

Legislative Council

Friday, 27 November 2009

THE PRESIDENT (Hon Barry House) took the chair at 10.00 am, and read prayers.

LEGISLATIVE COUNCIL CHAMBER — REFURBISHMENT

Statement by President

THE PRESIDENT (Hon Barry House): I remind members that because of the refurbishment all members will be required to remove their personal effects from the drawers in the benches by the end of today's proceedings.

PAPER TABLED

HON PETER COLLIER: Before I table a paper, I take this opportunity, Mr President, to wish you many happy returns on this very big day for you.

The PRESIDENT: It is not that big! Thank you; it does not have quite the same ring as Marilyn Monroe jumping out of a birthday cake —

Hon Peter Collier: I am insulted!

The PRESIDENT: — but I appreciate it!

Hon Ed Dermer: Would it be in order for us to sing, Mr President?

The PRESIDENT: No; please do not do that.

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

MINISTERIAL ANSWERS — FINANCIAL MANAGEMENT ACT NORTH WEST SHIPPING SERVICE PERTH PARKING LICENCE FEE INCREASES — NORTHBRIDGE LINK

Notice of Questions

HON KEN TRAVERS (North Metropolitan) [10.03 am]: Mr President, I also congratulate you. All I can say is that you look a lot younger than that old bloke Mick Murray!

The PRESIDENT: I am not bad for 40!

Hon KEN TRAVERS: I give notice that at the next sitting of the house I will ask the Minister for Transport the following question —

I refer to the Minister for Transport's request yesterday for me to place my question concerning his compliance with section 82 of the Financial Management Act 2006 on notice, and I ask: does the minister's office have any systems in place to ensure that it has ongoing compliance with the requirements of this act; and, if not, why not?

I have a further question that I wish to place on notice.

Hon Simon O'Brien: Put it on notice and I will answer it this afternoon. I am more than happy to answer it.

Hon KEN TRAVERS: I have a further question that I wish to place on notice for the next sitting of the house, again to the Minister for Transport. The question reads —

Why has the Minister for Transport not put in place any arrangement for a shipping service to the north west of this state once the current contract expires?

Mr President, I have a third question that I wish to place on notice to the Minister for Transport. It reads —

I refer to the debate on the disallowance of the Perth Parking Management Amendment Regulations (No. 2) 2009, and I ask —

- (1) Why did the Minister for Transport not respond to my question during the debate about whether he had had any conversations about these regulations with any members of the Joint Standing Committee on Delegated Legislation?
- (2) Has the minister or any member of his staff had any conversations with any member of the Joint Standing Committee on Delegated Legislation about the disallowance of these regulations?

- (3) If yes to (2), who were the discussions with, what was the nature of the discussions and when did they occur?
- (4) Will the Minister for Transport table any documents, including emails, provided to any member of the committee on these regulations?

Point of Order

Hon SIMON O'BRIEN: A number of those matters are the subject of questions for which answers are already in train or have already been provided to the member. I think that the member is using this agenda item as a device to make a statement that cannot be responded to until the house resumes next March. I think that is an abuse of the rare provision that he is using. If the member wants to ask any of those questions today, I will answer them today at two o'clock. I believe, as a point of order, the member is misusing the process because he has already embarked on other processes to answer those very questions.

Several members interjected.

The PRESIDENT: Order, members! We will check against previous questions asked to examine whether Hon Simon O'Brien's point has validity and advise before question time whether that is the case.

BUSINESS OF THE HOUSE

Orders of the Day Taken Forthwith — Motion

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

That the house proceed to orders of the day forthwith.

**JOINT AUTHORITY SOUTHERN DEMERSAL GILLNET AND DEMERSAL LONGLINE
MANAGED FISHERY MANAGEMENT PLAN AMENDMENT (NO. 2) 2009 — DISALLOWANCE**

Discharge of Order

HON ROBIN CHAPPLE (Mining and Pastoral) [10.06 am]: I move without notice —

That order of the day 1, "Joint Authority Southern Demersal Gillnet and Demersal Longline Managed Fishery Management Plan Amendment (No. 2) 2009 — Disallowance", be discharged from the notice paper.

By way of explanation, the Joint Standing Committee on Delegated Legislation's concerns in relation to this matter have been addressed to the satisfaction of the committee.

Further, yesterday when dealing with the Workers' Compensation (DRD) Amendment Rules 2009 disallowance, I failed to identify that the committee's concerns in relation to the matters addressed had been dealt with satisfactorily.

Question put and passed.

WASTE AVOIDANCE AND RESOURCE RECOVERY AMENDMENT BILL 2009

Second Reading

Resumed from 18 November.

HON JON FORD (Mining and Pastoral) [10.08 am]: As everybody knows, the opposition does not support the Waste Avoidance and Resource Recovery Amendment Bill 2009. I had only started my speech and was saying that, from a regional perspective, the best opportunities to deal with this resource will come from private sector innovations. Hon Max Trenorden made a very important point—if not a bit confused from my perspective, because I could not work out whether he was supporting the bill or opposing the bill. Nevertheless, the point he made was very valid; that is, that we cannot continue to look at waste as something that we have to get rid of, but rather that we have to look at it as a resource. As soon as we view waste from that perspective, we can look for opportunities.

I understand that the government proposes a 300 per cent increase —

The PRESIDENT: Order! Will members take their audible conversations to another corner of the chamber or to another place, so they do not interrupt the debate?

Hon JON FORD: There will be a 300 per cent increase in the landfill levy, and then a division of the way in which the funds are allocated, which means that only a certain percentage will be used for waste management, waste innovation and ways of creatively recycling waste. The rest of the money will go into general revenue to fund the Department of Environment and Conservation.

Hon Ed Dermer: Probably three-quarters of the money.

Hon JON FORD: That is right—three-quarters of the money.

From a regional perspective, waste is a big and very complex issue. I have often referred to my experience with Woodside Petroleum, particularly on offshore rigs. Part of my job there was to look at the challenges of recycling. Recycling on an offshore petroleum rig is quite complex. In my day, when I was working on the Goodwyn Alpha, we had a regular crew on the drilling program, with quite a high number of persons on board. We had between 80 and 100 people on board at any given time. The amount of packaging that would come out to the rig created quite a problem. We were constantly back-loading waste. We would bring equipment on board that was packed with cardboard and timber to protect the load from impacts when being lifted up to the drill deck. We would strip the packing material and then back-load it. It was incredible that the back of the vessel that brought the equipment was half full again with the packing material to be taken back to the beach. The people handling the waste at the supply base had to make sure that it was all hydrocarbon-free. They had to go through and gas-detect it, to make sure that there were no hydrocarbons mixed with the waste that was being brought back, particularly used parts. There were some quarantine issues with the packaging, and then the whole business of separating the recyclable packaging and deciding what to do with it. An enormous amount of effort was put in to trying to divide up the waste so that it would not go into landfill. We went into partnerships on many occasions with different companies to look at ways of recycling the packaging. Unfortunately, in Karratha, we found that no matter what company we used, because of the expense and the lack of investment in recycling technology at that time, nearly all of the waste went into landfill.

A few years down the track I was involved in another project about 80 nautical miles off Kupang, with the *Northern Endeavour* on the Laminaria-Corallina field. We decided that we would get it right this time, so we entered into a major contract with the company that would actually do the sorting out on the beach and the material would then be recycled. About a year after the operation commenced, we went and did an audit, which was part of all the contracts. We found that the separation was good when the material got to Darwin. Between 30 and 40 per cent ended up in landfill there, and then the company took the recyclables to South Australia, because everybody had a perception at that time that South Australia was particularly innovative in recycling waste, and that somehow it would be dealt with there. What we found when we went down the supply chain to South Australia and had a look at it was that all of it ended up in landfill. That was basically because there was no incentive for people to develop the technology. There were lots of good ideas, but in the end, from an economic viability perspective, they were lost.

This is one of those issues in which government needs to innovate and provide some sort of incentive to allow companies to develop in this area, until they develop their markets and partnerships with other companies, so that it becomes self-sustaining. That gets down to the possibility of exempting some companies from the landfill levy, or at least using it as an incentive. I was not able to supply the notes to Hansard so I will read in this quote from a letter from Sims Metal Management, headed “Adverse Impact of Waste Levies in NSW”, which was a submission the company made to the government. It states —

Residual wastes from bona fide recycling operations should receive levels of exemption from waste levies. This needs to be a directive on a National level to avoid the continuance of State and Territory reliance on levy revenues as simply an income source. The level of exemption should be equal to the verifiable level of diversion of waste from landfill achieved at the penultimate licensed recycling site. For example — a **75% recovery/diversion = 75% rebate**. This will create the right ‘incentive’ for recyclers to aim for 100% conversion and ensure those not genuinely involved in recycling receive no benefit at all. In its broadest sense, with regard to recyclers — the polluter pays principle is still very much a factor.

That is a very commendable perspective. Sims Metal Management actually argues that there should not be a levy at all, but if we are to have a levy, this is what needs to be done. I think there should be a levy, but all the funds raised from it should be directed to projects or companies that come up with good ideas or need incentives to deal with waste as an opportunity rather than landfill.

From a regional perspective, Sims Metal Management, as I said earlier in my speech, had gone around to a lot of regional communities such as Geraldton, Albany, Esperance, Kalgoorlie and Jigalong removing car bodies and other waste material. Members who live in the regions will understand that car bodies are a particular scourge. A lot of money and effort is required to remove them. They spread out over a wide distance, although they tend to congregate around settled areas. At no cost to the taxpayer, this company went out there picking up all these car bodies. In inland communities particularly, when a car breaks down it becomes unviable to move the wreck, and the people cannot find anyone to sell it to or put it on a trailer, because they are miles from anywhere, and they end up becoming quite a problem. They are a danger to children around the communities, attract unwanted pests, and they just build up and up over time. Quite often, when a car gets from Newman to Jigalong it is a wreck, even if it was a good car to start with. There is an opportunity from a regional perspective.

Local governments are always looking for solutions to this issue. In Newman, which is my adopted community in the north west, and where my office is based, the Shire of East Pilbara has a recycling facility that is out in the open. In summer, there is 40-degree heat. People go in there, spread all the waste out over the ground, and literally physically separate the materials. The shire would like some assistance and some money to help it become more effective at doing that. It would like some cover, lighting and hard standing space to assist in doing that job. I suppose further down the track they might look at some of the technology that makes it easier to do that recycling, because the better the access to some of that technology, the more likely the rate of landfill will drop significantly. Separation is a real issue. It could be argued that royalties for regions money could be used to assist with that, but we already have access to funding. From a regional perspective, waste is a big issue. I know that, primarily, this bill will impact on the metropolitan area, but there is a great opportunity here to use some of this funding occasionally to assist regional communities with some unique issues. I do not know, but it seems to me that more and more large masses of organic matter are ending up on our beaches in the north west. We now know that a whale population of about 20 000 whales swim up and down the coast annually. Recently a whale that landed at Honeymoon Cove, Point Samson had to be lifted and carted away before being buried.

A Whip just fell across in front of me, Mr President, which was an unusual sight!

The PRESIDENT: I will pretend I did not see a thing!

Hon Jock Ferguson: A staggering Whip.

Hon JON FORD: Yes.

The disposal of that sort of waste presents quite an issue in itself and it will become more of an issue. Honeymoon Cove is a small community in our local area, so the whale had to be lifted and carted all the way to the seven-mile tip in Karratha where a big hole was dug to bury it. There was a funny moment when I was speaking to some grey nomads up there and the woman told me that her husband said, "Look at the size of the fish they catch up here. This is a wonderland", as they were travelling behind a low-loader carting a whale. It is an example of the unique problems in the area. I do not have a solution to that. It seems to me that burying a whale is probably a good thing but if we had to bury two, three or four, perhaps we could get the private sector to suggest what it might do with them. They could be turned into fertilizer or undergo some other sort of processing. If someone wants to deal with those issues, they could perhaps design a mobile plant. I do not know. There is a real opportunity to provide incentives for people who come up with those types of solutions, and encouraging investment by putting our money where our mouth is. That is an important principle.

When the government says, "All this money used to be going to waste management; that's why we can justify asking for the levy in the first place, but now we are going to put only 25 per cent into that and 75 per cent will go to the DEC general purpose fund", all of a sudden, the same arguments can be used when raising revenue through other sources such as speed cameras. We have all heard about that. An argument we heard recently from the Premier was that all the new speed cameras will create a safer environment on our roads. I agree with that, but straightaway, the counterargument to it was that it is all about revenue raising because not all the money goes back into improving roads or road safety. The same argument is used about fishing licence fees. People do not mind paying more if they see that the money is being used in the area it is being taken from. That is the danger: the government is sending a message to the community that it is really just a revenue raising strategy; it is not about improving waste management. Strangely enough, when people turn up to a tip and the gates are closed, they use that argument in their own head to justify dumping the rubbish on the street or going into a park and throwing the rubbish out of their car. No matter how false that justification, that is what people do. Specifically from a regional perspective, I would like to see two things: I would like to see 100 per cent of the money being spent on waste management and I would like it to be incentivised by providing exemptions for industries and other groups such as local governments for projects on a pro rata basis. In other words, the more successful they become in avoiding landfill, the greater the incentive. It can be incentivised both ways if the money is available. They could be exempted from the levy as they become more efficient, and their projects could be bolstered with funds to encourage them to do more. The actions this bill provides will not give the government the scope to do that.

I refer again to the Newman example. Despite all the Shire of East Pilbara's efforts to do something with recyclable material, including its fortnightly yellow-top bin service, 85 to 90 per cent of its waste goes to landfill at Nullagine, and then nothing is done about it. That shire simply wants \$300 000 for a shed, a weighbridge and power to the site.

