says that the system is working. It says that hundreds of people are working their way through the redeployment process. There are a small number of people who need to be dealt with, and management lacks the will to direct those people into positions and initiate dismissal proceedings if they refuse to take those positions. Those powers already exist under the act. I am still looking for the evidence that those powers do not work. I have not seen any sensible examples that are not covered by any of the legislation and employment law that we currently have.

I want to raise the issue of the statutory considerations for the Western Australian Industrial Relations Commission. I take issue with the implication that I and other members on this side of the chamber have taken evidence out of context—that is absolutely untrue. Nothing out of context has been stated here. I go back to the evidence provided by Maria Saraceni on statutory considerations. I asked her, in her view, if it would compel the commission to take them into consideration or give effect to them and she was very clear about her evidence in that no, she did not think it would. She went on to say, and I quote the transcript of evidence—

I would suggest that is not appropriate because already the commission needs to factor in whether the employer can afford to pay. Under 26(1)(d)(iii), it already needs to factor in the national economy and the economy of WA, so it is already factoring in all these factors.

There is nothing out of context in that. It was part of Ms Saraceni’s evidence. The government cannot dismiss that part of her evidence just because it does not like it—just like the committee, and myself, have not dismissed another part her evidence in which she contradicted the public sector unions that felt that onerous obligations would be imposed on the commission to rig the game in the government’s favour. It is fair to say that on Maria Saraceni’s evidence the committee unanimously agreed that it would not, so what is the point? That is a question I would like to ask the minister at this stage: what is the point in pursuing these clauses, if they will not pose any further obligation and there are already a range of factors under the Industrial Relations Act 1979?

Government policy on the consumer price index has not been addressed—I did leave the chamber for a short period during the minister’s speech, so apologies if he did address this. The government has not addressed the issue that most of the low-paid workers in the public sector are women and they are punished when the CPI is used as a wage inflator. What alternatives has the government considered? Why will the government not consider the non-government services indexation? Do public sector entities or departments have the ability to provide a sliding scale of wage increases with CPI as the overall cap on a department for example? Why does it have to be imposed on the lowest paid when they will get the lowest percentage wage increase? Can the higher wage earners in the public sector have less of a wage increase and the lower wage earners more while maintaining the CPI cap?

I want to raise the issue of transitional arrangements. Hon Sue Ellery raised this issue and I think there are questions that need to be answered. There are tens of thousands of workers who will have their agreements undermined by this legislation and they deserve to know what arrangements were considered and rejected. This
is because these agreements have an end life. Most of them will end in 2015, which is in 18 months. There is only 18 months to wait, so why the rush? Why rush to impose these involuntary terminations on tens of thousands of public sector workers when the government only needs to wait 18 months for those agreements to expire and then use those arrangements or negotiate new agreements without the redundancy provisions? I suggest that the government negotiators who agreed to those agreements should think very carefully about what they are doing. Those negotiators entered this government into those agreements.

The other issue is permanency. The public sector is not there purely to provide permanent jobs for life. There are not many public sector workers who are putting their feet up and having a cup of tea on the taxpayer and enjoying life; they are firefighters, nurses and teachers. The government as the biggest employer has the responsibility to be an employer of choice and deliver those choices. Permanency is an issue. Permanent jobs mean we get more consistent services, people with depth and breadth of knowledge and less frequent turnover. Turnover in organisations is incredibly expensive. I would like to see all those issues canvassed in detail in these clauses and for the minister to outline some further and more detailed explanations to some of those questions.

**Hon MICHAEL MISCHIN:** Much of this deals with the specifics of some of the clauses and I will on this occasion repeat some of the comments I have already made. I have already explained at length the point of the desire of the government to change section 26; I do not intend to go into that. The member suggested some kind of sliding scale whereby there is a consumer price index cap on an increase that can be offered by an agency over a 12-month period, but somehow the lower paid workers get more of a pay rise than the higher paid workers. I am not quite sure how that would work. Certainly the Burke Labor government found a solution to it, which might appeal to the honourable member, which was to put an arbitrary cap on the wage increase of anyone who earned more than $29 500 a year. To me, that seems a bit extreme, but it is something that appealed to the Labor government of the day.

**Hon Sue Ellery:** You are putting a cap on everyone.

**Hon MICHAEL MISCHIN:** It is not exactly a cap because it would allow for a pay increase to maintain the real value of public servant wages by way of CPI.

**Hon Sue Ellery** interjected.

**Hon MICHAEL MISCHIN:** Absolutely. It is to maintain the real value of wages and not to stop people from having any increase and diminishing the real value of their wages.

**Hon Sue Ellery** interjected.

**Hon MICHAEL MISCHIN:** Absolutely. It is to maintain the real value of wages and not to stop people from having any increase and diminishing the real value of their wages. We are not simply saying workers cannot get a pay increase, as was said by the former Labor government of which Hon Amber-Jade Sanderson is so proud—the glorious days of the Burke government! One of the first things it did was to cap any increase so that workers could not get any increase.

**Hon Sue Ellery:** That is the best you have!

**Hon MICHAEL MISCHIN:** I am simply pointing out some of the hypocrisy here. In any event, we are preserving the ability of public sector employees to maintain the real value of their wages. We are not discriminating against either the lowly paid or highly paid workers. We are not imposing an arbitrary limit.

**Hon Sue Ellery:** Yet they seem so ungrateful!

**Hon MICHAEL MISCHIN:** Yes, they do.
The DEPUTY CHAIR: Order! Hansard needs to take down the words of the minister in his response. I called the members on my right to order earlier and they have taken heed of what I have said. I now ask members on my left to do the same and we can continue this very wideranging clause 1 debate.

Hon MICHAEL MISCHIN: If the honourable member would like to introduce through some amendment to the bill a sliding scale cap on people’s salaries to say to the members of the public sector that if someone earns more than a certain amount per annum, they will not get a pay rise or they will get something that will diminish the real value of their wages in favour of the lower paid workers, I am happy to entertain it. I do not think it is a good idea, but if that is what the opposition wants to promote after due consultation with the unions, I am happy to consider that, and we can have that debate. However, the government on the other hand is maintaining the real value of wages by not allowing them to exceed CPI.

I refer to waiting for the end of the life of certain agreements. Yes, that is one way of going about it, but then we would have a raft of agreements that would not be in accordance with policy in respect of others, and that seems unreasonable. The fact that there may be agreements that currently provide that there shall be no redundancies and that may be subject to redundancies does not necessarily mean that there will be redundancies. As has been stated, there will be the opportunity for the government to offer voluntary severance, which people can take up if they see it to their personal advantage to do so, notwithstanding that they are public servants. Those who are in excess of requirements and cannot be found a worthwhile place to provide the public service that people expect from their public servants, that last resort is enabled by the legislation. I think that was about the only question that required any sort of answer. I am happy to deal with specific things when we get to those clauses.

Hon KATE DOUST: I have just listened to the minister’s response to Hon Amber-Jade Sanderson. The government has made this retrospective decision on agreements that were entered into in good faith. Over the next couple of years, as those agreements rotate through, the trade unions representing those various components of workers in the public sector will look to re-engage with the government and renegotiate a new round. A number of unions are already lining up to do so. Given that the government will have this CPI cap in place and, basically, unions will not be able to seek anything further than that for their members in terms of the dollar, how can these trade unions sit at the negotiating table with the government of the future, act for their members in good faith and expect that the deal they sign off on will be the deal that stays intact for the duration of that agreement? Can the minister explain to me how they can possibly do that? How can the government guarantee that required any sort of answer. I am happy to deal with specific things when we get to those clauses.

Hon MICHAEL MISCHIN: The problem with what the Deputy Leader of the Opposition has put forward is that she confuses two processes: one is the prerogative of the Parliament to pass laws for the peace, order and good government of the state; and the second, if it is thought appropriate when a bill becomes law, is to change arrangements as they have always been changed—that is, to change rights and obligations of those for whom it is governing. That happens every day in this place, and it happened every day in this place under the previous Labor government when it changed workforce relations and industrial relations legislation. These things are done as a matter of policy and applied either in a specific or general way. People’s rights and obligations are changed by Parliament if the government of the day manages to persuade Parliament to that end. There is nothing novel in this.

As far as particular contracts are concerned, if it becomes apparent that a provision in an employment agreement is contrary to the public interest, the Parliament surely has not only the responsibility but also the obligation of making appropriate changes. It may come as a surprise to the honourable member that, as I understand it, the last commonwealth government was making enormous changes to workplace and industrial relations agreements notwithstanding that there had been particular agreements struck between employers and employees. It was not just government employers and employees but also private sector employers and employees, and it was quite prepared to change those things. The last Labor government did so in this state; so there is nothing unusual about it. If we want to get back to specifics in the public sector, I recall a thing called broadbanding was introduced in the 1980s that changed the face of the public sector. So these things happen.

There is a different process, however, in respect of the laws as Parliament frames them, and that is what is called good-faith bargaining. That is entrenched in the Industrial Relations Act, and that is the process that is engaged in in dealing within the structure of the law. I think there are three agreements that do not conform with the policy that is proposed under this act because they have no redundancy provisions that will be inconsistent with there being this last resort avenue that can be engaged in under the structure that is proposed in the bill. That is how it works. I cannot help the way that the unions might feel about it or the way the opposition feels about it, but that is the government’s policy in these matters. It sets what the parameters are for appropriate engagement in the public sector, the appropriate means of discipline, the termination of the employment of staff in certain criteria and so forth. The government has bargained and will continue to bargain in good faith within the parameters of the Industrial Relations Act, the Public Sector Management Act and likewise.
Division

Clause put and a division taken, the Deputy Chair (Hon Liz Behjat) casting her vote with the ayes, with the following result —

Ayes (16)
Hon Martin Aldridge  Hon Jim Chown  Hon Nigel Hallett  Hon Robyn McSweeney
Hon Liz Behjat  Hon Peter Collier  Hon Col Holt  Hon Michael Mischin
Hon Jacqui Boydell  Hon Nick Goiran  Hon Peter Katsambanis  Hon Helen Morton
Hon Paul Brown  Hon Dave Grills  Hon Mark Lewis  Hon Phil Edman (Teller)

Noes (8)
Hon Robin Chapple  Hon Kate Doust  Hon Liljiana Ravlich  Hon Ken Travers
Hon Alanna Clohesy  Hon Sue Ellery  Hon Amber-Jade Sanderson  Hon Samantha Rowe (Teller)

Pairs
Hon Simon O'Brien  Hon Sally Talbot
Hon Ken Baston  Hon Stephen Dawson
Hon Alyssa Hayden  Hon Lynn MacLaren
Hon Donna Faragher  Hon Darren West
Hon Brian Ellis  Hon Adele Farina

Clause thus passed.

Distinguished Visitors — Hearman Family

The DEPUTY CHAIR (Hon Liz Behjat): Members, I am going to leave the chair until the ringing of the bells, but prior to me doing so, I would like to welcome into the President’s gallery this evening the members of the family of the late John Hearman, a former Speaker of the Legislative Assembly. You are very welcome here in the chamber this evening celebrating our fiftieth anniversary of the eastern extension. I will now leave the chair until the ringing of the bells.

Sitting suspended from 9.00 to 9.04 pm

Distinguished Visitors — Diver Family

The DEPUTY CHAIR: I earlier welcomed the Hearman family to the President’s gallery. I would also like to very warmly welcome the grandson of Sir Leslie Diver, a former President of this chamber, to the gallery this evening.

Committee Resumed

Clause 2: Commencement —

Hon SUE ELLERY: Part (b) of this clause states, in terms of commencement —

the rest of the Act—on a day fixed by proclamation, and different days may be fixed for different provisions.

Is there any intention to start different provisions on different dates? For example, is it anticipated that the changes to the Industrial Relations Act and the Public Sector Management Act will come into play at the same time as the changes to the Salaries and Allowances Act?

Hon MICHAEL MISCHIN: The government plainly wishes to have the whole bill in operation as soon as practicable. No timetable has been established at this stage, nor is one contemplated. Some regulations will need to be drafted, so those clauses that are dependent upon there being regulations in place may be delayed before they are proclaimed. The priority for the government would be to have at least the wage policy aspects in place at the earliest practicable opportunity, and not much would seem to be necessary with respect to that. The redundancy stuff will require some regulations to be made, but those bits that will work independently of regulations will be proclaimed at the earliest practicable opportunity.

Hon KATE DOUST: The minister said that some clauses will be dependent on regulations. The government has obviously identified which clauses those will be. I wonder whether the minister could provide a list or information on which clauses in this bill are dependent upon regulations being written before they can be proclaimed.

Hon MICHAEL MISCHIN: Perhaps it is my fault. The act, of course, will be in operation but some aspects of it may come into operation at different stages. Part 1 will be proclaimed upon royal assent. The priority will be to have the wage policy aspects in operation and effective at the earliest opportunity. Those ought to be in operation fairly swiftly. Others, such as the involuntary redundancy provisions, which will require some processes to be set up through regulation and, as I have indicated, on which some consultation may be necessary with interest groups, including the unions that represent some of these workers, may take a little more time.

Clause put and passed.
Clause 3: Act amended —

Hon KATE DOUST: A very obvious question arises that I feel compelled to ask: why is the government amending the Industrial Relations Act 1979 given the discussion we had throughout the second reading debate that the provisions it seeks to amend deal essentially with capacity to pay already exist and are already matters that the Industrial Relations Commission takes into account for all employers? I come back to that very simple question: why is the government amending the IR act 1979?

Hon MICHAEL MISCHIN: There are a couple of reasons the Industrial Relations Act has to be amended; one is that the amendments to section 80E and the like that deal with the ability to review the redundancy processes that will be established under other parts of the Workforce Reform Bill need to be amended in order to accommodate the policy decisions that are being made. So far as section 26 is concerned, which I think is the point the member is really driving at, as I indicated during the course of the second reading reply and as the standing committee identified, the Industrial Relations Commission shall have regard to matters such as the Western Australian economy and the capacity of the employing agency to pay for any wage increases—say remuneration increases generally or conditions of employment that may have a cost or expense element—but there is no guidance in the Industrial Relations Act as to what materials need to be taken into account. The bill amends the relevant provision to direct the commission’s attention to those documents that the government considers will most reveal the state of the Western Australian economy and the capacity of the particular employing agencies to pay and to afford the conditions that are being decided upon.

Clause put and passed.

Clause 4: Section 26 amended —

Hon SUE ELLERY: I ask for Madam Deputy Chair’s guidance. Clause 4 of the bill seeks to amend section 26 of the IR act. It seeks to do that by inserting new sections (2A) to (2E). There is a committee recommendation on the supplementary notice paper that seeks to delete proposed section (2A) and insert an alternative form of words. There are three amendments in the minister’s name that would have the effect of amending (2A), if it stays in, and (2B). Then there is a minority committee recommendation to delete the clause in total. How do we manage this debate?

The DEPUTY CHAIR (Hon Liz Behjat): I will work backwards. Minority committee recommendation A is to oppose a clause. It does not propose any changes to an existing clause, so we can leave that to one side at the moment. There are amendments in the minister’s name and then there is an amendment from the committee. Under standing orders, I can move from the Chair the committee’s recommendations. It is an either/or situation. If we move to the committee recommendation first and deal with that part of it, we will then get what is to be substantive clause (2A) and we can move on after that to deal with section 26.

Hon SUE ELLERY: I am not trying to be difficult. The first amendment in the minister’s name is to amend the existing clause in the bill whereas the committee’s amendment is to replace the whole of (2A). I am not sure what is the most logical way to deal with that.

The DEPUTY CHAIR: The supplementary notice paper is listed in order of how we will deal with those things. We will deal with committee recommendation 2 first. If that were passed by the Committee of the Whole, the minister’s amendments would fall away. We would then deal with the minority committee recommendation to oppose the clause as it stands because it does not propose a clause to any specific thing. If the Leader of the Opposition is clear on that, we will proceed that way. I move —

Page 3, lines 7 to 25 — To delete the lines and insert —

(2A) In making a public sector decision the Commission must take into consideration any submission made to the Commission on behalf of the State Government that is to include such matters as —

(a) any Public Sector Wages Policy Statement that is applicable in relation to negotiations with the public sector entity;

(b) the financial position and fiscal strategy of the State as published by the Department of the Treasury in publications including —

(i) the most recent Government Financial Strategy Statement released under the Government Financial Responsibility Act 2000 section 11(1);

(ii) the most recent Government Financial Projections Statement released under the Government Financial Responsibility Act 2000 section 12(1);
The committee reached the view that this needed to happen. It set out its argument on pages 29, 30 and 31 of its report. It raised two issues, starting on page 29, under the headings “Status and effect of the ‘financial position and fiscal strategy of the State’” and “No definition of ‘financial position of the public sector entity’”. In a nutshell, the committee was told that the objective of the proposed clauses is to more clearly articulate the government’s policy position and to ensure that the Western Australian Industrial Relations Commission gives due consideration to this position in determining wage outcomes. It stated that the terms of proposed new section 26(2A) appear to be clear. However, it noted that including this phrase in the Industrial Relations Act will change the status of the phrase from a question of fact before the commission into a question of law. It already set out in the report before that questions of law are capable of being subject to judicial review and that the committee is unable, on the basis of the evidence before it, to advise the Legislative Council how this phrase might be interpreted by the court should it become the subject of an action for the judicial review. I would like to hear the minister’s response to that.