We have heard the Premier and Hon Brendon Grylls, Minister for Regional Development, talking up northern cities. If we attract people to these areas, notwithstanding that we need infrastructure for utilities such as sewerage, power and water, in particular, it increases the degree of waste. The problem for regional shires is that they do not have the revenue base to continuously expand these facilities. As the population increases, it brings with it an increase per head of population in waste, but it does not bring an equal increase in revenue through rates. That involves ongoing discussions about other things such as the ability to increase rates or improve

projects. Nonetheless, it is another argument for making more money available to help regional local governments deal with waste problems. We would all like to see people move out of the city and develop vibrant rural communities, but it creates more and more challenges for them. While we are not supplying the money, we are taking away the capacity to meet those challenges.

The minister and other speakers from the government side have talked about the support for this bill they have received from local government. I do not understand how they can justify that statement when all the documents I have read—other documentation from the Western Australian Local Government Association and local governments that counter that argument—talk about their support for the levy if it goes towards waste management, but not for the proposition in this bill. I have a document here from WALGA called “Project Proposals for use of the Waste Avoidance and Resource Recovery Levy” which states —

A clear rationale for the Waste Avoidance and Resource Recovery Levy ... is essential for assessing the appropriateness of all policy decisions which relate to the Levy, such as how it is charged, the rate applied and where the money is spent. The Association considers the primary rationale for the Levy is that it provides a means of generating a sustainable funding mechanism for strategic activities in waste management. The Association also considers that a fixed proportion of Levy funds should be available to Local Government for waste management activities.

I agree with the association. I would even suggest that we could have an argument about how much money goes to regional local governments and how much goes to metropolitan local governments. Instead, we are having an argument about increasing the levy, while at the same time we are reducing the ability for incentivisation and are using the levy as a funding source for a government department that is not necessarily involved in waste management.

The Western Australian Local Government Association would like the money to be used for a number of strategic projects. Again, the same argument applies. A lot of people have good ideas, but we are taking away any ability to help them out. In the scheme of things, they are quite modest sums, given the amount of recurrent money spent on waste management. We have the household hazardous waste program extension; the strategic waste management plan implementation; statewide recycling campaigns; and ongoing schemes to support the recycling industry through rebates for activities, which is a positive incentive. As I argued previously, the people from Sims Metal Management have said that people could be exempted proportionately as they become more effective. There is also an investigation into extended producer responsibility schemes, which is an interesting idea. There are lots of projects—\$38 million worth, in fact.

We should provide incentives for people to stop creating waste in the first place. I find it completely obnoxious when I go to Bunnings and I am forced to buy four screws in a cardboard bubble packet, when all I really need to do is grab a couple of screws. A lot of the regional shops that I go to still have bins so that people can just buy a couple of bolts, which is a great thing. Because it suits these big companies to market and display their products in that way, the cost burden is put on consumers, who pay initially for the packaging because of its so-called convenience and then at the other end to get rid of that rubbish. Hon Ljiljanna Ravlich said that no matter how hard people try, when they go to the shop for a couple of items, they come back with a big bag of waste. These are great projects, but they all need a heck of a lot of money to get going. After a while, as Hon Max Trenorden said, people start looking at these opportunities and create businesses within businesses. In that way, the amount of money that is collected can be either reduced or redirected to other projects.

In the president’s report in issue 21 of WALGA’s June 2009 magazine *Western Councillor*, Councillor Bill Mitchell states —

The sudden and exorbitant hike in landfill levies has Councils in the metropolitan area united in their outrage.

That does not sound like a very supportive opening statement —

The recent decision by the State Government to increase the levies by 300% has also found united opposition from the Association’s State Council. As is detailed in the State Council Briefs towards the back of this edition, our last meeting unanimously agreed to develop an active political publicity campaign with the aim of renegotiating the issues associated with the increase in the levies.

You may have seen the start of this campaign with my recent column in the West Australian newspaper in which I outlined the numerous concerns over these increases.

I take this opportunity to remind Bill Mitchell that nobody actually reads his advertisements because the font size is too small as he tries to squeeze in too many words. Nevertheless, the report continues —

In that article I raised numerous issues and I will again touch on them here ... probably the most pressing concern is the prospect that the levies could soon be imposed across the State.

I am not sure whether the minister has answered the questions about whether the levy can be increased and whether it can be implemented across the state, and perhaps she can clarify that in her response to the second reading debate.

Hon Donna Faragher: Is that with respect to the rural areas extension?

Hon JON FORD: Yes. It continues —

This fear is exacerbated in that not only has the State Government failed to rule out extending the levy to the regions but also by its contradictory justifications for the metropolitan increases. On one hand Environment Minister Donna Faragher claims the increases are to help reduce waste going to landfill while on the other hand admitting the extra revenue would fund other departmental activities.

As it stands the increased levies for the metropolitan area alone will reap an additional \$39 million for the Department of Environment and Conservation. This equates to more than 20% of the Department's annual budget.

However a major problem for the government is that current legislation does not permit revenue from the landfill levies to be used for purposes other than in reducing waste going into landfill.

That brings me back to my argument. The minister could stand in this place and say that although the money will go to DEC, all the money will be used on strategic matters associated with waste management or on environmental issues associated with landfill problems, as have arisen with the Swan River. There are problems with old dumps that were not lined in areas close to the river's edge and there are concerns about different chemicals and substances leaking into and polluting the river. We are now talking about the cost of either stabilising the land or digging up and removing the contaminants where that is possible. The money that is raised from this levy could be used to do that, but people will still argue that that money will be used purely as consolidated funds, not to deal with waste management. And that is a shame. This issue has become a political football. The argument now is essentially about the expenditure of the money rather than about the issues associated with waste management. That is really where we need to be taking the community. It is unfair for people to have a go at the government of the day about the Swan River being polluted because of inaction in stabilising old landfill sites that are leaking into the river and say that they do not want to pay this levy, because they and/or their parents have contributed to this problem. We have a revenue source that could be used to stop that happening in the future, and that should be the argument. What do we need to do to stop that? What are the ideas? How can we make people treat waste as a resource and ensure that a very small percentage becomes landfill and that more is used creatively and is reconstituted so that we are not constantly depleting the planet's resources? That is an issue in itself, because we live in a society that is based on an economic paradigm of growth, which is counterintuitive when talking about trying to reduce waste. We need to be investing more money in that.

If we based an argument purely on a 300 per cent increase, we could argue the case that all that money was being used to deal with those problems created when the state was growing. It would be a hard argument to counter. What has happened here is that the government has opened the door for a purely revenue-raising exercise and it will decrease the amount it will invest.

I think I have said enough on that. I hope that the government can make some positive comments on possible moves in the future on the incentivisation of giving levy exemptions to companies such as Sims that have got a good recycling record of at least trying to deal with the issues of landfill. It would be nice to hear from the government what plans it has for that. Of course, we will try to amend the bill to make sure that the whole levy is spent on waste recycling, but I understand the government is the government and it has the numbers in this place. I hope what I have done is outline our justification for attempting to do that. I ask the government to reconsider this. I ask the house to oppose the bill.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [10.41 am]: The second reading speech on the bill tells us that its essential reason for being is to provide for the levy that is collected under the Waste Avoidance and Resource Recovery Levy Act 2007 to be paid into an operating account of the Department of Environment and Conservation, rather than directly into the waste avoidance and resource recovery account, and for the broadening of the purposes for which that money collected under that levy can be applied. The second reading speech tells us that a certain amount is to be allocated for the purposes of expenditure by the Waste Authority and that the balance of the levy moneys not credited to the Waste Authority's account may be applied by the department for broader environment and conservation purposes. It transfers responsibility from the Waste Authority to the minister for the making of recommendations on the amount that is to be payable on waste received at disposal premises. The amendments also provide for the Waste Authority to provide advice to the minister for the purpose of making such recommendations, but the responsibility to recommend a levy amount will rest with the minister. So it does a couple of things.

Currently, for the very short period of its life, the Waste Authority, through an account in its name, receives any levy amount paid. Those funds are then administered by the Waste Authority according to a business plan that is provided to the minister. The essential element of the bill before us is a shift in the amount that is able to be spent by the Waste Authority and a shift in the financial control from a separate statutory authority charged with specific responsibility. The objects of that specific responsibility are to promote resource recovery and waste avoidance and to reduce environmental harm from waste, and then to apply a hierarchy of measures for resource management.

It sees the end of hypothecation, which is that process of earmarking specific taxes for a specific purpose. There is, I think, a constant tension within government—be it state, federal or indeed local—about hypothecation. Hypothecations are a useful political tool because they are a useful way to send a very clear message to the community that the money that the government is collecting from it will specifically be spent on a particular element. An example, and probably the one that most Australians are comfortable with, is the Medicare levy. In that sense, they serve a useful political purpose for governments because they are a way of sending a symbolic message to the community that the government has listened to its particular concerns about something and is therefore allocating the money that it collects from the community to do specifically what the community wants the government to do. The tension that exists in government, of course, is that Treasury does not like hypothecations because they impose a restriction and a set of limitations on what those moneys can be spent on. I think that what we see here is the result of that tension—with Treasury, in this case, winning the day. That tension is not new to this government. I think it exists for all governments from time to time, but we should not kid ourselves about what it is about.

We also see in this bill that the forecast for how much that money will be each year is to be in the budget papers, which are published, generally, by convention, around May. It gives the minister the power to take over the role from the Waste Authority on setting the amount of that levy. I was interested to know in the briefing that I got, which seems about 100 years ago, whether there had been any history of disagreement between a minister and an authority on the amount, but the levy act has been around for such a short period of time that I am not sure there would have been the chance for any disagreement to exist. However, I was interested to ask. The officers, who certainly gave us a thorough and professional briefing, were not able to provide me with that information at the time. I would be interested to hear whether the minister had received any advice that the history of these kinds of levies has been that from time to time there is tension and whether the minister can provide some examples that support the decision to remove the power from the Waste Authority to make that recommendation on the amount of the levy.

The opposition has flagged that this was one of the bills in the list of the government's priority legislation that we had difficulty with. That is in no small part due to the fact that it appears there are no stakeholders—not in local government, not in the environment movement, not in the waste industry—who are supportive of the legislation. Part of their opposition I think goes to the fact that they were not consulted. Certainly, for local governments, which were part-way through casting their own budgets, the timing of the announcement of the government's intention to introduce this legislation caused them a great deal of uncertainty and additional work. That is one reason.

The other reason is that we think the legislation is driven by the motivation to cover up the fact that what the government did in casting its budget more generally was to take money out of the Department of Environment and Conservation and that this was seen as a way to cover up the gap, as it were, that was created by the money that the government took out. It certainly adds to the general size of the bill that Western Australian families are now facing with fees and charges generated by this government and it creates an imposition on local government. It was not necessary to create this bill to increase the landfill levy by 300 per cent. The debate—public and otherwise—has been a bit distorted by that fact, because this legislation does not do that.

As outlined by my colleague Hon Sally Talbot, under the existing legislative regime, planning was in place and stakeholders had certainty about the levy amounts. Under the administration policy that Hon Sally Talbot referred to, the most recent version of which was released in July, levy rates had been calculated out to 2011. Under the previous government's legislation, the scheduled increases were set out from 1 July 2008 to July 2010. The argument has been put—it is not an argument I want to spend a lot of time on, because there are other issues—that the use of these sorts of levies as levers to drive down the amount of waste going into landfill can also create disincentives.

At the time that the bill was introduced, or perhaps when it was being debated in the other place, the Legislative Council had a two-week recess. I and several of my colleagues took that opportunity to canvass the views of the local governments within our respective electorates. During that time we received briefings from the Western Australian Local Government Association, and I took the opportunity to have discussions with the three local governments in my electorate with which I deal most regularly—the City of Canning, the City of Melville and the City of Fremantle. I also collected the public views of other councils in the South Metropolitan Region with whom I did not get the opportunity to meet; I wanted to make sure that I was aware of their views.

One of the concerns raised by stakeholders was the manner in which they were advised of the policy shift encompassed by this legislation. They were quite surprised. I have to say that I was also a little surprised at the lack of consultation with WALGA and local governments. This government has a history of regarding itself as a champion of local government, but I guess this gives effect to the old adage about always hurting the ones you love; maybe that is what this is about. It is certainly the case that local governments are feeling hurt by this decision, from both an administrative and an organisational point of view. They are angry; they think it is a breach of trust and a breach of the agreed communication mechanisms between local and state governments. They are cross about that. Both administratively and organisationally, this was very inconvenient for local governments because they had to recast their budgets in a hurry before the government changed its position on the timing. Local governments had to cop what they regarded as the wrath of public ratepayer opinion for something that had been imposed upon them. They were pretty cross about that. There was also general concern amongst local governments about the end of the hypothecation.

I want to talk a bit about some of the issues those local governments raised with me, particularly with regard to the role of state governments. Their view is that state governments generally—not just this one—have left leadership in this area to local governments. This emphasised their anger, because they have been making the investments and trialling new technologies, some more successfully than others. As a member for South Metropolitan Region, I know all about the Southern Metropolitan Regional Council; my office is right on the border of Willetton and Leeming, and I know all about the problems involved in the SMRC process. Local governments really felt that they had been obliged to adopt a leadership position, but had not been consulted. Their budget processes were made uncertain by this decision, and they are not particularly happy about it at all. I will talk a little about my consultation with the three councils I mentioned and what they had to say.

[Quorum formed.]