The committee report goes on to state that there is no definition of “financial position of the public sector entity”. It made the point that while the financial position of the public sector entity does have an ordinary meaning, it is accepted in drafting principles that the bill should be unambiguous in its terms and drafted in a sufficiently clear and precise way. That means that the technical legislative requirements should be clearly defined whereas other terms may also lack a technical definition but they have developed a settled meaning over time as the parties before the commission have tested various things.

I will skip a page or two to where the committee notes that drafting legislation in this manner can give rise to unforeseen circumstances. A number of witnesses to the inquiry expressed the view to the committee that section 26(1)(d)(iii) already provides adequate direction to the commission to consider the financial position of the public sector agency because it must consider the capacity of employers to pay when it is exercising its jurisdiction. Given all of that—I have just laid out the short version—the committee accepted the argument that clause 4 of the bill as currently drafted may lead to unintended consequences and therefore may not actually achieve the policy intention of the bill that was expressed in the second reading speech. It proposed an alternative as a way of avoiding the possibility of statutory relevant considerations becoming questions of law rather than remaining as they are currently questions of fact for adjudication by the commission. The committee recommended that the bill be amended by deleting proposed paragraph (2A) in its entirety and inserting an alternative, which is set out in its report. The opposition thinks that the committee’s recommendation makes proposed paragraph (2A) better and it does address the issues that it had identified. We think that the government’s amendments add the technical definition, and I think the minister said they were drafted in a way that was more acceptable to the government.

Nevertheless, from the opposition’s point of view, we are going to vote to make the clause better but we will also vote to oppose the clause in its entirety. We do not think any evidence has been presented; I will ask the minister to provide this. Where is the evidence that says the Industrial Relations Commission has never allowed the government of the day to put its point of view when it comes to the state of the economy and the state of the government’s finances? I think the answer to that is that it has never happened. It has never been the case that the commission has said, “No, state government, we do not want to listen to you on questions of the state of the economy of Western Australia or on questions of the financial capacity of any agency to pay or, indeed, the government as a whole, as an employer.” I ask the minister to point me to the case where the Industrial Relations Commission has not allowed the state of Western Australia to put that view. I will make the point that we support the committee’s recommendation. We support the government’s amendments because they insert those definitions, although I do have questions about one phrase in the government’s amendments. We will try to make this bill better but when we have the opportunity to vote against the provisions, that is what we will do because we think this is completely unnecessary.

Hon MICHAEL MISCHIN: I fully understand the opposition’s opposition and what it is seeking to achieve. I will answer the last question first regarding the evidence about whether the commission has not taken certain matters into account. That is not the issue. Until this bill is passed, there is no requirement that it take certain things into consideration rather than in the broad sense as currently set out in the Industrial Relations Act, the state of the economy and the like. What is being proposed is hardly novel, as I mentioned in my second reading reply. It is not unusual in the case of legislation that imports a jurisdiction and discretion upon a decision maker to direct the decision maker to certain things that need to be taken into consideration. A classic example is the dangerous sex offender legislation, in which high-level principles are set out, as they are in the Industrial
Relations Act, that will inform the manner that the tribunal needs to approach its task and may specify certain things that will need to be taken into consideration in coming to that decision.

Rather than broadly talking about the state of the economy, we are proposing to identify those materials quite explicitly that the government considers will best provide that information rather than merely submissions on the part of the government. Submissions are just that. In fact, the Industrial Relations Commission can take into account all sorts of things and inform itself in all sorts of ways without regard to the rules of evidence. Submissions are merely submissions. What is also being done by this is to say that in determining what the state of the economy is, it will have regard to identified materials. That is what is being proposed.

Leaving aside the argument as to whether the original draft was satisfactory, the government accepts that the committee has considered the matter and come to certain conclusions and has proposed certain amendments in order to accommodate those while maintaining the policy behind the amendments.

As for the committee’s amendments, I mean no disrespect to the committee but there were some difficulties in the draft recommendation for the amendment. I will go through those so that the committee can understand the reason the government cannot support the committee’s suggested amendments. Firstly, the opening lines of proposed paragraph (2A) are not clear. It may be that the reference to “that is to include …” refers to the submissions. If that is the case, the provision requires the state to make submissions on a list of matters. Alternatively, it could be argued that that is not the intention but it is intended to require the commission to have regard to all the submissions made by the state, including submissions on the list of matters. The inclusion of the words “that is to include” makes it almost impossible to give the lines a clear meaning. Secondly, the opening lines, when read with the following list, do not make grammatical sense. It reads, in essence, “must take into consideration any submissions … that is to include such matters as … any public sector wages policy …”. Presumably, the intention is that the WAIRC takes into consideration submissions about the list of matters, but that is not what the proposed amendment says. Thirdly, paragraph (b) requires the commission to consider submissions on both the financial projections statement, under section 12(1) of the Government Financial Responsibility Act, and the midyear projections statement under section 13(1) of the Government Financial Responsibility Act. That was not the government’s intention and it imposes an unnecessary burden. Fourthly, paragraph (b)(iv) does not make sense. It would require the commission to consider “submission made to the commission … that is to include … the financial position … of the state as published by the Department of Treasury in publications including … any other submissions made to the commission on behalf of the state government”. Some words have been omitted, but that gives members the drift of the paragraph. Those submissions are not in the publication by the Department of Treasury, and if the amendment were passed in that form there would be no clear authority in the provision for the commission to consider government submissions about the financial position and fiscal strategy of the state.

The government has redrafted paragraph (c) to be more specific as to what matters the commission is to consider in relation to the financial position of the public sector entity. The government has proposed an amendment, at 14/4 and 15/4 on supplementary notice paper 42-3 that reflects the government’s view of what the Standing Committee on Legislation was driving at in attempting to improve the specificity of the original provision in the bill, and that is a preferable approach to that which has been suggested by the committee, with all due respect to them. The government will oppose the amendment that appears as amendment 1/4 of supplementary notice paper 42-3, committee recommendation 2, and will move an amendment to achieve the same end but in a more refined manner. I fully accept that the opposition will oppose the clause overall, but I suggest that, if an amendment is made, the government’s proposed amendment be preferred to the legislation committee’s amendment, if that makes sense.

Hon Kate Doust: I have a few questions on the amendments that the government has proposed to section 26 of the Industrial Relations Act. Clause 4 proposes to “Delete section 26(1a) and insert”, but subsection (1) reads —

In the exercise of its jurisdiction under this Act the Commission —

It continues with paragraph (a). Members should keep in mind that section 26 is part of the general provisions in the IR act, “Division 2 — General jurisdiction and powers of the Commission”. This section relates to all workers, both public and private sector. If we delete section 26(1)(a), we will delete a set of words that I think will also impact on private sector workers as well as public sector workers. I am happy for the minister to say that we have it absolutely wrong and it is only for the public sector, but that is not how it looks at the moment. The government is seeking to delete the part of section 26 that reads —

(1) In the exercise of its jurisdiction under this Act the Commission —

(a) shall act according to equity, good conscience, and the substantial merits of the case without regard to technicalities or legal forms;

If the government uses its numbers and is successful in that, it will remove that whole subsection.
Hon Michael Mischin: The member is looking at the wrong subsection. That is section 26(1)(a) and we are deleting section 26(1a), which is over the page.

Hon KATE DOUST: Thank God for that! The crux of going to the commission is to act in food faith and good conscience and I seriously thought—it would not have surprised me—that a Liberal government would seek to remove that. I am so relieved that is not the case, and I sit down now.

Hon SUE ELLERY: I need to find the supplementary notice paper.

Hon Michael Mischin: If the honourable member is going to take a little time, perhaps we can report progress because I have a bill that I can read in in the time available.

Progress reported and leave granted to sit again, on motion by Hon Michael Mischin (Minister for Commerce).

CUSTODIAL LEGISLATION (OFFICERS DISCIPLINE) AMENDMENT BILL 2013

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Michael Mischin (Attorney General), read a first time.

Second Reading

HON MICHAEL MISCHIN (North Metropolitan — Attorney General) [9.39 pm]: I move —

That the bill be now read a second time.

Members will be aware of the cultural challenges facing the Department of Corrective Services. The legislative changes now introduced to the house in the shape of the Custodial Legislation (Officers Discipline) Amendment Bill 2013 form part of a package of reform initiatives that reflect the government’s firm commitment to addressing these challenges. Public accountability rests on both giving an account and being held to account. Accountability prevents the abuse of power and ensures that power is instead directed towards the achievement of efficiency, effectiveness, responsiveness and transparency. Public sector agencies, such as Western Australia Police and the Department of Corrective Services in particular, are continually subjected to public scrutiny due to the nature of the services they provide to the public. This scrutiny is due to the powers these officers have over members of the public that they serve. One of these powers is the power to use lawful force. The potential for abuse of this power, in itself, demands high standards of accountability.

The Commissioner of Corrective Services contributes to maintaining public confidence in the corrections system and has a responsibility to remove those officers in whom he loses confidence in regard to integrity, performance, competence and conduct. The commissioner is obliged to address behaviours and practices that may erode public confidence in the security and effectiveness of the corrections system. The vast majority of corrective services officers uphold the highest standards of ethical behaviour. However, the Minister for Corrective Services became concerned to learn that in the 24 months from July 2011 to June 2013, 59 custodial officers were charged under the Prisons Act 1981. Of these officers, only three were dismissed, while a further 10 resigned during the course of the investigation and/or as a result of disciplinary action. One officer known to have undeclared links and associations with organised crime groups over the course of a number of years was able to evade internal prosecution by the department due to the inherent difficulties associated with part X of the Prisons Act 1981.

The department’s review into the above circumstances identified that the current disciplinary process for prison officers is outdated, is focused on an adversarial hearing-based process, and does little to improve employee performance and behaviour. The government proposes to reform these disciplinary processes by way of legislative amendments to the Prisons Act 1981 and the Young Offenders Act 1994. This reform will ensure that both acts contain contemporary discipline processes consistent with processes implemented across the WA public sector and satisfy the community’s expectation that all public officers act with integrity in the performance of their public duties. The proposed legislative amendments are intended to engender internal and external trust in the corrections system, reduce difficulties and technical delays currently encountered in removing corrupt or seriously disruptive officers and diminish the risk of prison officers and youth custodial officers misusing their special powers.

Three significant changes are proposed in the bill. The first is with regard to loss of confidence. The loss-of-confidence provisions in the bill mirror section 8 and part II B of the Western Australian Police Act 1892. The introduction of these provisions will enable the Department of Corrective Services to assure the public that although its prison and custodial officers hold very special powers, these powers are matched by very special standards of integrity and accountability and the requirement to act in a way that is above reasonable suspicion and reproach. The introduction of loss-of-confidence powers will enable the Commissioner of Corrective Services to use a fair and straightforward process to promptly remove those very few officers whose
incompetence, criminality, corruption or lack of integrity is such that he has lost confidence in their suitability to remain in office.

The existing disciplinary processes are hampered by workplace relationships such as can be experienced by prison officers. Instances of improper and inappropriate relationships include links between a prison officer and organised criminals; prison officers supplying drugs, and other contraband, to prisoners associated with outlaw motorcycle gangs; and sexual relationships between prison officers and prisoners where cells within a maximum security prison may be left unsecured, thereby compromising the security and good order of the prison. In these instances, and not unexpectedly, witnesses are unwilling to give evidence against a prison officer who has such connections for fear of retribution, and prima facie evidence of organised criminal activity is difficult to establish within a prison environment.

In circumstances in which an officer is found to be corrupt or disruptive, the new provisions will allow the Commissioner of the Department for Corrective Services to dismiss the officer with 21 days’ notice. The commissioner will dismiss an officer only when the commissioner has lost confidence in the officer’s suitability to remain in office having regard to the officer’s integrity, honesty, competence or performance. The bill will insert appeal rights for any prison officer who faces removal action by the chief executive officer. The prison officer may appeal against the removal to the Western Australian Industrial Relations Commission on the ground that the removal was harsh, oppressive or unfair. The appeal must be heard by not less than three industrial relations commissioners.

The second significant change proposed in the bill is streamlining the disciplinary process. The bill seeks to amend the existing adversarial hearing-based process outlined in the Prisons Act 1981 by adopting the less adversarial and more constructive processes outlined in part 5 of the Public Sector Management Act 1994. The proposed amendments will enhance consistency on performance improvement and performance management within the department and align it with the rest of the public sector. The current adversarial discipline system depends on a prison officer acquiring a criminal conviction or establishment of serious charges by the department. It is difficult to use for performance management issues.

There are a number of benefits of the proposed disciplinary regime. The first is that the department will no longer need to hold costly and time-consuming oral hearings that can take up to two years. Under the proposed regime investigation can commence immediately on suspicion of a breach of discipline. The second is that the bill will apply the same disciplinary process to both the custodial workforce and public servants. The third is that it removes potential difficulties that may arise when prison officers or youth custodial officers act in public sector positions within a custodial environment. The fourth is that a more extensive range of disciplinary actions, such as counselling, training and development, or the issue of warnings, is available under the Public Sector Management Act 1994 for the purpose of improving performance or conduct. Under the current regime only punitive sanctions are available. The Department of Corrective Services will determine the procedures for disciplinary proceedings subject to the guidelines set by the Public Sector Commissioner. The Western Australian Prison Officers’ Union will be consulted prior to the implementation of these new disciplinary provisions.

The third significant change proposed in the bill is the abrogation of the privilege against self-incrimination. The proposed amendments mean that a prison officer or youth custodial officer could be compelled to provide information to the commissioner that might incriminate them when the commissioner conducts an investigation to determine the suitability of that officer. This provision is included on the grounds of public interest. The commissioner must be able to obtain any information that may be of concern. However, this would apply only if the required information was not obtainable from an alternative source and the privilege would prejudice the investigation. A penalty will be imposed for not producing the required information. Safeguards do apply. Importantly, the compelled information will not be used in any other proceedings, and the officer must be advised of the implications of the abrogation, and the relevancy of the required information.

Through this bill, the government is continuing to build on its ongoing reform to strengthen accountability, integrity and transparency within the state public sector. As members in the house would be aware, this government has been systematically reforming the state’s public service, from the establishment of the Public Sector Commission to the introduction of the voluntary redundancy scheme. These measures have been designed to foster public confidence in the public sector, streamline processes and enhance accountability.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to any intergovernmental or multilateral agreement to which the government of the state is a party, nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and table the explanatory memorandum.

[See paper 1358.]

Debate adjourned, pursuant to standing orders.
MURESK INSTITUTE

Statement

HON MARTIN ALDRIDGE (Agricultural) [9.48 pm]: I rise tonight to make some comments in relation to an event I attended last Tuesday evening. I had the pleasure of representing the Minister for Regional Development; Lands at a dinner to celebrate the recommencement of the Bachelor of Agricultural Business Management at the Muresk Institute. The Muresk Institute was first established in 1925 and has been an important provider of agribusiness education since that time. In 2009, Curtin University announced that it intended to withdraw from the Muresk campus by the end of 2012. Following its withdrawal on 1 July 2012, operational management of the campus was transferred to the Department of Training and Workforce Development.

For members who may not be familiar with Muresk, it sits on 923 hectares of crown land to the west of Northam. Muresk is a self-contained learning environment with accommodation and training and research facilities including lecture theatres, classrooms, conference rooms, computer room and laboratories; 507 hectares of the crown land on which Muresk is situated is considered to be arable land.

On 17 February 2012, cabinet approved the release of $10 million from royalties for regions to upgrade buildings and facilities as part of stage 1 of the Muresk revitalisation project. Current work to date has included replacing air-conditioning systems in the dormitories and upgrading kitchen and communal areas. I understand that to date approximately 25 per cent of that initial allocation has been spent. Although I was not a member of Parliament at that time these works were approved, I know the then Minister for Regional Development, Hon Brendon Grylls, and the then Minister for Agriculture and Food, Hon Terry Redman, were committed to the future of Muresk post the Curtin University withdrawal. They were also both concerned with the ongoing sustainability of the campus and ensuring that industry supported the future business model in order for its success to be real.

In November 2013, under the leadership of the then Minister for Training and Workforce Development, Hon Terry Redman, an agreement was formalised between C.Y. O’Connor Institute and Charles Sturt University to deliver an agricultural business management degree from semester 1 of this year. This was also made possible by Minister Redman’s intervention to release $400 000 in funds from the Department of Training and Workforce Development. These funds form part of stage 2 of the Muresk revitalisation project, an election commitment made by the Nationals at the 2013 state election that formed part of our $300 million “Seizing the opportunity” agriculture policy. These funds will initially be used to underwrite the agreement and allow time for the new partnership and degree to reach a point of sustainability, which may take several years. The business case for stage 2 of the Muresk revitalisation project is under development, with an allocation of $10 million from the Nationals’ election commitment. Following the August state budget, the then Minister for Training and Workforce Development, Hon Terry Redman, announced on 13 August 2013 that the election commitment had been funded in the state budget.