Hon SUE ELLERY: As I said, I spoke to the three local government authorities with whom I deal most regularly. The City of Fremantle made a couple of significant points. The first was that it sees this increase as a cost shifting exercise to local governments. It sees it as a breach of the existing agreements between the commonwealth government and local governments on vertical cost shifting. I met with the chief executive officer of the City of Fremantle who made the point quite eloquently that leadership in this area has been left to local government. He said that about all state governments; I am not being specifically critical of this one. He said that over time, the requirement to expend money, take financial risks and be innovative by trialling new technologies has increasingly become the burden of local government. He said that there has been a lack of leadership at state government level in taking a big-picture approach to the development and implementation of new technologies. He said that from his point of view, there had historically been a lack of strategic vision from state governments in this area. He referred to the \$50-\$60 million SMRC investment as an example, although I understand that under the previous Liberal government there may have been some state government backing in the form of a guarantee for the SMRC loan arrangements; I will stand corrected on that, but I think that is the history. He made the point that a levy for the purposes of better waste avoidance is a sound policy position. But he also said that from the point of view of local government, this levy is not about better waste avoidance; it is about providing ongoing core funding for the broader work of the Department of Environment and Conservation. That is the issue.

He also raised the issue of equity for pensioners, and I will be interested to hear whether the minister has anything to say about that. The issue of pensioner rebates may have been raised publicly by the City of Cockburn. In situations in which the rubbish levy is separated from council rates, the pensioner rebate does not apply. An internal equity issue arose about how councils structured their rates and what impact that would have on that. That was raised with me by the chief executive officer of the City of Fremantle.

The CEO referred specifically to an issue raised by the City of Cockburn. I understand that there was some public debate about that, and it would be interesting to know whether the minister has received any representations from local government on that issue. The CEO said that most councils break down their rates by separating the rubbish levy. The City of Fremantle does not do that, because, in its view, if it were to separate the way its rates are structured to show the rubbish levy, pensioners would not get the rebate. He made the point that there is an educational component to having a separate levy, but in this case Fremantle chose not to do that so it could continue to meet its social obligation, from its point of view, of ensuring that pensioners do not lose out on rebates.

I asked the City of Fremantle CEO whether that council had directly made representation to government on this and he said that it had not, but that as part of the South West Group of Local Authorities it met with the minister on broader strategic issues. He also said that that South West Group went to Canberra to have discussions with the federal government on generating a commitment across all three levels of government for more strategic leadership in the area of waste. He made the point that the federal government is committed to setting up a local government centre of excellence and it was certainly his hope that that centre would put some focus on waste management. He reiterated his point that there had been no collective investment in high-level leadership.

The City of Fremantle is a member of the South Metropolitan Regional Council, and it does all the record keeping and administration for the collection of the waste and the levy at the collection point and then advises member councils of their component of the costs. I will briefly touch on the SMRC issue, because I also met with representatives of the SMRC. More than 10 years ago the southern metropolitan councils got together and made a decision to make a really large investment to minimise waste. They were looking to find a way to turn municipal waste into compost, which they would be able to sell commercially and, therefore, recoup the investment they had made and also make it available to ratepayers. That was a good thing and they are to be commended for doing that. I think it was at the time of the Court government. The then state government facilitated in some way the investment of the money—I do not think it put any money into it. However, the technology choice is what really caused some problems, pretty much immediately, for the SMRC.

At various times, depending on the weather conditions and the wind, significant odour is emitted from the SMRC's composting plant. I was invited to smell that, as a member of the South Metropolitan Region, which I did by visiting some of the streets in Leeming where the odour is at its best, particularly when it is humid. It was humid when I was there and the odour was revolting. There was no question that there was odour pollution, although the SMRC, in its wisdom, decided to dispute that. A public debate then took place on whether the odour was having an impact on people's health. I think that the SMRC had some very serious communication problems in the way in which it dealt with the residents who were affected by this odour.

I will put to one side the issue of health, but I will come back to it. However, the impact on amenity of that level of odour cannot be underestimated. One of the women to whom I was speaking said, "We were having our five-year-old's birthday party in the backyard and the smell was oppressive. I should have shifted the five-year-old's birthday party into the house." I am sure that members who have had any dealings with a large number of five-year-olds would know that that would probably not be the best idea. In any event, she was asking, "It's summer holidays and what am I supposed to do? Should I keep my kids inside all the time because the odour is so unpleasant?"

I was disappointed in the public debate and the position that the SMRC took on the impact of the odour on health issues. The reason I was disappointed about that is that I suffer from asthma. For the most part it is under control, but very occasionally—in winter if I have a cold and it is cold weather—I am more susceptible to asthma than at other times of the year. I know that if I am at a point in my asthma cycle when it is cold weather or I am likely to have a cold, the smell of perfume will aggravate my asthma. Does perfume cause my asthma? No, it does not, but it significantly aggravates it. For a person who has a respiratory condition it is irrefutable that there are certain odours that will aggravate it. I know that from living with asthma. I know that the odour and the oppressiveness of that odour has a significant impact on the health condition of those people who have a pre-existing respiratory condition.

The SMRC made some really poor choices. It was genuine in its choice of technology, and it was taking a risk. It is arguable that at the time it chose that particular technology there was evidence that there were significant problems with it, including problems of odour. Once it had made that investment, it made some poor choices in how it chose to communicate with the ratepayers affected by it. I found that very disappointing, and I certainly made that clear to the SMRC on behalf of my constituents who were affected. I am disappointed in the way it not only communicated to the ratepayers, but also treated and chose to characterise those who complained about the problem. The result was that it had entrenched anger and mistrust in it by the community.

As a member for the South Metropolitan Region it would be remiss of me to mention the SMRC and not flag those concerns of my constituents. They would be angry with me if I did not. The point I am making is that with the best will in the world SMRC demonstrated a commitment to invest and to take a risk. It reiterates the point made to me by the CEO of the City of Fremantle; that is, local government was forced into a position of having to take leadership on the question of waste management because consecutive state governments had not.

The other local government authority that I met with in that period was the City of Melville, the hotbed of labour activism that it is. I met with Councillor Clive Robartson and some officers from the SMRC. Clive provided me with a copy of the council resolution on this matter and I will read that resolution to the house. The resolution was passed at the council meeting held on 16 June this year. It states —

That in response to the State Government's increase of the landfill levy by 300%, the City of Melville advise the Premier, the Minister for Local Government, the Minister for the Environment and all State Parliamentary Members, of the City's position on this matter particularly the following areas of significant concern:

- 1 That the City express its great concern at the lack of consultation and notice provided by the State Government by increasing the landfill levy by 300%.
- 2 That the lack of time to plan for this excessive cost increase will cause considerable financial burden to Local Governments and the community.

- 3 That the City strongly condemns the use of landfill levy funds for consolidated revenue purposes and requests that the state government reconsider this position.
- 4 That the Government be reminded that at the time of the introduction of the levy, commitments were made to Local Government that the amount of money used for the administration of the levy would be strictly limited (1% to 3%) and that a rebate scheme would be introduced to return funds to Local Government for materials diverted from landfill.
- 5 That the City recognises that this increase will assist with driving greater diversion of waste from landfill, however without the infrastructure or cost support for alternative waste processing systems, the impact of the increased landfill levy will be nullified.
6. That the City strongly supports the position that all funds raised by the landfill levy generated from domestic municipal waste streams and Local Governments be hypothecated back to Local Government support recycling and resource recovery activities and the associated infrastructure. Should this support not be provided, continued diversion of waste from landfill will be put in jeopardy as the levy increases also penalises resource recovery facilities.

That motion was carried unanimously.

The City of Canning was concerned, in particular, about what the impact would be on its capacity to manage its own budget by having to recast its own budget and the impact that would have on ratepayers, and that it would be the one to be seen to be imposing this on its ratepayers. It took great objection to that. I had a conversation with an officer from the City of Canning. In August the City of Canning received local media coverage about the fact that its ratepayers would be forking out an extra four per cent in rate fees as a result of its budget. The minimum rate it set was \$439, which was an increase of \$17. The council said that household and commercial rubbish costs would increase to \$315, up from \$246 last year. The City of Canning mayor, Joe Delle Donne, said that the higher gate fees from the Southern Metropolitan Regional Council and the 300 per cent rise in the state government's landfill levy contributed to the increase.

The City of Fremantle highlighted the impact on its budget, and in July predicted an eight per cent rise in rates as a result. Then east ward councillor, now mayor, Brad Pettitt, said that big hikes in waste costs, including the state government's landfill levy and rising costs at the council's part-owned recycling and composting plant in Canning Vale, were behind those larger-than-expected increases.

I did not speak to anyone at the City of South Perth, but I read their comments in the *Southern Gazette* back in June. They were talking about revising their budget following the state government's unexpected decision—from their point of view—to increase the landfill levy. They made the point that the new charges will mean disposal for biodegradable waste will increase from \$7 to \$28 per tonne. Mayor James Best said at the time that his main gripe with the policy was the lack of consultation. He is reported to have said —

Most importantly, the decision has been made with the clear intention that revenue raised by the state will not be used for waste management purposes, ...

Most of the proceeds will go towards running the Department for Environment.

Local Government and ratepayers have therefore become a tax collection agency for the state.

Mr Best was critical of the state government claiming that the policy was a poorly considered tax grab —

It's just poor policy and an unprecedented hike; the minister and the Department for Environment should reconsider this one, ...

He said that the explanation provided by the minister to the Western Australian Local Government Association demonstrated her lack of understanding of the consequences.

At the southern end of the South Metropolitan Region is Rockingham and Kwinana, and those local governments were also concerned and, as a result, needed to implement an increase in waste collection and gate fees following the budget announcement that the landfill levy paid by metropolitan councils would be increased. Rockingham mayor, Barry Sammels, said that the council had not been aware of the impending increase and would have to pass it on to ratepayers. He said that there was also a big problem in the area with people illegally dumping rubbish and that the increased levy would make it worse. Those were his comments on 3 June this year as reported in the *Sound Telegraph*.

The Kwinana council condemned the state government's decision to increase the levy, and passed a resolution in early June expressing concern over the increase and the lack of time—then—to plan for the cost increases, and expressed its concern in a nine-point recommendation saying that the decision would cause considerable financial burden to local governments and the community, and it condemned the increase as a cash grab. The

point it made was that funds raised by the levy should be put back into local governments to support recycling, resource recovery and infrastructure. Councillor Bursan said that the council would have to cover the cost if people could not pay the levy and dumped rubbish. He is quoted in the *Kwinana Courier* on 12 June as saying —

This decision will create a situation where people dump material in the bush and the cost will be borne by us (council), ...

That recommendation opposing the changes was passed by the council unanimously. It meant in the end, after Rockingham recast its budget, that Rockingham ratepayers would pay an extra seven per cent for domestic waste in the 2009-10 financial year. The council says that that is largely thanks to the state government's landfill levy increase. That was reported in the *Weekend Courier* of 3 July.

Cockburn, which extends sort of from the middle to the south end of the South Metropolitan Region, reacted to the proposed levy rise by increasing its waste management service charge from \$256 to \$325, a rise of \$69 a property this financial year. Mr Logan Howlett, the Cockburn mayor, made the point that despite the state's deferral of its levy increase, the rise for ratepayers would remain. Mr Howlett said that the council needed a clearer picture of the legislation and the financial implications. He also said that the Cockburn council did not agree with the government's levy funding the Department of Environment and Conservation's annual budget rather than educating residents about environmental issues, which was part of its original purpose.

In Victoria Park, which is the local government authority that I live in, back in June after the announcement of the increase in the levy, the Town of Victoria Park CEO, John Bonker, accused the state government of using local governments to fill holes in its budget. At that point Victoria Park had been planning a rise of 5.9 per cent but then had to consider a higher rise of around 6.9 per cent to cover the increase. He said that the town was disappointed that the government had imposed such a big increase with no consultation with local government. Mr Bonker said that it was even more concerning that the additional \$39 million anticipated to be generated from this increase is proposed to be used for purposes other than those the levy was put in place for in the first place, which was to encourage local government and other bodies to recycle their waste. He said that the Town of Victoria Park, along with many other local governments, had invested heavily in recycling and secondary waste treatment plants to reduce the amount of waste going to landfill. However, all this investment is ignored by the state government, which simply requires local government to fund the government's budget shortfall by becoming a tax agent. That was reported in the *Southern Gazette* of 9 June.

Outside my electorate, the Municipal Waste Advisory Council, which is not an insignificant body in local government, the Mindarie Regional Council and the Forum of Regional Councils, which is in my electorate, raised their concerns publicly in August. The Municipal Waste Advisory Council raised its concerns about the proposed legislation and the fact that the government was allowing the levy to be used for purposes other than waste management. I will read out what was reported in the *Wanneroo Times*, but it was also in several local newspapers. The Municipal Waste Advisory Council chair, Troy Pickard, said —

... the State Government would need to spend money on research into alternative waste management arenas now, to prevent a "huge bump" in landfill increases in the future.

"The council's stance is that we want all monies collected from the levy to continue to be used exclusively on waste management," he said.

"Only when we as a State have a firm grasp of how we can efficiently and effectively dispense or reuse our household and commercial waste, can we even think about using some of the funds for other purposes.

"But the reality is, at this stage, we need every dollar we can get to research alternative waste management options to become sustainable in the future."

The views of Bill Mitchell, the president of the WA Local Government Association, have been well canvassed. He made the point publicly in the *Merredin-Wheatbelt Mercury* in July —

Although the increase would have only affected metropolitan councils, sources within Local Government believe it could be extended to regional councils at any time.

I will be interested in the minister's reassurances on that. The article goes on —

Cr Mitchell said the rise in levies detailed in the recent State Budget seemed to have more to do with meeting departmental financial targets than protecting the environment.

"The Department of Environment and Conservation is set to reap \$39 million as a result of the increases at the same time as being allocated \$33.3 million less funding," he said.

"The \$5.7 million difference is three percent of the department's total budget appropriation which is exactly the same as the Treasurer's efficiency target for all departments.

“Rather than look at how it can reduce expenditure and find efficiencies, the department seems to have decided it is easier to impose exorbitant fees and make the community pay for their three percent efficiency target.”

Cr Mitchell said the State Government wants to shine a light on Local Government inefficiencies with the reform process but endorses getting it own house in order by simply ramping up charges to the community.