As of last Tuesday evening, some 21 students had enrolled at Muresk to commence studies in the agribusiness program this year. It was also encouraging to see a number of scholarships being offered by industry. At least nine organisations and individuals were recognised on the night as contributors of scholarships, including RSM Bird Cameron; the Westpac Group; York and Districts Community Bank, which is a branch of Bendigo Bank; the Craig Mostyn Group; Rabobank; the CBH Group; Commonwealth Bank; and two Muresk alumni—namely, Mr Bryan Mickle and Mr Colin Roberts. Industry will play a pivotal role in the future success and long-term sustainability of Muresk. I would personally like to see these scholarships become proper graduate programs similar to those offered in other industries, whereby employers headhunt the best and brightest students in our senior high schools and agricultural colleges, support them through their degree and offer them a job at the end. That to me would demonstrate that industry is serious about agribusiness education at Muresk and recognising the value in employing a Muresk graduate.

I am in absolute agreement with Hon Terry Redman and Hon Brendon Grylls that industry has a similar stake in this alongside the state and federal governments. At this point, we should also recognise the role that the former federal Labor government and, in particular, the now retired Senator Chris Evans played in ensuring that there were sufficient commonwealth-funded places available for Muresk to again offer a degree course this year. Industry skills was a key focus of the Nationals’ election commitment, with $50 million of the $300 million commitment dedicated to this area alone. Alongside the $10 million commitment to stage 2 of the Muresk revitalisation project, $20 million was committed to increasing the profile of WA agriculture and an additional $20 million to boosting the business skills of agriculture and food businesses.

Why is this important to WA? Firstly, every year the industry is worth over $6 billion to the Western Australian economy and more than $48.7 billion to the national economy. Secondly, WA has the nation’s third-largest agricultural workforce, with more than 20 700 workers. Thirdly, nationally, the average farmer is now 53 years of age and the industry is grappling with a skills shortage reported to be more than 100 000 people. The rise of Asia is often talked about in this place and I do not intend to tackle that topic this evening; however, I think our
focus should now be on preparing our capacity to respond to international markets and opportunities that exist. The skills package will equip the sector to sell itself more effectively to the world, initiate improved industry ownership of the solution to the skills shortage and identify strategic priorities for the reputation and ongoing success of agriculture and food in Western Australia. Muresk has a very important role to play in assisting to address the skills deficiencies that loom across the industry.

Other opportunities exist at the Muresk campus, including partnering with industry on grains research, and improved facilities at the campus also make it attractive as a conference and accommodation venue. It has been well reported that Ausdrill is pursuing opportunities at the Muresk site on non-arable land for drill and blast training for the mining industry. I understand that negotiations are ongoing with a range of other organisations and agencies about how the campus facilities can be best used.

On 7 March 2014, Hon Kim Hames, Minister for Training and Workforce Development, announced a new partnership with the University of Western Australia’s Rural Clinical School under which a one-year placement at Muresk for fifth-year medical students will be offered. This will allow these students to participate in community projects and also expose them to the benefits of working in regional WA. Having recently been appointed as the Minister for Regional Development’s representative on the Southern Inland Health Initiative governance group, I know firsthand the challenge of recruiting and retaining doctors in our regions, and I think this is a positive move in the right direction.

I pass on my personal thanks to the C.Y. O’Connor Institute, its staff and, in particular, the governing council for the opportunity to represent Minister Redman last Tuesday evening and also for their leadership on all matters Muresk related. I have had the opportunity to visit Muresk on several occasions since my election and prior to that when I was involved in agriculture myself, participating in industry training programs at the institute.

On the night, I was presented with a book written by Glen McLaren entitled *75 years on: a history of the Muresk Institute of Agriculture*. When I spoke to staff at the Parliamentary Library this morning, I was surprised to learn that the library did not have this book in its collection. I have made arrangements with the library to have it donated to the library so that other members have access to it as well.

In summary, agriculture and its development in Western Australia is something that the National Party and my National Party colleagues hold dear. I do not think a party room meeting goes by that we are not discussing some aspect of the industry. I think we are unique in that sense, as I suspect that we are probably the only parliamentary party that could make that claim in this place. I am proud of the commitment that we took to the 2013 state election for agriculture, particularly the work that it will allow us to undertake in ensuring that we can return to Muresk in the coming years to celebrate its centenary.

*House adjourned at 9.57 pm*
QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

BROOME PORT MASTER PLAN

701. Hon Robin Chapple to the Parliamentary Secretary representing the Minister for Transport:
I refer to the Minister for Transport’s answer to question on notice No. 277 in the Legislative Council, regarding the Broome Port Master Plan, and a notice posted by the Environmental Protection Authority (EPA) on 2 January 2014 regarding a proposal “to clear 24.55 hectares of native vegetation within Lots 616, 1221 and Port Drive Road Reserve to establish a wash-down facility, supply bases to support exploration of the Browse Basin and ancillary small businesses”, and I ask:

(a) has the report into “demand analysis and infrastructure and services assessment” of the Broome Port’s Master Plan that was referred to in the answer to QON 277 issued on 22 October 2013 been completed:
   (i) if no to (a), why not;

(b) have the findings been considered by Cabinet:
   (i) if no to (b), why not; and
   (ii) if yes to (b), will the Government please table the report:
       (A) if no to (ii), why not;

(c) does the land clearing and site works proposal and land use scheme referred to in the EPA notice fit with other considerations of the Broome Port Master Plan:
   (i) if no to (c), why not; and
   (ii) if yes to (c), please provide details; and

(d) has the proposed work been granted approval under the Aboriginal Heritage Act 1972?

Hon Jim Chown replied:

(a) Yes
   (i) Not applicable.

(b) No
   (i) The report is awaiting Cabinet’s consideration.
   (ii) Not applicable
       (A) Not applicable.

(c) Yes
   (i) Not applicable.
   (ii) The Port Master Plan (presently being drafted in part upon the demand analysis document) reflects current commercial sensitivities that must remain confidential at this stage.

(d) No as there are no sites within the area to be cleared and approval is only required under the Aboriginal Heritage Act 1972 if there is a registered site.

DERBY HIGHWAY — STRAYING LIVESTOCK

710. Hon Robin Chapple to the Parliamentary Secretary representing the Minister for Transport:

(a) is or has the road been fenced by the pastoralists for the sections of the stations Roebuck Plains and Yeeda Stations that interact with the Derby Highway;

(b) if yes to (a), on what date was this/these areas last fenced;

(c) is or has the road been fenced by the lessees or owners of the Knowsley Agricultural Area that interact with the Derby Highway;
(d) if yes to , on what date was this/these areas last fenced;
(e) is or has the road been fenced by the owners of Freehold Lot 103 of Plan Number 215040 that interact with the Derby Highway;
(f) if yes to (e), on what date was this area last fenced;
(g) on what specific date was the advisory group for the management of straying livestock in pastoral regions set up in 2012;
(h) how many times has that advisory group met since its inception and on what dates;
(i) who are the members of that group and which organisations do they represent;
(j) does this advisory group keep minutes of their meetings;
(k) if yes to (j), will the Minister table those minutes;
(l) if no to (j), why not;
(m) if no to (l), why not;
(n) does this advisory group provide updates of their activities/progress to the Minister;
(o) if yes to (n), will the Minister table them;
(p) if no to (n), why not;
(q) if no to (o), why not;
(r) is a secretariat provided by a department and, if so, by which department;
(s) what progress to date has the advisory group made in managing or making recommendations to the Minister in respect of the management of straying livestock in pastoral regions;
(t) in what way is the Main Roads’ fencing policy similar to that of its Queensland counterpart;
(u) is it a requirement that pastoral leases should be fenced to manage straying livestock interacting with road users;
(v) if no to (u), why not;
(w) does the nature and amount of traffic using the Derby Highway mean that it meets the criteria required by the Highways (Liability for Straying Animals) Act 1983;
(x) if no to (w), why not;
(y) does the Highways (Liability for Straying Animals) Act 1983 have effect in all clauses to the Derby Highway;
(z) if no to (y), why not;
(aa) will the Minister table a copy of the Australian Standard 1742.2 (1994);
(bb) if no to (aa), why not;
(cc) in relation to the Main Roads’ special Stray Animals signs, how many are placed on either side of the Derby Highway;
(dd) at what intervals are these signs placed along either side of the Derby Highway;
(ee) if there is not uniformity in relation to the distances of the placement of these signs along either side of the Derby Highway, can the Minister explain why;
(ff) how many of these signs are the primary warning signs and how many are supplementary warning signs;
(gg) why is there inconstancy between the Highways (Liability for Straying Animals) Act 1983, the Pastoral lands board document and the Main Roads Stray Animals website 2.2 Background statement; and
(hh) do pastoralists, particularly those whose properties adjoining highways, have a legal responsibility for stock that stray onto these roadways?