The uncertainty before the announcement of the delay caused a great deal of angst amongst many local government authorities. WALGA’s president, Bill Mitchell, expressed concern about that. At the beginning of June he was reported in the *Albany Advertiser* as saying —

“The increase is simply too extreme to be absorbed by industry and gives no time for recycling practices to be changed, which consequently, is most likely to lead to increased illegal dumping,” ...

I refer briefly to the Forum of Regional Councils, which is in my electorate. It is a coalition comprising five metropolitan councils and the City of Geraldton-Greenough. It promotes common interest associated with waste management. It provides municipal solid waste services to a total of 1.5 million people. It collects, treats, recycles and disposes of municipal solid waste using a range of technologies. The forum wants recognition that municipal solid waste management is deemed to be an essential service. The City of Melville raised this with me, and I think the City of Fremantle did also. The forum wants the capacity, in planning, to have the same kinds of buffers in its plants as do other services that are deemed to be essential. The forum argues that just as electricity providers, in their land allocation and planning, have certain buffer zones around their facilities, the same principle should apply to municipal waste facilities. If that had been applied, it might have made a difference to the outcome with the waste-composting facility of the South Metropolitan Regional Council.

The forum has been quite public about the fact that it strongly supports the state government’s vision of Towards Zero waste in Western Australia, which aims to achieve, by 2020, a situation in which there is little or no waste created that cannot be recovered. However, the forum’s view is that that target can be reached only if waste management is seen as an essential service and there is a cooperative and consultative whole-of-government approach, involving the state government, the Waste Authority, the Department of Environment and Conservation and local government. That reinforces the notion that was first raised with me in my consultations at the City of Fremantle that what the forum is looking for is leadership in this area. It thinks that governments of all persuasions have been lacking in that area. The forum made the point that there is no state government strategy or framework within which resource recovery facilities can develop or operate with clarity and certainty. Its point is that what is required is a framework that sets, as a minimum, statutory standards that provide technology parameters and planning instruments for resource recovery projects. The forum says that it is looking for state government investment in that.

In respect to the legislation that is before us now, the forum wants the following points to be investigated. The first is the exemption from the landfill levy of residue waste from resource recovery processing organic plants, as this material has been processed in accordance with the state government’s vision for processing of the organic waste stream. It wants investigation of the recycling effort and waste management by local government in WA. It wants that to be seen to be better than sometimes is reported. It wants a change to the bill before us to provide that 50 per cent of all landfill levy moneys collected are provided for local government waste management programs. That increases the diversion of waste from landfill. The forum wants a sunset clause to the legislation that is before us so that legislation reverts to the current arrangements after an agreed period of time. It wants further investigation so that parties can look at a position on the relationship between the landfill levy and the proposed carbon pollution reduction scheme tax.

One of the outcomes of the increase in the levy of course is that it adds to the total increases in family budgets. This government has abolished It Pays to Learn financial assistance to families. Under the previous government, a family with two kids received \$400. That has gone. The student subsidy of \$200 for utility charges has also been affected, and there is an increase of \$224 for a family of two adults and two kids. There has been a water charge increase of around \$40, and another \$30 increase in other matters related to water such as reading of meters and urgent meter testing. There have been increases in the charges for sewerage and drainage of about \$25 between the two. There has been an increase of about \$39 in the cost of public transport; that is based on a two-zone, full-fare ticket for one person in the family using public transport five days a week. There has been a motor vehicle licence fee increase of \$7-odd. Another \$10 can be added to that for a recording fee and compulsory third party insurance. There has been an increase in the emergency services levy of about \$7 as well as the levy we are talking about now—around \$24. Other transport costs may include a family holiday. Fees to Rottnest Island have gone up \$11. Boat registration and boat mooring fees add \$30-odd. For those using Keystart to get a mortgage, there are preparation-of-document increases of about \$25. The total cost to WA householders, as a result of the 2009-10 budget, is about \$1 000. The increase in the levy brought about by this bill will add to that.

In conclusion, the bill undoes what was a positive public policy for the environment. It does that without having given the policy a chance to work. The revenue raised will be used to fill the gap in funding for DEC because of the state government's lack of investment in providing core funding to DEC. This increase has caused great uncertainty for local governments, which have had to recast their budgets, and it was done without the support of any of the key stakeholders that will be affected by it—the environmental movement, local government and the waste industry. For those reasons, the opposition will vigorously oppose the legislation.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [11.30 am]: I have been looking forward with great anticipation to saying a few words on the Waste Avoidance and Resource Recovery Amendment Bill 2009. For the past two terms of Parliament I have been a member of the Standing Committee on Environment and Public Affairs. As members know, in May that committee tabled its report on municipal waste management in Western Australia. I must say at the outset that I believe it is a very good report. Before I make some comments about the bill, I will put on the record my thanks to the members of that committee who participated very actively in that committee report but who are no longer with us in this chamber—Hon Bruce Donaldson, Hon Paul Llewellyn, and Hon Sheila Mills. They told me prior to their leaving that they are happy for me to comment on their behalf because the committee was unified in its view on a range of issues about the management of waste, including the levy. Some of my colleagues opposite might be wondering why Hon Bruce Donaldson was keen for me to comment on his behalf. Prior to leaving, he was quite disturbed that this legislation was being introduced to this place, because his view was that the money raised by increasing the levy should go back to the Waste Authority and be used appropriately to develop strategies and a policy direction for the future of waste management in this state. He was very disappointed that the government wanted to direct the monies raised from that levy into the consolidated fund to be used at will by the government for other purposes and to fill its budget black hole.

The Leader of the Opposition has commented in her capacity as a member for the South Metropolitan Region. I will also comment on the consultation I had with the local governments throughout the South Metropolitan Region. When this legislation was introduced, I wrote to all the local governments in my electorate and met with a number of them. I sought a response in writing from them about how the councils would deal with the proposed increase. I will put on the record some of the written responses that they have provided to me. I will spend some time going through some of the matters that were raised in the committee report on waste management, dealing with why we do not agree with this bill and outlining the implications it has for residents.

Hon Sue Ellery referred to a number of local government bodies in her speech and to some comments that were made in the media. I will quote directly from some of the correspondence that I have received. I gave a commitment to those councils that I would record some of their responses in *Hansard* because, in the majority of cases, the councils felt passionate about the negative implications this levy will have. Their correspondence outlines how they deal with managing waste in their regions and the implications the increased levy will have on their ratepayers.

The City of Melville and a number of other councils in my electorate have been very proactive over the past few years, particularly in the creation of the Southern Metropolitan Regional Council, and have made some forward-thinking and strategic decisions about how to deal with waste in the southern end of that electorate. There has been a lot of controversy about the SMRC. That was one of the initial reasons that this report was commissioned by the Standing Committee on Environment and Public Affairs. The inquiry came about as a result of a petition from constituents who were feeling the ill-effects of odours from the Regional Resource Recovery Centre. As a result of the petition, the committee broadened its terms of reference to look at waste management in Western Australia. The committee's report is quite detailed, although it is not the be-all and end-all. The report was tabled in May because the members who were leaving wanted to put on the record the matters that had been raised so that the government could give those matters due consideration. The committee members considered the report to be an interim report to test the waters and to give the government an indication of the concerns in the community about waste. That is not to say that at some point the committee will not decide to revisit the issue of waste management as it evolves, although that might be some years away.

Parliament addresses a number of key issues such as energy, but waste is a significant issue. Indeed, there is a relationship between energy and waste. I have seen some of the waste energy initiatives that are operating in New South Wales and Queensland. As a member of this committee, I have spent a lot of time dealing with waste and sewerage. I am becoming quite an expert in those areas, unfortunately! I encourage members to read the committee's report, not just the parts of it that I refer to today. Some of the work that has been done in the other states is very interesting. I visited a number of facilities that have been funded by local governments in other places and they are very interesting. We are only just starting to see some of the new technology used by the waste industry flowing into Western Australia. I hope that flow of technology continues to increase, and I will talk more about that shortly.

I want to provide members with some background about the City of Melville's involvement in waste management. The city has been very passionately engaged with the SMRC. A letter that I received from the City

of Melville is dated 9 October and is signed by the former deputy mayor, Patricia Phelan, who is no longer on the council. I put on record that Trish did an outstanding job for the ratepayers in her electorate, even though she was a very active member of the Liberal Party, and I fully respect the work that she did. I am sure that even though she is no longer on the council, Trish will continue to engage with the community and remain active. I wish her all the best for the future. The very wise words she wrote to me state in part —

Whilst the City understands and supports the importance of the need for a reduction in the volumes of waste being disposed of to landfill sites, we believe that the dramatic and previously unannounced 300% increase is a very significant impost. As a City we are struggling to balance the equation between being a responsible and diligent representative for our community and the financial brunt of this proposed new levy, which at the end of the day our residents will pay for. The proposal as it stands will result in a dramatic increase in the cost of disposal of our domestic waste streams. Even though a large portion of this is currently recycled, a significant percentage of residual (ie. treated) waste is still being disposed of to landfill.

That is important. The City of Melville has experienced financial difficulties because it lost many millions of dollars of ratepayers' money through the global financial crisis and it also has had to deal with increased SMRC levies and the recent fire at the RRRC. All those things add to the financial burden that will ultimately be imposed on the city's ratepayers and the state's taxpayers. As Hon Sue Ellery said, it adds to the burden of families, who will have to find that additional money. When I was doorknocking in the electorate of Willagee recently, the ratepayers of Melville raised these issues with me. The letter goes on to state —

It is disappointing to see that there is no contribution, funded from the additional revenue being raised by the proposed Waste Avoidance Levy, to support recycling or the development of new sustainable alternative waste treatment technologies. Furthermore there is currently no financial support provided to communities who are currently undertaking measures to reduce landfill and whom will now have an additional disposal charge imposed on them.

Whilst the City understands that strategically there needs to be an additional charge on materials being disposed of to landfill, the City believes that the additional revenue raised through the landfill levy should be reinvested into the waste treatment market to research sustainable and cost effective alternatives and to support those groups already undertaking measures to reduce landfill volumes. The suddenness and sheer size of the proposed Waste Avoidance Levy is not supported by the City. We also do not believe that the Landfill Levy should be used to fund the operations of the Department of Environment. The City believes that in its current form the increase in the Levy is simply an attempt by the State Government to use Local Government as a Tax or Revenue collector.

In closing let me reiterate that the City supports alternative waste treatments and the concept of a Waste Avoidance Levy. It believes that the Levy should be set a level that effectively discourages the disposal of waste to landfill. The proceeds of the levy should however be reinvested into the development of sustainable alternative waste disposal solutions for the community or to offset the extra costs incurred by those communities who have already implemented such alternatives by way of an operational subsidy based on the tonnes of waste diverted from landfill. The additional proceeds should not be used to fund operational costs of State agencies.

That council has taken a fairly firm position. It has invested not only its ratepayers' money but also a lot of time in developing waste strategies for its community. That sentiment is supported by a range of other councils to different degrees and in different ways. I have correspondence from Mayor Carol Adams from the Town of Kwinana dated 2 October this year. She states —

The Town has previously expressed, to the Premier, our concerns with the proposed 300% increases to the landfill levy and the negative impact it will have to our community and in particular the expected increase in the already high illegal dumping activities. The Town is already under financial burden with illegal dumping costs that have exceeded \$160,000 alone over the 2008/09 financial year.

The Town does not object to the original philosophy for the use of the funds accrued from the landfill levy, in fact, the Town supports efforts that positively promote the reuse and reduction in the use of natural resources as well as the minimisation of waste to landfill. The imposition of using the landfill levy as another tax to support the operations of the Department of Environment and Conservation is objectionable and doesn't meet the intent given for the initial introduction of the levy. The Town strongly believes that the income derived by the levy should go back to managing, assisting, promoting and initiating good waste minimisation and reuse practices which should be carried out by an independent authority solely for that purpose, such as the Waste Authority.

Hon Sue Ellery has already spoken about South Perth. I have quite detailed correspondence and a couple of press releases, including one about the completion of a fantastic underground project in Como. I thought the Minister

for Energy would be pleased to hear about that. In correspondence about the waste management levy, the CEO of the City of South Perth, Cliff Frewing, stated —

The City is extremely disappointed with the move to not only increase the Waste Management Levy by 300%, but more importantly to utilise the majority of the revenue to partly fund the operations of the Department of Environment and Conservation.

This decision to directly tax Local Government and therefore its ratepayers to subsidise the operation of a State Government Department is seen as creating an undesirable precedent. The gates have now been opened for similar levies to be introduced and for the levy to be increased at will as an alternative to reviewing operations for efficiencies.

It is flagging that the levy will cause major problems and have implications for other projects in the city.

I recently received a letter dated 12 November from Mr Peter Pikor, director of technical services in the City of Fremantle. He stated in his letter —

The City has concerns with the planned Landfill Levy increase and through its involvement with waste at the Southern Metropolitan Regional Council and the Western Australian Local Government Association ... is aware of the position that has been reached that support of the Levy is predicated on the Levy remaining hypothecated to waste management activities. The hypothecation of the Landfill Levy funds to waste management is seen as an essential component for advancement of the development of resource recovery and providing for strategic waste activities. Another important element of this Levy issue in relation to resource recovery is the need for a differential Levy for residual waste resulting from these recovery facilities.

I also have correspondence from the Town of Victoria Park. As a ratepayer in the Town of Victoria Park, I am always very interested in how it approaches these matters. I know that it has been making quite significant changes to the way it deals with issues of waste, particularly in its involvement with the new Neerabup Resource Recovery Centre. Mr John Bonker is currently the CEO of the Town of Victoria Park but is due to retire. I wish John the best for his future. He states in his letter —

Six (6) percent of the Town's budget is allocated for the tipping of rubbish at the Tamala Park tip site and Neerabup Resource Recovery Centre. An increase of the levy from \$7 to \$28 a tonne equates to a \$215,000 increase in annual expenditure or one (1) percent in council rates, which would have to be recovered through council rate charges.