Hon Jim Chown replied:

(a)–(f) These parts of the question should be directed to the Minister for Regional Development; Lands, who has responsibility for this matter.
(g) 24 September 2012
(h) As at 1 March 2014, three times. 24 September 2012, 31 January 2013 and 22 August 2013.
(i) The membership of the Advisory Group is as follows:
   - Peter Sewell, Main Roads WA (Chair)
   - Joan Brierley, Main Roads WA
   - Raymond Reveley, Main Roads WA
   - Vincent Chew, Main Roads WA
   - Samantha Whitburn, Main Roads WA
   - Kelly Gillen, Department of Parks and Wildlife
   - Peter Kneebone, Western Australian Local Government Association
   - Doug Brownie, Pastoralists & Graziers Association
   - Jon Gibson, Office of Road Safety

(j) Yes
(k) [See paper 1357.]
(l)–(m) Not applicable
(n) Yes
(o) [See paper 1357.]
(p)–(q) Not applicable.
(r) Yes — Main Roads WA.
(s) The Group has completed five of six recommendations agreed to by the Government in 2012 to minimise the risk of stray stock causing crashes.
(t) The responsibility for maintenance of an existing fence in the road reserve of a pastoral region falls upon the pastoralists and Main Roads WA and Queensland both contribute to the cost of new fences where there has been no prior fence.
(u)–(v) These parts of the question should be directed to the Minister for Regional Development; Lands, who has responsibility for this matter.
(w)–(x) Not applicable.
(y) Yes
(z) Not applicable.
(aa) No
(bb) [See paper 1357.]
(cc) Two
(dd) There is one sign at 0.79 SLK and another at 36 SLK.
(ee) The Australian Standard does not stipulate the placement distance for unfenced or fenced road.
(ff) Two primary signs, no supplementary signs.
(gg)–(hh) These parts of the question should be directed to the Minister for Regional Development; Lands, who has responsibility for this matter.

DERBY PORT — LOADING RAMP

717. Hon Robin Chapple to the Parliamentary Secretary representing the Minister for Transport:

With reference to the operation of the gravel barge loading facility at the Port of Derby, I ask:

(a) who is responsible for the administration of the facility, comprising a gravel ramp, at the Port of Derby;
(b) who is responsible for the maintenance of the barge loading ramp at the Port of Derby;
(c) who pays for the replenishment of the gravel that is washed off the ramp every day by the tides and rain;
(d) how much of the tax write-off for the business expenses of this operation is the tax payer liable for;
(e) how long does the responsible authority plan to allow the weekly loss of tonnes of gravel into the marine environment of King Sound to continue;
(f) does the responsible authority have any plans to make the barge loading facility into a permanent, non-polluting structure rather than a gravel ramp that requires constant maintenance:
   (i) if yes to (f), when will this happen; and
   (ii) if no to (f), why not; and
(g) has any environmental impact study been done to find out what impact the dumping of tonnes of gravel into the water each week is doing to the marine ecosystem of King Sound?

Hon Jim Chown replied:

(a)–(b) The Shire of Derby–West Kimberley.

(c) The commercial users of the ramp.

(d) The tax affairs of the commercial users are not known. No Government funding is involved.

(e)–(f) The Shire of Derby–West Kimberley is investigating alternative arrangements.

(g) No.

HUTT LAGOON SITE — CHEMICAL SPILL

738. Hon Robin Chapple to Parliamentary Secretary representing the Minister for Transport:

I refer to a chemical spill at BASP’s Hutt Lagoon site at Yallabatharra in the shire of Northampton on Tuesday, 10 December 2013 as reported by AAP, and I ask:

(a) what was the nature of the chemical spill;

(b) what was the quantity of the chemical spill;

(c) who is the owner of the facility;

(d) who is the owner on the land on which the facility sits;

(e) what lease arrangements are in place for the facility;

(f) who is responsible for the environmental rehabilitation of the area at the end of the life of the project;

(g) where is the spill site in relation to Camping and Water Reserve CR 15126 held by the Shire of Northampton;

(h) was the leak contained within the site:

(i) if yes to (g), how; and

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

(i) did all or some of the chemical permeate the ground:

(i) if yes to (h), what quantify;

(ii) if no to (h), why not; and

(iii) if yes to (h), was the contaminated soil removed:

(A) if yes to (h)(iii), what process was used to remove the contaminated soil; and

(B) if no to (h)(iii), why not;

(j) were all staff evacuated from the BASF Beta Carotene site:

(i) if yes to (i), for how long; and

(ii) if yes to (i), under what condition did staff or other personal re-enter the site;

(k) what was the cause of the chemical spill;

(l) was the Department for Emergency Services notified of the spill;

(m) has Worksafe carried out and investigation into the incident:

(i) if yes to (k), has the investigation been completed;

(ii) if yes to (l)(i), will the Minister table the report;

(iii) if no to (l), why not; and

(iv) if no to (l)(ii), why not; and

(n) were any roads closed adjacent to the spill site:

(i) if yes to (n), please provide details, including who requested the respective road closure, who ordered it and the duration of closure?

Hon Jim Chown replied:

(a)–(c) This part of the question should be directed to the Minister for Emergency Services, who has responsibility for this matter.
(d)–(e) This part of the question should be directed to the Minister for Regional Development; Lands, who has responsibility for this matter.

(f)–(g) This part of the question should be directed to the Minister for Environment, who has responsibility for this matter.

(h) This part of the question should be directed to the Minister for Emergency Services, who has responsibility for this matter.

(i) This part of the question should be directed to the Minister for Environment, who has responsibility for this matter.

(j)–(l) This part of the question should be directed to the Minister for Emergency Services, who has responsibility for this matter.

(m) This part of the question should be directed to the Minister for Commerce, who has responsibility for this matter.

(n) Main Roads was requested to close a section of Northampton–Kalbarri Road by the Police due to a chemical spill. The section between Port Gregory Road and Balline Road intersections was closed to traffic for approximately 30 minutes. Traffic management was in place at these points during the road closure.

POLICE OFFICERS — PROTECTIVE EQUIPMENT

750. Hon Kate Doust to the Attorney General representing the Minister for Police:

I refer to occupational safety and health (OSH) within the Western Australia Police Service, and I ask what personal protective equipment is standard issue to officers assigned to:

(a) general duties;
(b) the air wing;
(c) country officers;
(d) detectives;
(e) the dog squad;
(f) forensics;
(g) intelligence;
(h) the mounted section;
(i) traffic;
(j) the tactical response group; and
(k) the water police?

Hon Michael Mischin replied:

Personal protective equipment is issued on a needs basis. Sunscreen, sanitary hand wash and P2 disposable face masks are available to all staff members as approved by the Officers in Charge through the normal procurement purchasing process.

(a)–(k) [See paper 1355.]

CONSERVATION COMMISSION — FUNDING

777. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Environment:

(1) How much funding has the Conservation Commission allocated to the production of the Forest Management Plan 2014–23?

(2) How much funding has the Conservation Commission allocated to auditing the implementation of actions under the Forest Management Plan 2014–23 by:

(a) the Department of Parks and Wildlife;
(b) the Department of Environment Regulation; and
(c) the Forest Products Commission?

(3) For each of the amounts in (2), how much is reimbursed by the Forest Products Commission?

(4) For each of the amounts in (2), how much is reimbursed from other sources, and what are those sources?
Hon Helen Morton replied:

The Minister for Environment has provided the following response:

(1) A total budget of $523,050 over three financial years (2011–12 to 2013–14) was allocated by the Conservation Commission for the production of the Forest Management Plan 2014–23.

(2)–(4) There is no specific allocation of funding by the Conservation Commission to auditing the implementation of actions in the Forest Management Plan 2014–23. Periodic assessment of the implementation of management plans generally is a legislated responsibility of the Conservation Commission and it prioritises and undertakes performance assessments in accordance with an established audit plan, of which auditing the implementation of actions under the Forest Management Plan is one element. Notwithstanding, management activity 130 (Forest Management Plan 2014–2023 p.133) provides for the preparation of mid and end-of-term performance reviews by the Conservation Commission on the extent to which management of the land to which the plan applies has been undertaken in accordance with the plan, including consideration of the extent to which key performance indicator targets are achieved.

787. Hon Stephen Dawson to the Parliamentary Secretary representing the Minister for Health:

(1) What funding has the Department of Health allocated to the Rare Voices Australia organisation for the following periods:

(a) 2011–12;
(b) 2012–13;
(c) 2013–14; and
(d) 2014–15?

(2) Which other State Governments provide funding to the Rare Voices Australia organisation?