I say to the minister that that is disappointing news for me as a ratepayer who is having to pick up the tab because this government cannot manage its budget properly and is looking for other sources of income.

The mayor of the City of Cockburn, Logan Howlett, faxed me a letter on 6 November. He stated —

In 2009/10 the City of Cockburn's waste management service charge increased from \$256 to \$325 per tonne to offset the higher costs of providing the service. The 300% increase in the state government imposed landfill levy has contributed to a proportion of that increase. The waste service charge has also been affected by the global economic downturn and the subsequent reduction in commodity prices for recovered products.

...

The state government continues to miss the opportunity to provide leadership to this industry by investing in the future of waste management. There is no evidence that the substantial funding raised through this levy will be reinvested in the industry. It is clear that the government is more interested in raising revenue as opposed to finding tangible solutions to an essential service.

It must have been great fun for members of this government to attend the WALGA Christmas function last week. I am sure they got a warm reception.

Hon Alison Xamon: I am sure they didn't.

Hon KATE DOUST: I am sure they did not.

The City of Gosnells is a new part of my electorate in the South Metropolitan Region. Mayor Olwen Searle wrote to me on 19 October, stating —

The City of Gosnells is well aware of the implications of the Bill. Indeed, it factored the levy into its rubbish collection charges for this financial year.

It has already jacked up its rates for its ratepayers in anticipation of this bill going through. She goes on to state —

... the City is a member of the WA Local Government Association which has campaigned against the unilateral decision to increase the levy and the use of levy monies to fund the operations of the

Department of Environment and Conservation. The City is supportive of the Association's representations on this matter.

It is not happy with the levy either. Today, fortuitously, I received a letter from Barry Sammels, the mayor of the City of Rockingham, dated 23 November. He stated —

The City of Rockingham manages the Millar Road Landfill Facility and has increased its 2009/10 gate fees to include the additional Waste Avoidance Levy increases.

The increase in the levy is excessive and the City is disappointed that it is being used for Departmental expenditure and will not be quarantined in a fund which would enable future Waste Minimization initiatives to be funded.

I move on to talk about the Town of East Fremantle. It has been very diligent in its views. Stuart Wearne, the CEO, provided me with quite a level of detail on the council's views. He sent me a range of correspondence. Mr Wearne stated in his letter dated 5 October —

In short, Council's main concern regarding the levy is not so much the effect on rates, estimated at approximately \$10.40 per household, but rather the perceived misuse of the increased levy, in terms of funding activities which have nothing to do with waste minimisation.

Council is also very concerned regarding possible misuse of the levy to date—as referred to in the attached report and highlighted in yellow for your convenience.

Mr Wearne provided me with information from the council agenda of 23 June, when the council went through the issues it had concerns about in detail in relation to this bill. These included the problems about the lack of consultation, the financial implications to council, the financial implications for ratepayers, and what the benefits of the increase are. In that part of the agenda it states —

However it is highly arguable that the current increase was too sudden and too extreme to allow time for local governments not doing enough to divert waste from landfill and industries, such as the construction industry to develop suitable alternatives — hence the current concern regarding increased illegal dumping.

Then they go on to talk about illegal dumping, their concerns about the transport of waste, and then, in the latter part of the agenda, there is comment about a legal challenge, which states —

WALGA believes that, apparently, regardless of the proposed legislative amendments, the levy is open to legal challenge because the levy is being raised under one Bill for a specific purpose however being used for a general purpose revenue by the agency concerned. WALGA believes it arguable that means the levy is simply a tax and only the Commonwealth has such taxation powers.

I do not know where the minister is at with her negotiations with the Western Australian Local Government Association, but if that is the line that WALGA is running with local governments, I think the minister will have some interesting times once she ultimately gets this legislation passed purely on the numbers in this chamber.

East Fremantle council passed a series of recommendations about this levy, and I have touched on some of those so I will not go into the detail. I am happy to table those recommendations if members are interested.

Those councils have expressed fairly strong views, and there is very, very strong concern about the purpose behind the increase in this levy. I do not think anyone really objects to landfill levies being increased, because we have seen them in other places; the key objection is the manner in which it will be used. We canvassed that issue during the inquiry into waste management in Western Australia, and I will talk about that in a moment.

Another group has been set up purely to deal with the issues of waste. We have seen the emergence of regional councils across the state, both in the metropolitan area and in regional areas. The South Metropolitan Regional Council covers the bulk of my region, but I also have Mindarie Regional Council, Victoria Park council and others, and the Eastern Metropolitan Regional Council kicks in as well. The councillors in those regions have collectively made how they deal with the issue of waste a primary focus and have become quite important players in the community. They have taken on a very strong role in research and strategy development and looking at new technologies for dealing with this issue. Above regional councils another new body has come about—that is, the Forum of Regional Councils. Hon Sue Ellery talked about FORC's concerns about this levy in detail, as well as the proposals that it would like the government to address in terms of how this legislation could be improved to ensure that an appropriate strategy and approach is taken to waste management in this state. It also wants to ensure that all of the moneys raised through the collection of this levy are directed back into the body that should be managing future directions for waste management in this state, not just part of them. I will talk about that when I discuss the report.

Hon Sally Talbot and I met with the chief executive officer of FORC, Mr Stuart McCall—who, as chance has it, is also the CEO of the SMRC—and with Mr Doug Thompson, who was, at that point in time, the chair of FORC

as well as the chair of the SMRC. They provided us with information and took us through their concerns step-by-step about the manner in which this proposal had been brought forward and the way the government was electing to deal with the collection of these moneys. I will not go through that in detail, because Hon Sue Ellery has already canvassed those matters, but it is very interesting that, on this one issue, new organisations are emerging in the state and are setting up similar types of committees to those of WALGA. It just shows how dominant the issue of how waste is dealt with is in the minds of councils and communities. If it was intended that this money was to be directed back to the Waste Authority—which is where it all really should be going—so that it could go about its business of developing strategies, of working with local governments, and of determining ways to educate the local community about waste disposal, it would not be such an issue.

Waste is such a key issue. We are a society that just throws everything away—our product packaging, our food, our clothing, our white goods. It was a real eye-opener to go to the different types of waste recycling facilities in Queensland and New South Wales and see how much rubbish is collected and how much waste we move out of our homes and businesses, and how it gets dealt with in different places. I think we have a lot more work to do in this state to get up to some of the standards and some of the ideas that are being employed in other states.

The concept of the Waste Authority is very, very good, but it is a shame that it has not been afforded the appropriate resources, both in staffing and finances, to be able to get on and do its job. If members refer back to the environment committee's report, this issue was raised in the evidence given by Mr Barry Carbon, chair of the Waste Authority. The committee was quite shocked about how bereft the authority was of the level of resource it should have been afforded to be able to get on and do its job of providing advice not just to the minister, but also to local governments and communities. The funding has been diverted off to the Department of Environment and Conservation and cannot be accessed by the authority. I will talk about that further when I discuss the report.

The councils that I have had contact with do not object in principle to the amount of levy being raised, because they see that there are benefits in the money being applied so that new strategies, new technologies, research, education, advice, grants and support to councils, all of those things can move forward to better manage this very important issue. What they have a problem with is the government using this bill as a means of raising revenue and filling the black hole, and of diverting moneys back into other places. We have already seen this happen in a number of other areas that I have an interest in. In the science and innovation area, this government has cut back on a range of programs that were already in operation so that it could divert money elsewhere. We have been waiting since June for the science review to come out; nobody knows what is going to happen. This is an important area that can be linked back to waste management, because money could be poured into research and development of new technologies to manage waste. But, again, the government has cut back on these programs. The community, the academics, and all the various industry players do not know in what direction this state government will go in the management of science and innovation, because the government has been sitting on the science review since 30 June and is reluctant to share the review publicly, or to make any pronouncements on the future directions of science and innovation. Because the government has cut back so much on the dollars, and so many programs have either been slashed and burned or killed off, it is very difficult to plan. Therefore, when we deal with issues like this, how do we move forward if we cannot actually allocate money to those areas?

Another area we have seen this happen in is energy. We have seen examples whereby this government has cut and burned, and deferred—that is the polite way of putting it—projects such as the 330-kilovolt line from Perth to Geraldton. A number of opportunities to attract money back into the state through renewable projects have fallen away. A good example of that is the Aviva project. Aviva not only had to abandon the work it was going to do on an important demonstration project, but also missed out on federal government funding for that project, because the minute Aviva lost out on opportunities in this state, the state government advised the federal government that it would no longer be supporting Aviva and its grant application for that demonstration project. The Minister for Energy is sitting there smiling, so he obviously knows about that. Yesterday the minister made an announcement that the Sustainable Energy Development Office will now be absorbed into the Office of Energy. Although the government says that this is all about putting renewable energy at the forefront, I think that this is just another cost-saving exercise by this state government. The government is trying to cost-shift to save money—just as the waste levy increase is another way of sucking money out of the taxpayer—so that the government can clear up its financial issues. I think that Mr Piers Verstegen in *The Greener Times* spring 2009 issue —

Several members interjected.

The DEPUTY PRESIDENT (Hon Michael Mischin): Order, members! Hon Kate Doust has the call.

Hon KATE DOUST: Thank you, Mr Deputy President; I was ignoring them anyway!

Mr Piers Verstegen made some interesting comments that sort of back this point up. In an article headed "Recycling crisis remains a taxing issue" he stated —

With the State Budget stretched to breaking point due to the financial crisis and the WA National Party's 'royalties for the regions' demands, Treasurer Troy Buswell has gone to extraordinary lengths to balance the books. Unfortunately, in this latest rush to turn the landfill levy into an effective tax, principles of good governance seem to have gone out the window.

I thought that was an appropriate quote to mention. I am pretty sure that the article by Mr Robert Taylor in *The West Australian* of 3 June 2009 has been referred to. It is a very good article. I do not always think that Mr Taylor hits the nail on the head, but I think this time he actually did his homework and very succinctly outlined a range of concerns about this proposed levy increase. I encourage members to revisit the article because he talks about the impost that will be put on taxpayers by this levy and the fact that it will give the Department of Environment and Conservation an extra \$39 million, which is money that should go back into the Waste Authority.

The minister's second reading speech talked about the levy increases and stated —

... the minister will direct an amount to be credited to the WARR account each year to fund specified waste management purposes. This specified amount to be credited must not be less than 25 per cent of the forecast levy revenue for that financial year.

I think this is the core of the problem. Although people say, yes, they understand that levies go up and they have gone up in other places, if the government is going to do that, it should put the revenue from the levy back into the Waste Authority; that is the place where we can get the best outcomes, the best decisions and the best strategies for the future of waste management in this state. I note that the last sentence of the second reading speech states —

The amendments provide for the Waste Authority to provide advice to the minister for the purpose of making such recommendations; however, the responsibility to recommend a levy amount will rest with the minister.

I thought that was interesting. Does that weaken the role or the power of the Waste Authority, because rather than the Waste Authority giving instruction to the minister, it will simply be an advisory body? Also, does that mean that we might actually anticipate further increases down the track—I do not know whether the minister is looking to do that—of a similar nature to what is proposed in this bill? Purely and simply, whenever the government finds itself in a difficult financial position, it could tap the taxpayer again via a waste levy increase. Again, that will make it harder and harder for families. Hon Sue Ellery gave a couple of examples of how hard it is for families. Every time we get a rates bill from our local council, a power bill, a water bill or a gas bill, these costs are always going up. That is making it harder and harder for families on low incomes. We find that this government is ever increasing the bills but not providing any sort of salve for families to help them to manage.

Hon Ed Dermer: All take and no give!

Hon KATE DOUST: I thank Hon Ed Dermer; he is brief, succinct and to the point again and has hit the nail on the head—all take and no give!

Hon Norman Moore: He has a very poor memory.

Hon KATE DOUST: In fact, the member should not test him because Hon Ed Dermer has a fantastic memory!

In my last few minutes I will refer to the Standing Committee on Environment and Public Affairs' sixteenth report titled "Municipal Waste Management in Western Australia". I encourage members to read the report because even though we regard it as an interim report, the committee made a series of recommendations to this government about where we thought the future direction should go and how the government could make changes to improve what is already happening. The report also contains a series of findings. I know that the state government has just provided its response to the report. I thought the response was a bit iffy and that it also took about two months longer than required to get back. I would have thought there would have been a much swifter response to this type of report, given that we are now dealing with this legislation and that the other place was dealing with it several months ago. The committee went through a number of issues that were canvassed initially. The executive summary of the report states at page ii —

Many of the issues raised in submissions were related to a lack of strategic direction and project management/technical resources and advice for local governments embarking on waste management programs. The Committee is of the view that many of these issues could, and should, be addressed by an independent, well-resourced, Waste Authority.

We have a Waste Authority but we can hardly say that it is well resourced. The report provides quite a lot of detail and evidence about the type of support and the difficulties faced by the Waste Authority when it was initially set up and how it went about fulfilling its tasks. I must say that the chair of the Waste Authority probably provided some of the bluntest evidence I have come across in a committee inquiry. I thank him for doing that because, as a result of his evidence, the committee was able to pursue an interesting line of

questioning with the Department of Environment and Conservation about the benefit it gains from the levy, and about how it is able to use that money to staff its offices, even though the staff it is able to pay from the levy do not actually provide any assistance to the Waste Authority. At page 77 of the report, under the heading “Funding of the DEC’s activities out of the landfill levy”, at paragraph 4.34 there is a reference to the following quote from Mr Barry Carbon —

The Waste Authority argues that the practice of the DEC seeking to access landfill levy funds for all waste activities of the DEC is in direct conflict with commitments given by the Minister for the Environment when the levy was introduced that only costs associated with the actual administration of the levy fund would be accessed.