(3) What proportion of Rare Voices Australia’s total funding is provided by the Department of Health?

(4) What targets or outcome measures are specified in the funding agreement between Rare Voices Australia and the Department of Health?

(5) To what extent has Rare Voices Australia delivered on the specified targets or outcomes?

(6) Will the Minister table the Rare Voices Australia’s annual financial statements covering the period during which the Department of Health has funded this organisation?

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

Hon Alyssa Hayden replied:

(1) (a) 2011–12 $12,778
(b) 2012–13 $60,000
(c) 2013–14 $60,000
(d) 2014–15 $20,000

(2)–(3) The Department of Health (DOH) is not aware of the nature, value or otherwise, of support provided to Rare Voices Australia (RVA) by other State Government jurisdictions or agencies.

(4) No funding agreement exists between the DOH and RVA.

RVA has received discrete, non-recurring project grants that provide support-in-part to enable them to achieve project outcomes for the rare diseases community that were identified through stakeholder engagement including:

• development of a Work Plan for the Rare Voices Australia through workshops and engagement with the sector;
• travel assistance to rare diseases stakeholders to attend workshops;
• development of an AA rated Website;
• a survey on health care experiences of people living with a rare disease;
• Patient Autopsies for Rare Cancers (PARC) Feasibility study to assess patient knowledge and attitudes to autopsy of rare cancers; and
• to assist RVA and their WA Stakeholders to be part of a Rare Diseases National Road Show and engagement exercise.
(5) RVA has met the project outcomes.

(6) No.

(7) The DOH does not have access to records not in the public domain. RVA is established, operates and makes financial reports in accordance with Australian Corporations Law (Corporations Act 2001).

FIONA STANLEY HOSPITAL — SERCO CONTRACT

790. Hon Amber-Jade Sanderson to the Attorney General:

I refer to the contract awarded to Serco Australia to provide non-clinical services at Fiona Stanley Hospital, and ask:

(a) did the State Solicitor’s Office (SSO) scrutinise and provide advice on this contract and, if yes:
   (i) over what timeframe; and
   (ii) to which Government agencies did it provide advice; and

(b) did the SSO seek external legal advice on the contract and, if yes:
   (i) which firm provided this advice;
   (ii) what was the cost of this advice; and
   (iii) was the contract to provide this advice advertised?

Hon Michael Mischin replied:

(a) The State Solicitor’s Office (SSO) received instructions from the Department of Health to draft a facilities management contract for non-clinical services which could be put in place at Fiona Stanley Hospital. That contract was drafted in close consultation with officers from the Department of Health and was the subject of negotiation with Serco prior to it being executed. During that process SSO provided ongoing advice concerning the drafting of the contract and its negotiation.
   (i) From April 2009 until July 2011 (until the contract was executed)
   (ii) Advice by SSO in relation to the facilities management contract was predominantly provided to the Department of Health Officers. Advice was also provided on occasion to the then Department of Treasury and Finance Officers.

(b) Yes
   (i) Freehills, now Herbert Smith Freehills;
   (ii) From April 2009 to 17 February 2014 total external legal fees incurred in relation to the facilities management contract amount to $2,862,085.71 (excluding GST).
   (iii) No, SSO has a partial exemption to the State Supply Commission Act 1991 which allows it to source legal service providers in the private sector.

NUMBAT HABITATS

793. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Environment:

Will the Minister provide data on the area of forest available for harvest that provides habitat for numbats?

Hon Helen Morton replied:

The Minister for Environment provides the following response:

Data is not available on the actual area of forest available for harvest that provides habitat for numbats however; they can potentially use broad areas of forest as habitat. The Forest Management Plan 2014–2023 aims to conserve the biological diversity of south–west forest in the plan area. This is achieved by a range of measures including fauna habitat zones which complement formal reserves in the area of forest where known numbat populations are densest, to the north–east of Manjimup and in Batalling forest block, east of Collie.

HAZELMERE PYROLYSIS WOOD WASTE INCINERATOR

799. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Environment:

(1) Regarding the Hazelmere Pyrolysis wood waste incinerator, why did the Department of Environmental Regulation advertise for a works approval on 3 February 2014 before the Environmental Protection Agency (EPA) advertised the referral for an Environmental Impact Assessment (EIA) on 6 February 2014?
(2) Does EPA Report 1468 recommend that waste to energy technology proposals in Western Australia be subject to a full EIA process?

(3) If yes to (2), why was the EIA referral process not advertised until after seeking comments on a works approval application for the same project?

(4) Did the EPA have any discussions with the proponent, the Eastern Metropolitan Regional Council, prior to their application for a works approval?

(5) If yes to (4), what aspects of the proposal did the discussions cover?

(6) Did the Department of Environment Regulation (DER) advise the proponent, the Eastern Metropolitan Regional Council, to submit a works approval application prior to submitting a referral to the EPA for assessment?

(7) If yes to (6), why?

(8) Does the process for obtaining an industrial licence to operate under Part V of the Environmental Protection Act 1986 include an environmental and human health assessment of the project?

(9) Does the process for obtaining an industrial licence to operate under Part V of the Environmental Protection Act 1986 include a public consultation strategy?

(10) Were the project documents available on the DER or EPA websites before or during the seven day comment period?

(11) If no to (10), why not?

Hon Helen Morton replied:

The Minister for Environment has provided the following response.

(1) On 24 December 2013, the Eastern Metropolitan Regional Council (EMRC) submitted an application for a works approval to construct the Hazelmere pyrolysis wood waste incinerator to the Department of Environment Regulation (DER). DER advertised the application for a works approval in The West Australian newspaper on 3 February 2014 for a 21-day public comment period. DER’s assessment of the works approval application and the Environmental Protection Authority’s (EPA) environmental impact assessment (EIA) of the proposal are parallel processes. Under section 54(4) of the Environmental Protection Act 1986, DER cannot issue a works approval prior to the EPA making a decision based on an assessment of the proposal.

(2) No. The EPA and the Waste Authority released strategic advice in April 2013 on its review of waste to energy operations around the world and reported on the technologies used, facility designs, emissions and regulatory frameworks. This advice, available on the EPA’s website, provides a framework for the State to consider waste to energy proposals.

Where a proposal is referred to the EPA, it will decide whether to assess a proposal and, if the decision is to assess, the level of assessment. Individual proposals are considered on their environmental merit. The strategic advice will inform the EPA’s deliberations. The EPA has published Administrative Procedures which describes the matters the EPA considers in deciding whether to assess a proposal and when deciding the level of assessment.

(3) Not applicable

(4)–(5) No. The Office of the Environmental Protection Authority received a preliminary briefing from the EMRC’s environmental consultant on 7 November 2013 regarding the potential environmental impacts associated with the construction and operation of the proposed waste to energy plant.

(6) No.

(7) Not applicable.

(8) Prior to the issuing of a licence under Part V of the Act, DER conducts an assessment of likely emissions and discharges that may cause environmental impacts. Where there are likely to be health impacts due to the emissions and discharges from a proposed premises, DER will liaise with the Department of Health.

(9) Applications for licences and works approvals are advertised in the newspaper. Following the publishing of the advertisement, a public consultation period, generally 21 days, follows where submissions can be made to DER. Alternatively, members of the public can register with DER as stakeholders.

(10) The EPA made the referral documents available for public comment on its website from 7 to 13 February 2013.

(11) Not applicable.
POLICE — U-TURN INFRINGEMENTS

816. Hon Ken Travers to the Attorney General representing the Minister for Police:
How many infringements were issued to drivers performing illegal U-turns at traffic lights in:
(a) 2011;
(b) 2012; and
(c) 2013?
Hon Michael Mischin replied:
(a) 1936.
(b) 2825.
(c) 2623.
Caveat: The statistics are provisional and are subject to revision.

Data is for infringements issued for U-turns at traffic lights for On the Spot and Red-light detection types.
Source: Charges Statistics extracted from WAPOL IIPS 06/03/14.

POLICE — UNLICENSED VEHICLES

819. Hon Ken Travers to the Attorney General representing the Minister for Police:
(1) In the following financial years, how many vehicles were stopped by Police and identified as unlicensed:
(a) 2011–12; and
(b) 2012–13?
(2) In the following financial years, what percentage of vehicles stopped by Police were identified as unlicensed:
(a) 2011–12; and
(b) 2012–13?
Hon Michael Mischin replied:
(1) (a) 9025.
(b) 7177.
(2) (a) 0.85%.
(b) 0.57%.
Caveat: The statistics are provisional and are subject to revision.