I thought that was a fairly strong statement. I will refer to one of the committee’s recommendations. I will put it on the record and pose a question to the minister because I am not too sure how it is being resolved. Because of the range of issues canvassed by Mr Carbon and by DEC, the committee recommended, on page 83 of the report, that —

... the Government resolve the issue of funding for staff and resources for the Waste Authority as a matter of urgency.

I ask the minister what has been done to rectify the Waste Authority difficulties outlined in this report, such as inadequate staffing and proper financial resourcing. I understand that the problems encountered by the Waste Authority include difficulties accessing and pulling people together for meetings and accessing proper administrative support to enable it to function.

At the time, the committee garnered the view that the Waste Authority was being treated not just in a shabby way but as though it was a front; the department was paying lip service to the fact that the Waste Authority had been set up and treating it as a shell that the government was not going to resource. I would like the minister to respond outlining what she has done since this report to address this key concern of the committee. The committee was of the view that the Waste Authority should be the prime body liaising with local governments, industry, the community and the government, to develop strategies, to educate, to research and to address issues of new technologies. The committee did not think that would happen unless the Waste Authority was properly resourced, and that was a key concern.

I have only a few minutes left. I know that we will be canvassing the issues in this report at another time when we eventually return to dealing with committee reports. Members will see that I have tagged the report. I am keen to engage in further discussion with the minister on this report, because it is a very significant report and one that should offer the minister some guidance about how to address these issues. However, I will take that opportunity when we return next year to deal with committee report matters on another day. I hope that members will read the report over the summer break. I see that it is listed at the top and I think it is something on which everyone will want to have a say. We all deal with waste. We all deal with local governments. We all deal with our communities.

Hon Ed Dermer: Everyone generates waste.

Hon KATE DOUST: Everyone else generates waste; that is correct, Hon Ed Dermer. This is a topical issue. Hon Sue Ellery mentioned the ongoing South Metropolitan Regional Council issue and I have to say that even this week I received emails from constituents about odour emissions. I note that on this occasion the SMRC has been proactive; it has been out, investigated and responded directly to the constituents involved. If nothing else has come out of this report, the fact that the SMRC is taking a much improved approach to communicating with the local community to address these issues when they happen is a bonus. That was a key issue during the initial part of the inquiry. I think it is important that the SMRC has started to address those types of matters in a better way. Ultimately, the government needs to work with the SMRC so that the local community does not have to endure the noxious odours that are so invasive on their family life. If all the levy moneys were returned to the Waste Authority, rather than to DEC or disbursed to other areas at the minister’s discretion, perhaps the Waste Authority may be able to work with the SMRC to bring on board the new technologies that may totally remove the question of odour emissions that we have been assured by a range of engineering companies can be eliminated. If the money is available, these types of issues can be resolved. However, if the money is to be diverted to government, we will not see the best outcome as we address the massive issue of waste management in our state. It is well-known that the opposition will not support this bill because it thinks it is a money grab by a government that it is not serious about how it deals with the waste issue. If the government were serious, it would afford the whole of the increase to the appropriate body; a body that provides guidance and direction not only to the government, but also to the community and local government at large, about how to deal with the issue of waste management.

Hon Jock Ferguson: It stinks.

Hon KATE DOUST: Yes; it does stink, Hon Jock Ferguson.

I look forward to the minister's response. There is a lot more work to be done on the issue of waste management and it will be interesting to see how the minister engages on the specific clauses during the committee stage of the Waste Avoidance and Resource Recovery Amendment Bill 2009.

HON ALISON XAMON (East Metropolitan) [12.15 pm]: I rise to join the rather loud chorus of opposition to this legislation. That opposition arises not only from the members who occupy the benches on this side of the house, but also, unfortunately, from pretty much all the stakeholders involved in the issue of waste management. Hon Robin Chapple, who has carriage of this bill on behalf of the Greens (WA), has already comprehensively gone through the Greens' opposition to this bill and our myriad concerns. I am aware that a number of amendments are proposed by which we hope to further flesh out the enormous problems that we have with this legislation.

The Waste Avoidance and Resource Recovery Amendment Bill 2009 is appalling legislation and I find it extremely disappointing that legislation of such poor quality and such poor intent is being considered in this place. I am extraordinarily disappointed by what seems to be a rather consistent theme from this government. This has some nasty resonance to the Perth parking levy discussed yesterday; namely, this government's disturbing lack of concern about or respect for any of the measures put in place by previous governments of both persuasions to deal with the increasing problems that we have around environmental matters and, certainly, the issues around pollution. As it stands in this state, we already have very little in the way of environmental legislative regimes that have a positive impact on the environment. The original landfill levy was, at least, at the point of its creation, one measure that was geared towards creating a better environmental future. How terribly disappointing that, when we had legislation that was going in the right direction, one of the first things this government chose to do was to wind back that original levy. This government is going in the wrong direction for our future and for that of our children.

We produce too much waste. That is a fact. We over-package our products and we do not recycle them. We are careless with what we throw out. I am very concerned that when I purchase goods there is already far too much unnecessary packaging surrounding the goods. It is very difficult at times to try to purchase goods without inadvertently contributing to the massive waste problems that we have, because it can be quite difficult to source products that are either packaged appropriately with materials that are able to be recycled or have minimal packaging; although I will say that I attempt to do that as much as possible. Nevertheless, we divert far too much of our waste to landfill. I was thinking about what I wanted to say on this legislation. I certainly want to speak on it, despite it not being the portfolio I hold on behalf of the Greens (WA), as I am so horrified by how retrograde these measures are.

Hon Ken Travers: You're such an elegant speaker; it's always good to have your opinion.

Hon ALISON XAMON: I thank Hon Ken Travers.

Thinking about this, I was reminded of a movie I was watching with my children not that long ago. It is the animated feature *Wall-E*. I am not sure whether members have seen that particular movie. It is very sweet, and it is obviously geared towards children. It is clearly fictional.

Hon Ed Dermer: I know I enjoyed it.

Hon ALISON XAMON: It is a particularly good movie, and my children enjoyed it enormously as well. It also contains some rather poignant messages. It gave us an idea of what a future without appropriate waste measures might look like. It is set several hundred years into the future, but it made the very salient point that we are effectively creating a future in which we are potentially drowning in our own waste. We are creating a future in which we are careless with the resources we have, and we are simply not doing enough to make sure we move into the environmental future responsibly. That is where this legislation comes in. At this point in history we should be moving towards legislation that will encourage us to reduce the amount of waste we are producing, reuse as much as we can and, of course, recycle. This legislation completely fails to assist with any of these measures. In fact, it actually hinders those positive measures that we had in place to move towards reducing, reusing and recycling our waste.

It is absolutely significant that this bill appears to have failed to garner support from anywhere apart from the government. I could not find in my region—the East Metropolitan Region—a single local council that came out in support of this bill. I certainly found many who were prepared to come out vocally against this legislation. I have some letters here that were sent to me by various councils. I will read a few choice ones. I am happy to hand them to Hansard or, for that matter, to table them in order to assist Hansard. I have a letter from the mayor of the City of Swan, who writes —

The City is strongly opposed to the amendment of the WARR Act to change how the levy can be used. While the City was disappointed that the levy was introduced at such short notice, there is a sound rationale for the levy if it is used to address waste management issues within the community;

Of course, we know that that is not the case. I also have a letter from the Town of Bassendean—also in my electorate—and it states —

In the first instance, Council was quite disappointed that process that has been undertaken by the State Government and in particular that there was no prior consultation with local government ...

Council is concerned that the funds are being predominantly treated as revenue for the Department of Environment and Conservation.

The list goes on. My local councils, which have the responsibility of dealing with waste issues, do not support this legislation. It would have been thought, considering that these are the key stakeholders, that not only are they the ones who would have been consulted, but also there would have been some sort of attempt at a consensus or agreed view in dealing with waste. But that has not been the case.

I also refer to the Western Australian Local Government Association, which has been very vocal in its criticism of this legislation. Looking through WALGA's comments, I note their consistency with Greens policy on the matter of waste management policy. I felt that those comments were right on the money. The association's concerns are that this legislation will go absolutely nowhere in assisting local government with waste management, and will not help councils create a better future with an improved waste regime either. Like the Greens, WALGA supports the levy being used to achieve strategic waste management objectives, but it recognises that this bill will not do that.

I have another letter from the Forum of Regional Councils. Regional councils in my area who are involved in FORC are also opposed to the way that this bill has been proposed. I am sure that I am not the only person who received correspondence from FORC. The forum outlined a number of amendments that it believes will be absolutely necessary to make this legislation workable. I am conscious of the concerns, and I will quote from another letter that I am happy to make available —

Without this investment in RRF infrastructure, —

They are talking about money that should be transferred from the waste levy —

the State Government will not be able to achieve its resource recovery targets of 70% by 2015, as stated in the recently released Draft Waste Strategy for Western Australia. The Draft also states that the current recovery rate is 45%, but in fact it is closer to 35%, so a 100% improvement is needed.

We are not going in the right direction in waste management. Correspondence from councils in the East Metropolitan Region repeatedly states how concerned and disappointed they are at the total lack of consultation in the development of this legislation in the first place. The timing of it was incredibly disrespectful to these councils, coming just before their budgets were being finalised. I know that, as a result of the outrage caused by the government's poor handling of this legislation, the government had to go back and reassess its time frame, but not before creating considerable headaches for our local councils. Our local councils work very hard under unenviable conditions. They do not have enough money to perform the wonderful job that they do. At the very least they deserve to be treated with a bit more respect, certainly in terms of consultation. I also particularly note how different the creation of this bill was from the development of the original legislation. I note that the original legislation achieved bipartisan support, which was very positive. This government could learn something from that approach. There is something to be said for making sure that all stakeholders are brought to the table and consulted, and that a shared view is brought forward. It makes life a lot easier and, more importantly, it achieves a better outcome. I suggest that this government's almost pathological desire to not consult with stakeholders on a range of matters is resulting in the production of legislation like this, which is appalling.

The failure in this bill to ensure that the additional moneys raised are put into resource recovery is shameful. There is considerably strong opposition to the moneys being raised being used to fund the Department of Environment and Conservation. I think that provision is a rather cynical move, and I would like to say how disappointing that is. To make one of our environmental watchdogs, if we like—at least that is what DEC should be—financially dependent on increased levels of waste has to be political cynicism at its absolute worst.

Hon Ken Travers: Rushed through the Parliament.

Hon ALISON XAMON: Absolutely. The Greens do not have a fundamental problem with increasing the waste levy as such, nor do the councils from what I can gather, and nor does WALGA or FORC—the Forum of Regional Councils. However, we recognise that when it is being considered, it needs to be done in consultation with people's expectations. I am aware, for example, that the City of Bayswater had already factored in a minor increase in the waste levy, but that is very different from the huge increase this bill proposes. We do not have a fundamental problem with increasing it. We recognise that, under the provisions of the current legislation—not this bill that is before us now—increasing levies and investing the funds into waste management is not a bad thing; it is a positive measure. We need to discourage increased levels of landfill and we certainly need to

address people's reluctance to recycle. Imagine what our local and regional councils could be achieving if this proposed significant increase in the waste levy could be put back into waste recovery programs at the local level.

In the East Metropolitan Region alone councils have been working really hard towards trying to meet the draft state waste management strategy of 70 per cent diversion of municipal waste by 2015. Local councils have been looking at ways to invest in their own waste infrastructure. By removing that capacity, and instead using the levy to fund DEC, the state government is undermining local government in these important efforts. I know, for example, that there has been a lot of discussion at the EMRC about possible waste recovery options. That is still to be resolved. The community certainly feels that it has a very strong investment in what that will be. But it is indicative of how seriously the local communities are taking the issue of waste recovery. It is important to people. People want to know what will happen with the waste; they want positive outcomes with waste recovery. We should be assisting local councils in their efforts to deal with the increased problem of waste, not hindering them.

Hon Ken Travers: Hear, hear!

Hon ALISON XAMON: Certainly in correspondence I have received from councils in my area, they have sought a number of urgent amendments to the legislation. In particular, they want residual waste from resource recovery facilities to be exempt from the landfill levy. The application of the landfill levy to residual waste from resource recovery facilities acts as a disincentive to developing resource recovery solutions. To alleviate the disincentive, the councils propose that the levy not be payable on residual waste from the RRF and that the money that would otherwise be paid in landfill levy on residual waste should be set aside by the resource recovery operator to fund research and development into further infrastructure to divert residual waste from landfill. The state government is requested to provide capital contributions covering 50 per cent of the operational cost of the RRF, noting that the cost of the RRF can be in excess of \$100 million. A capital contribution from the state government will help cover the estimated \$400 million to be spent over the next six years, if WA is to achieve the stated objective in the draft state waste strategy of 70 per cent diversion of municipal waste from landfill by 2015. The WARR amendment bill should be amended to ensure that 50 per cent of all landfill levy moneys collected are directed to local government waste management programs that increase the diversion of waste from landfill.

A sunset clause should be applied to the amendments to the WARR act so that after an agreed time, it reverts to the current arrangements before hypothecation of the landfill levy to waste programs. Those councils said that that will enable the government to secure funding to ride out the economic downturn, but does not lock in such arrangements for a time when landfill levy investment in waste infrastructure becomes critical, although I would argue that that is now. They want a position to be developed on the relationship between the landfill levy and the costs that flow from the carbon pollution reduction scheme. There is the risk that landfill taxes will increase dramatically and thereby remove funding that might otherwise be available to invest in alternatives. They have huge criticisms, yet they were not consulted. Those groups know what is needed and they understand the original purpose of the landfill levy.

I am also disappointed that, if we are looking at legislative regimes to improve recycling efforts, we could be doing a range of measures, but we are not. I am thinking, for example, of the container deposit scheme. Greens Senator Scott Ludlam has put together legislation to try to give us a scheme that is based on the South Australian scheme, which has been very successful for more than 30 years. This is the sort of thing we need to be looking at; we need to be serious about encouraging people to recycle. It is a very positive measure. I have very fond memories of being a kid who did not have a lot of money, rummaging around—I am not sure I would encourage my kids to do that now—in bins looking for old Fanta bottles and the like and taking them to the deli. I am afraid I used the money to spend on lollies. Nevertheless, that was a recycling effort of sorts and I have very positive memories of it. The point I am trying to make is that we could be doing a range of things legislatively that would help to solve the problem and certainly help deal with the fact that we have only a finite number of resources.

I am also particularly concerned about the implications of this legislation for dumping. Increasing costs without the advantages of improving recycling infrastructure or incentives will result in increased levels of dumping. We are not keeping up with the levels of illegal dumping of rubbish that is occurring now, so I do not quite see how we will keep up with the possibility of even more levels. Where is that dumping likely to occur? A lot of that dumping is likely to occur in my region in the hills. It happens now. I walk in the hills—not as often as I would like, but reasonably often—and it is incredibly disappointing to see on the tracks the rubbish that has been dumped. The Department of Environment and Conservation is not keeping up with it now. I am not feeling remotely confident that DEC will keep up with it in the future.

Hon Sally Talbot: Two prosecutions in four years.

Hon ALISON XAMON: That is very disappointing. That is indicative of the lack of resourcing that has been allocated to DEC both now and in the past. This legislation will not improve it. What we will have is increased

levels of rubbish. This rubbish is not only an eyesore, it potentially has negative impacts on our water catchments. I am always concerned about toxic waste that is dumped there and the various levels of toxicity that arise from it.

Basically, I have struggled to find anything positive about this bill. If members are prepared to excuse the pun, it is rubbish, and has no place in an environmentally sustainable future. It lacks vision, it lacks integrity, it is irresponsible, and it is cynical. I am wholly unimpressed with this bill, and I will vote against it. I am deeply concerned about the world we are leaving for future generations. Frankly, my children deserve better. This bill will do nothing to create a better future. Perhaps this bill is recoverable if the amendments that have been proposed are supported. I am disappointed that the amount of the levy will be increased to such a high level so quickly. I am concerned about the lack of consultation. But if we are to have an increased levy, the funds need to go towards research and development for waste and to resource recovery facilities.

HON KEN TRAVERS (North Metropolitan) [12.40 pm]: The Waste Avoidance and Resource Recovery Amendment Bill 2009 is fundamentally flawed in policy terms. There are also serious deficiencies in the detail of the bill. The bill is based on an inherent conflict in that a major regulator would require the continuation of waste going to landfill to sustain the income that is provided to it by the government. If the department is successful in achieving the goal that society wants to achieve and that the original waste avoidance and resource recovery legislation was intended to achieve—that is, to reduce the amount of waste going to landfill—that is a conflict of huge proportions. This bill is another example of the Barnett government's process of taxing by stealth. We have seen it happen regularly since the budget was brought down. We saw the government's attempts to tax the public of Western Australia through the fishing legislation. It brought in a bill this week to impose a tax on the mining industry. We have also seen the government use the Perth Parking Management Act to tax the parking public of Perth.

Hon Norman Moore: You passed the mining bill yesterday to provide for a levy on the mining industry and you're now criticising it. Make up your mind! You can't have both sides of every argument, big mouth.

Hon KEN TRAVERS: Mr Moore has to accept the responsibility that he is a senior member of a government that introduces new taxation measures on a regular basis.

Hon Norman Moore: Are you supporting them or not?

Hon KEN TRAVERS: I cannot recall the last time I was in this house and saw four attempts to amend existing legislation to increase the taxes paid by the people of Western Australia. It is not just about taxing by stealth; it is about taxing through underhanded measures.

Hon Norman Moore: It's actually by legislation, if you have a good hard look. There is no stealth about bringing a bill to Parliament.

Hon KEN TRAVERS: Why does the government have to do that? It has to do it because it is unable to manage expenditure. It is unable to control expenditure growth in this state, and its solution is to tax the people of Western Australia.

Hon Sally Talbot: I think Hon Norman Moore just conceded that this is a tax.

Hon KEN TRAVERS: I think he did concede that it is a tax.

Hon Norman Moore: We are legislating for these things to occur.

Hon KEN TRAVERS: Yes.

Hon Norman Moore: That's not by stealth.

Hon KEN TRAVERS: No, but —

Hon Norman Moore: Yesterday you voted for the mining levy and now you're opposing it, are you? You can't have it both ways.

Hon KEN TRAVERS: This is the problem with this arrogant government. It is trying to find whatever loopholes it can in existing legislation, and when it realises that it has made a mistake, it brings in legislation to try to impose new taxes on the people of Western Australia. I realise that I have hit a raw nerve; the government does not want me to talk about that because it does not want the public of Perth to realise that it is intent on bringing in whatever measures it can to increase taxes and charges. The government is doing this because it does not have control over the budget. Even the figures for the amount of money that it has predicted will be raised under this proposal of the Department of Environment and Conservation are dodgy. We have seen that. The evidence that has been put before the Standing Committee on Estimates and Financial Operations by the Waste Authority highlights that the amount that the government has predicted is incorrect and inaccurate, but the amount is still in the budget. It will be interesting to see the midyear review and find out whether the government is prepared to start applying some fiscal discipline and ensure that the figures it presents to the people of Western

Australia are a true and accurate reflection of the financial position of this state. That is the problem we have, and this bill is about trying to continue that process.

As I say, this bill is flawed in policy terms and there are significant shortcomings in the detail of it. But many people outside this chamber are better placed to tell us about that than I am. Every member who has spoken against this bill has talked about the uproar from local governments across Western Australia. I had a fascinating time with my shadow cabinet colleagues when we went to the Eastern Metropolitan Regional Council and saw the passion, commitment and dedication of the people working at both an elected member level and an officer level. They are trying to find solutions to waste management in Western Australia. My colleague Hon Ed Dermer and I took it upon ourselves to write to all the local governments and regional councils within our electorate. I think, unanimously—correct me if I am wrong, member —

Hon Ed Dermer: Certainly, of the responses that we received.

Hon KEN TRAVERS: Those that responded were unanimously opposed to this legislation.

Hon Peter Collier: How many responded?

Hon KEN TRAVERS: A fair number responded.

Hon Ed Dermer: It's interesting that you raise it. Certainly, concerns were raised. There was not outright opposition in each instance, but that was the case in most instances. In my last speech I provided a summary of all the letters but one, which I will share with the house a little later.

Hon KEN TRAVERS: Is that the letter from the City of Joondalup?

Hon Ed Dermer: That's the one from the City of Joondalup.

Hon KEN TRAVERS: I will come to that, because I have a copy of that letter from the City of Joondalup. Three councils in my electorate—Wanneroo, Joondalup and Stirling—represent more than one-third of the Perth population. I do not want to hold up the house. I want to keep moving on this debate.

I want to thank at this point the Mindarie Regional Council for taking the time to brief me on this legislation and on what it is doing. It is doing some fantastic work; it has some great plans in place. It has significant concerns with some of the detail in clause 7, which seeks to amend section 79 of the act, and particularly proposed new subsection (3C) and how that provision will operate. I know the council wants an exemption for residue waste processed at the resource recovery facility. It has a range of issues that it wants to put before Parliament. It has concerns about illegal dumping. I know that the minister has said that she will bring in legislation to deal with that issue, but we have not seen it. We are putting the cart before the horse; we are putting in place measures, but we do not have legislation. The problem is that members on this side of the chamber do not have confidence in the way that this government has managed legislation to date or that it will introduce legislation in a timely fashion. We have seen issues come up over and over again and this government is slow to respond to them.

I could stand in this place today and read to the house the letter I received from the Mayor of the City of Joondalup. He is not of my political persuasion, but I have a degree of respect for him and I have worked with him for a number of years. I would hope he would say that we have worked well together, even though he is a member of the Liberal Party and I am a member of the Labor Party. In the interests of the people of the City of Joondalup, we have been able to work for the betterment of that area. For the member opposite who is looking quizzical, I am talking about Mayor Troy Pickard.

Hon Liz Behjat: No, it was the member behind you I was worried about.

Hon KEN TRAVERS: All right.

Mayor Troy Pickard outlined in great detail how the council of the City of Joondalup and the Mindarie Regional Council have built the new materials resource facility at Neerabup and are working to reduce the amount of waste going to landfill, and the concerns that they have with this legislation. The Mindarie Regional Council has a strategic plan for 2009 to 2029. I could talk about that plan today, but I do not think I am the best person to put the views of the City of Joondalup or of the Mindarie Regional Council. We as a Parliament should allow people like Mayor Troy Pickard and Bill Mitchell from WALGA to come before a forum of Parliament and put their views. We can still do that. It is not too late for this house to give those people the opportunity to put their views on why they see the bill as having policy and detail problems. If the government wants to, I am happy for it to say that it wants to set the policy, as broad as it is. Allowing those people to have an input into the detail will be a very useful measure and will enhance the role of this Parliament.

As I have asked a number of times in the past couple of days, if we in this chamber become nothing more than a rubber stamp for the executive, why bother having us? If government members want to just sit here and be a party to rubber-stamping everything that the executive wants to do, why are we wasting our time and the money of the people of Western Australia by operating a Parliament? We are about to have the chamber refurbished. Why are we spending that money if we are just going to be another rubber stamp for the executive of this state?

We have to do things differently in this Parliament. There is unanimous public contempt for pieces of legislation such as this. Can members opposite provide me with a letter from a single local government in Western Australia that says that this legislation is good in policy and good in detail? Can they do that? No, they cannot. I have not seen such a letter. Let us let those people come before this Parliament to tell us why they think that this legislation is wrong in policy. Even if members opposite are going to accept the flawed policy of this bill, let those people have a say about the detail. That is why, Mr President, when I conclude my remarks I intend to move a motion to refer this to one of the standing committees of this Parliament. Without fail, during the past 12 years we would have sent a bill such as this to a committee.

I understand the needs of the government. Because it has uncontrollable expenditure, because it is unable to limit that expenditure and because it is trying to implement its unsustainable election commitments, the government needs this money to top up its budget. We understand that on this side of the chamber. As flawed and as poor as the bill is, we understand that the government needs to force measures through this place that will enable it to top up its budget. This bill needs to be enacted by 1 January of this year to get the government out of the financial black hole that it is in, partly through its own incompetence.

There is an option for this Parliament. We could send this bill to a committee for a short, sharp inquiry. That has been done before on a bill. It would allow the people whom I have talked about, who know this matter better than I do and who understand it better than probably any member in this chamber does, to come before a committee of the Parliament to put their views to us. We could do that. We could have that committee report by 15 December. We could meet again as a Parliament throughout that week of 15 December. We could then have this matter wound up and resolved, hopefully, so that we can all leave. For the benefit of members, in case they are concerned, we could have it done so that we finish before 18 December when school holidays start.

Hon Ed Dermer: It would give the Minister for Transport the opportunity to answer questions.

Hon KEN TRAVERS: That is right, but please do not distract me. I did not want to take up too much time, because I think this is more about others outside this place, rather than those of us in this chamber, having a say.

Mr President, I will move a motion in a few seconds. I hope that the house will prove that we are different—that there is a purpose to having a Legislative Council, and that we should not go to having a unicameral chamber, even though it may sit in two places, that is controlled and dominated by, and acts only at the behest of, the executive. We can do it. We can have that short, sharp inquiry. We can have the flaws in the policy and the detail put to us by those experts in the metropolitan area of Perth, and, in fact, in some regional areas, who have concerns about this bill. We can then get the bill back from that committee and have a quick sitting of the Parliament. That would probably be a more efficient, effective and quicker way of dealing with this legislation than the process that we are engaged in at the moment.

Discharge of Order and Referral to Standing Committee on Legislation

Hon KEN TRAVERS: I move without notice —

That the Waste Avoidance and Resource Recovery Amendment Bill 2009 be discharged and referred to the Standing Committee on Legislation for consideration and report not later than 15 December 2009.

I commend that motion to the house. Let us make a stand. Let us make sure that there is a purpose to having a Legislative Council. Let us not just be a rubber stamp for the executive. Let us not be nothing more than the Assembly's poor second cousin that does nothing more than just rubber-stamp the Assembly's work.

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [12.55 pm]: The government will not support this motion. I doubt that there could be another word uttered on this matter by any other soul in the world that has not been uttered in this chamber in the past four weeks. Every letter that has been written by anybody to anybody else about this matter has been read out ad nauseam. We listened to Hon Sally Talbot for, what, seven hours—as if she needs more time than seven hours to tell us what is wrong with the bill. Now opposition members want some more time and they want to spend half the day debating whether we should send this bill to a committee. If that is what they want to do, they should go for their life—we will sit here until it is finished.

There is no need for this bill to be sent to a committee. Everybody knows what the issues are. We have been hearing about them for weeks and weeks and weeks and weeks. If the opposition is incapable of presenting the views of its constituency, that is its problem. We have sat here and we have listened to the arguments of members opposite, we have listened to their representations on behalf of local government and we have taken on board their comments. In due course, if we ever get to the end of this second reading debate, the minister will respond. Then we will have a vote on the second reading; then we will go through the bill clause by clause, as always happens; and, eventually—if we all live long enough—this bill will be concluded. But for the life of me I cannot understand what this is all about. Anybody would think that there are thousands of people demonstrating on the steps of Parliament House about this bill, telling us that this is the worst thing that has ever happened in

the history of Western Australia. They are not out there in their droves. They are not sending vast numbers of letters and complaints to members in this chamber—they are not. I just do not understand the so-called strategy of the Labor Party.

The strategy seems to have been put together by the President of the WA Labor Party, Hon Sally Talbot, who also happens to be the shadow Minister for Environment. I suspect that the strategy she is adopting with this bill will be about as successful as the one she used at the last state election.

Hon Donna Faragher: And there is Fremantle.