Notes: Data is for charges relating to identified unlicensed vehicle offences under Section 15 (3) of the Road Traffic Act 1974. Data may include charges that are not as a result of a vehicle stop. As all Police units, including Non-Traffic units, have the capability to do vehicle stops, therefore it is not readily possible to distinguish vehicle stop charges from non-vehicle stop charges preferred by non-traffic units. Vehicle Stops are manually recorded by Police Officers in their Daily Traffic Returns and uploaded to TEACEIS.
Source: Charges Statistics extracted from Briefcase 06/03/14 and Vehicle Stops extracted from TEACEIS 21/03/2014.

REY RESOURCES — DUCHESS PARADISE COAL PROJECT

858. Hon Robin Chapple to the Minister for Mental Health representing the Minister for Environment:
With reference to the Rey Resources Duchess Paradise Coal Project Public Environmental Review (PER) released on Monday, 24 February 2014, which announced that it would be making 100 road train movements 24 hours per day along Loch Street, Derby which equates to a road train every 14.4 minutes on average, I ask:
(a) why are the impacts of the diesel carcinogenic pollution from Rey Resources 24 hour trucking operation through the centre of Derby not dealt with in the PER;
(b) will the Environmental Protection Authority request that this omission will be addressed by way of a further addition to the PER by Rey Resources; and
(c) If no to (b), why not?
Hon Helen Morton replied:
The Minister for Environment has provided the following response:

(a) The combustion emissions from diesel-powered generators and vehicles are considered as a potential impact on air quality in the Public Environmental Review document.

(b)–(c) Not applicable.

SHARKS — DRUM LINE PROGRAM

873. Hon Lynn MacLaren to the Minister for Fisheries:

(1) Is it correct that no Department of Fisheries employees were forced to undertake activities relating to the Department’s drum lining program?

(2) Is it correct that some Department of Fisheries employees declined to undertake activities relating to the Department’s drum lining program?

(3) If yes to (2), how many employees declined?

(4) In relation to the answer to (3), please state what branch or branches of the Department these employees work for?

Hon Ken Baston replied:

(1) Yes.

(2)–(4) The drum line operations in the Metropolitan area are being conducted by Fisheries and Marine Officers from the Regional Services division of the Department of Fisheries. The Department approached officers with the required skills and experience requesting them to consider being rostered to the program. It is my understanding that 2 officers advised that they did not want to participate.

SHARKS — DRUM LINE PROGRAM

874. Hon Lynn MacLaren to the Minister for Fisheries:

(1) Is it standard procedure for officers on the Department of Fisheries boats, involved in the drum lining program, to take a photograph of the animals caught on the drum lines?

(2) If no to (1), please describe under what circumstances photographs are taken, and why they are sometimes not taken?

(3) How any individual animals were captured on drum lines off Leighton Beach on the morning of Thursday, 20 February 2014?

(4) Were photographs taken of all the animals captured on drum lines off Leighton Beach on the morning of Thursday, 20 February 2014?

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

(6) In order to address ongoing claims that a dolphin was captured on a drum line off Leighton Beach on the morning of Thursday, 20 February 2014, will the Minister table all photographs taken of all the animals captured on drum lines off Leighton Beach that morning?

Hon Ken Baston replied:

(1) Yes

(2) Not applicable.

(3) Two Tiger sharks were captured on Leighton Beach drum lines on 20 February 2014. The first shark was removed at 6.40am and the second at 12.19pm.

(4) Yes.

(5) Not applicable.

(6) No. Catch data on drum line operations is released and made public on the Department of Fisheries website.

MANGLES BAY MARINA DEVELOPMENT

875. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Environment:

(1) Did the Environment Minister’s Chief of Staff speak with the Minister for Environment about her conversations with the Chairman of the Conservation Commission concerning the Conservation Commission’s appeal, in relation to the Mangles Bay Marina, and its withdrawal:
(a) if no to (1), why not; and
(b) if yes to (1), when?

(2) Did the Environment Minister receive the briefing that the Chairman of the Conservation Commission provided to the Environment Minister via the Minister’s Chief of Staff on 20 May 2013?

(3) Is the Minister aware that his Chief of Staff exchanged at least five emails with the Chairman of the Conservation Commission in the four days leading to the withdrawal of the appeal?

(4) Did any discussions between the Chairman of the Conservation Commission and the Minister’s Chief of Staff involve any suggestion that the Conservation Commission withdraw its appeal?

(5) Did any discussions between the Environment Minister and the Minister’s Chief of Staff involve any suggestion that the Conservation Commission withdraw its appeal?

(6) Will the Minister table the deliberations between the Minister’s Office and the Conservation Commission concerning the Commission’s appeal and its subsequent withdrawal?

Hon Helen Morton replied:

(1) Yes. The Chairman of the Commission contacted my Chief of Staff on 16 May 2013 to advise he would like to speak with her, a subsequent conversation was had on 17 May 2013 during which the Chair advised that the Commission had submitted an appeal on the marina proposal. She then advised me by phone of this discussion on the same day.

(2) Yes. The Commission provided a draft briefing note on 17 May 2013 which was emailed to me and my correspondence officer for logging on 18 May 2013.

(3) Yes — as the Member is aware, given she has received the emails via a Freedom of Information application that I signed off on.

(4)–(5) No

(6) There were no ‘deliberations’ between the Ministerial Office and the Commission concerning the appeal and its withdrawal.

ST JOHN OF GOD HEALTH CARE — MIDLAND HEALTH CAMPUS

886. Hon Amber-Jade Sanderson to the Attorney General:

(1) In relation to the contract with St John of God Health Care to build and operate hospitals on the new Midland Health Campus, did the State Solicitor’s Office (SSO) scrutinise and provide advice on this contract:
(a) if yes to (1), over what timeframe; and
(b) if yes to (1), to which Government agencies did it provide advice?

(2) Did the SSO seek external legal advice on the contract:
(a) if yes to (2), which firm provided this advice;
(b) if yes to (2), what was the cost of this advice; and
(c) if yes to (2), was the contract to provide this advice advertised?

(3) Was the final contract given to the Department of Treasury to examine, and if so how long was the Department given to examine this version of the contract?

Hon Michael Mischin replied:

(1) The State Solicitor’s Office received instructions from the Department of Health to advise and draft contractual documentation for the construction and delivery of services at a new general hospital in Midland.
(a) From January 2010 until June 2012 (until the contracts were executed).
(b) The Department of Health, the Department of Treasury as well as on occasion to the Western Australian Treasury Corporation.

(2) Yes
(a) Freehills (now Herbert Smith Freehills) and Clayton Utz.
(b) Clayton Utz — from March 2010 to October 2010, legal fees incurred amounted to $220,702.00 (excluding GST).
Freehills — from April 2010 to February 2014, legal fees incurred amounted to $2,558,351.17 (excluding GST).
(c) No. The State Solicitor’s Office has a partial exemption to the State Supply Commission Act which allows it to source legal service providers in the private sector.

(3) The final contracts were thus the result of work jointly performed by representatives of the Department of Health, the Department of Treasury and Treasury Corporation with advice and drafting support provided by the State Solicitor’s Office and the external legal team. As such, it is not possible to specify how long the Department of Treasury was given to examine the final contracts as their officers were part of the team that developed the contracts since 2010.

REGIONAL MOBILE COMMUNICATIONS PROJECT

935. Hon Stephen Dawson to the Minister for Commerce:
I refer to the Regional Mobile Communications Project (RMCP), and I ask:

(a) how many of the 113 RMCP towers planned across Western Australia have been completed as at 1 March 2014;

(b) will the Minister provide a list of the towers already completed and those in the process of completion; and

(c) will the Minister table the criteria and submission process used for site selection?

Hon Michael Mischin replied:

(a) 84 towers completed (74 per cent).

(b) Yes. [See paper 1356.]

(c) The Western Australian Government is responding to telecommunications deficiencies identified during various community consultations and also in the State Telecommunications Needs Assessment Surveys of 2008 and 2010. Telstra was solely responsible for selecting the 113 RMCP sites to address coverage gaps along major highways, between towns and in some remote Aboriginal communities. The Government’s only involvement in directing the location of the sites was by setting an implementation priority in the Kimberley, Pilbara, Gascoyne and Midwest regions of the State.

POLICE — GOLD STEALING DETECTION UNIT

937. Hon Stephen Dawson to the Attorney General representing the Minister for Police:
I refer to the Western Australia Police dedicated specialist investigative service for the gold industry the Gold Stealing Detection Unit (GSDU), and I ask:

(a) how many full time equivalent sworn officer positions exist in this unit;

(b) how many staff provide administrative assistance to unit’s sworn officers; and

(c) are any of the positions in the GSDU currently vacant, and if so how many?

Hon Michael Mischin replied:

(a) Three.

(b)–(c) One Police Staff analyst is currently being recruited.