Hon NORMAN MOORE: I had forgotten about Fremantle. I guess they are panicking about tomorrow. How are they going to go there? How are they going to go in Willagee? Did they leave her in charge of that or did they ask her to stand down for this particular by-election?

Several members interjected.

The PRESIDENT: Order, members! The motion is quite a specific motion. I do not think that the word “Willagee” is mentioned in the motion. Let all speakers confine themselves to the substance of the motion.

Hon NORMAN MOORE: Mr President, the point I am making is that this particular motion seems to be part of the strategy that I assume was invented by the President of the WA Labor Party. I am just saying that, as far as I am concerned, I do not understand the strategy.

Hon Ken Travers interjected.

Hon NORMAN MOORE: Why not? The members opposite used to use it all the time.

The PRESIDENT: Order! Both the Leader of the House and Hon Ken Travers insist on having the last say on every piece of debate that is in this house. It cannot be. Everybody has the opportunity to have their say in turn and to be heard in silence.

Hon NORMAN MOORE: Mr President, the issues have been well and truly canvassed by every member of the Labor Party. Every Labor member in this chamber has spoken on this bill. I do not know what else they need to know in order to form their opinion on this. I do not know that there is one letter that has ever been written to any of them on this bill that they have not read out in this chamber.

Hon Ken Travers: The City of Joondalup one.

Hon NORMAN MOORE: Table it. The member could have done that. We all know what people think about this. The time has come to make a decision. If members opposite cannot make a decision, that is entirely up to them, but the time has come for this house to make a decision on this bill. It is not as though it has been rushed through; it is not as though the debate is being curtailed; it is not as though anybody is stopping members opposite putting their point of view; and it is not as though anybody is saying that their arguments will not be listened to. We are sitting here patiently listening to them all. If they cannot make a decision without sending the bill to a committee, I cannot help them. We will be opposing the motion.

Sitting suspended from 1.00 to 2.00 pm

**MINISTERIAL ANSWERS — FINANCIAL MANAGEMENT ACT
NORTH WEST SHIPPING SERVICE
PERTH PARKING LICENCE FEE INCREASES — NORTHBRIDGE LINK**

Notice of Questions — Ruling by President

THE PRESIDENT (Hon Barry House): Honourable members, before we move into question time, I have considered the points raised by the Minister for Transport at the commencement of today’s proceedings regarding the questions asked by Hon Ken Travers. The first point to make is that it is the entitlement of any member under standing order 137(c) to give oral notice of questions. It was requested by the minister to place on notice the first question asked by the member; therefore the member has undertaken to do so under standing order 137(c). As far as I am aware, the second question placed on notice by the member is a new question, as it has not been asked either on notice or without notice. The third and last question asked by the member relates to a debate on a disallowance. There is no barrier for members to ask questions on notice or without notice about a matter the subject of previous debate. I therefore rule that the questions are in order and will be placed on notice.

QUESTIONS WITHOUT NOTICE

BENTLEY CHILD AND ADOLESCENT MENTAL HEALTH SERVICE — STAFFING

1231. Hon SUE ELLERY to the parliamentary secretary representing the Minister for Mental Health:

I refer to the minister’s assurances that he would follow up on staffing issues at the Bentley Child and Adolescent Mental Health Service.

- (1) Can the minister confirm that the clinical psychologist position in the Families At Work program at the Bentley Child and Adolescent Mental Health Service has not yet been backfilled?
- (2) Can the minister confirm that a clinical nursing position that has provided triage duties at the Bentley Child and Adolescent Mental Health Service since 2001 has now been abolished?
- (3) Can the minister confirm that triage duties will now be performed on a roster basis amongst the other staff, including those without formal nursing qualifications, at the Bentley Child and Adolescent Mental Health Service?
- (4) Does the minister concede that the lack of a dedicated single point of triage assessment and referral will impact on front-line services?

Hon HELEN MORTON replied:

I thank the honourable member for the question.

- (1) The substantive occupant of the clinical psychologist position within the Families At Work program is currently on maternity leave. The manager of clinical psychology has been, and still is, actively recruiting to the position but to date has been unsuccessful in finding a suitable individual.
- (2) The clinical nurse position at Bentley Child and Adolescent Mental Health Service responsible for carrying out triage duties and duty officer duties has not been abolished.
- (3) The clinical team that works within the service—including nurses, doctors, occupational therapists and clinical psychologists—will now share responsibility for triage and duty. Within mental health services it is common practice for triage to be carried out by a team of qualified mental health professionals—the community emergency response team.
- (4) There is no reason to suggest that the change in the system will impact on front-line services. There remains a single dedicated point of triage assessment and referral. It is currently being staffed by a team of qualified staff.

CARNARVON REGIONAL HOSPITAL — STAGE 2 UPGRADES

1232. Hon SUE ELLERY to the minister representing the Minister for Health:

- (1) Can the minister advise whether plans are underway to reinstate the stage 2 upgrades of the Carnarvon Regional Hospital, which were axed from the 2009-10 budget?
- (2) If yes, what funding has been or will be reinstated, and how much are the upgrades expected to cost?
- (3) What is the state contribution to the upgrades, and how much will come from the following sources —
 - (a) the Department of Health;
 - (b) the royalties for regions program; and
 - (c) other sources?
- (4) What, if any, is the commonwealth contribution?
- (5) If no to (1), why not?

Hon SIMON O'BRIEN replied:

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

- (1) No.
- (2) Not applicable.
- (3) Not yet known.
- (4) The commonwealth government has provided a capital grant of \$9.66 million to Southern Cross Care to establish a residential aged-care facility in Carnarvon.
- (5) The Western Australian Country Health Service has been approached by Southern Cross Care about the co-location of an aged-care facility on the hospital site. This is currently at a formative stage of feasibility assessment.

PLASTIC SHOPPING BAGS

1233. Hon SALLY TALBOT to the Minister for Environment:

I refer to the ministerial council the minister hosted in Perth earlier this month. What progress has been made in respect of the control of plastic shopping bags going into the nation's waste stream?

Hon DONNA FARAGHER replied:

I thank the honourable member for the question.

A determination was made by the subcommittee group for a particular section relating to the national aspect to not be further progressed. I expressed my view to the council that I did not think that was appropriate; however, work continues on biodegradable bags and the like. In my view, there needs to be a very strong focus on continuing the work of changing consumer behaviours and utilising more green, purple, pink and other types of bags.

The PRESIDENT: The honourable Green —

Several members interjected.

The PRESIDENT: It is late in the year! My apologies, Hon Giz Watson!

Hon Giz Watson: Green shopping bags are excellent!

ENVIRONMENTAL STAKEHOLDER ADVISORY GROUP —
ENVIRONMENTAL PROTECTION ACT APPEALS PROCESSES

1234. Hon GIZ WATSON to the Minister for Environment:

I refer to the advice the minister received from the environmental stakeholder advisory group on changes to the appeals processes under the Environmental Protection Act.

- (1) Are the changes proposed in the Approvals and Related Reforms (No. 1) (Environment) Bill 2009 consistent with the advice and/or report provided to the minister by the environmental stakeholder advisory group?
- (2) If no to (1), what advice was provided by the group?
- (3) If the bill is not consistent with the advice from the stakeholder advisory group, whose advice did the minister consider?
- (4) Are the changes proposed in the bill consistent with the recommendations of the industry working group on approvals committee?
- (5) If no to (4), how do they differ?

Hon DONNA FARAGHER replied:

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

- (1)-(2) The environmental stakeholder advisory group was not requested to provide advice or to report on the matters leading to the Approvals and Related Reforms (No. 1) (Environment) Bill 2009.
- (3) I considered the advice of the Director General of the Department of Environment and Conservation and the Chairman of the Environmental Protection Authority. Furthermore, all four approvals and related reform bills were developed as part of the Ministerial Taskforce on Approvals, Development and Sustainability.
- (4)-(5) The industry working group report to the Minister for Mines and Petroleum recommended that responsibility for the appeal process under the Environmental Protection Act 1986 be transferred to the State Administrative Tribunal. This bill does not give effect to that recommendation.

PORT AUTHORITIES — STATEMENTS OF CORPORATE INTENT

1235. Hon KEN TRAVERS to the Minister for Transport:

- (1) Has the minister reached an agreement on a statement of corporate intent for this financial year with each of the port authorities within his portfolio?
- (2) If yes, has the minister tabled the statements in Parliament; and, if not, why not?
- (3) If no to (1), then for each port authority —
 - (a) what is the reason for not reaching an agreement; and
 - (b) when does the minister expect to reach an agreement and to table the statement?

Hon SIMON O'BRIEN replied:

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

- (1) I have reached agreement on the statements of corporate intent for the ports of Fremantle and Broome.
- (2) The statements of corporate intent will be tabled in both houses of Parliament in the near future.

- (3) (a) Section 66 of the Port Authorities Act 1999 requires me to obtain the Treasurer's concurrence with my agreement to statements of corporate intent of port authorities. That process is currently underway for the statements of corporate intent for the ports of Albany, Bunbury, Dampier, Esperance, Geraldton and Port Hedland.
- (b) The statements of corporate intent for those port authorities will be tabled in both houses of Parliament after I have received the Treasurer's concurrence with my agreement to the documents.

TAFEWA COLLEGES — NAME CHANGES

1236. Hon LJILJANNA RAVLICH to the Minister for Training and Workforce Development:

I refer to the minister's announcement of 25 November 2009 about the Swan TAFE college's name change to Polytechnic West.

- (1) Which other TAFE colleges have changed their name to date and what have they changed their name to?
- (2) What is the estimated cost of the name change for each of these TAFE colleges?
- (3) When is the rollout of the TAFE name change strategy due to be finalised?
- (4) How will the TAFE name change strategy provide colleges with greater autonomy and opportunity to become more flexible, innovative and effective in a competitive marketplace, given that each TAFE college already had a different name ?

Hon PETER COLLIER replied:

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

- (1) West Coast TAFE has changed its name to West Coast Institute of Training; Central TAFE has changed its name to Central Institute of Technology; and Challenger TAFE has changed its name to Challenger Institute of Technology.
- (2) West Coast Institute of Training has estimated that it has spent \$7 000 to date; Central Institute of Technology has estimated that it has spent \$16 000 to date; and Challenger Institute of Technology has estimated that it has spent \$1 000 to date.
- (3) All TAFE colleges are currently considering potential name changes. There is no specific deadline for any TAFE college to change its name, nor is it mandatory for any TAFE college to change its name.
- (4) Colleges have been given the opportunity to develop their own identity and brand based on their strategic directions.

DIRECTOR GENERAL OF THE DEPARTMENT OF TRANSPORT — SELECTION PROCESS

1237. Hon ALISON XAMON to the Leader of the House representing the Premier:

The question is to the Leader of the House representing the Treasurer. I refer to the Director General of the Department of Transport.

- (1) How far progressed are processes to substantively fill the director general's position within the Department of Transport?
- (2) When does the minister expect to announce the successful candidate?

The PRESIDENT: Is that question directed to the Leader of the House or the parliamentary secretary to the Treasurer?

Hon ALISON XAMON: I am sorry, Mr President. I had originally directed my question to the Minister for Transport, but as it was given to the parliamentary questions team, it directed it in this way.

The PRESIDENT: I think the Leader of the House will take ownership of the question.

Hon NORMAN MOORE replied:

By way of explanation, the Premier, who has responsibility for public sector management, is responsible for the appointment of CEOs. That is the reason the member asked the question of me.

- (1) The selection processes for the director general position within the Department of Transport are not yet complete and it would be inappropriate to comment further.
- (2) The Minister for Transport will announce the successful candidate at the conclusion of the selection process, which is being administered by the Public Sector Commissioner.

CHARTER FISHING BOAT SECTOR — REVIEW

1238. Hon JON FORD to the Minister for Fisheries:

I refer to the Western Australian charter fishing boat sector.

- (1) Has the minister a plan for the future management of the WA charter boat industry?
- (2) If so, can the minister outline that plan?
- (3) If no to (2), why not?

Hon NORMAN MOORE replied:

I thank the member for some notice of this question.

- (1)-(3) I advised the charter boat industry in February this year that a review of charter boat licensing and management would be undertaken by the Department of Fisheries. It has been necessary to finalise and implement the recreational fishing arrangements on the west coast to progress the charter review in a meaningful way. Now that the west coast arrangements are settled, the department is developing a process and directions for the charter review.

DAMPIER PORT — REFUELLING FACILITIES

1239. Hon MATT BENSON-LIDHOLM to the Minister for Transport:

- (1) Is the minister aware that in order to refuel tugs and other support vessels necessary to the export of resources from Dampier port, the fuel has to be transported from a local service station and then pumped by hand into the vessels when the tide allows?
- (2) What action, if any, is the minister proposing to ensure that facilities are made available in Dampier for proper refuelling, mooring and maintenance of support vessels?
- (3) When will that action be implemented?

Hon SIMON O'BRIEN replied:

I thank the honourable member for some notice of this question and for his ongoing interest in these matters. Has the honourable member visited Dampier port?

Hon Matt Benson-Lidholm: Not for a while, minister.

Hon SIMON O'BRIEN: I am sure the member would be interested in what is happening there and I would be pleased to arrange a visit for him, if I can.

Hon Matt Benson-Lidholm: I am always interested, minister.

Hon SIMON O'BRIEN: It is worth a look. In response to the member's question —

- (1) Commercial and recreational vessels are able to refuel from the Hampton Harbour Boat and Sailing Club. The Dampier Port Authority has received no complaints regarding those facilities. The Dampier Port Authority monitors the use of those refuelling facilities on an annual basis with a view to planning for any future changes that may be required to refuelling facilities at the port.
- (2) No action currently appears necessary.
- (3) Not applicable.

GIDGEE GOLDMINE — FUGITIVE DUST STORMS

1240. Hon ROBIN CHAPPLE to the Minister for Mines and Petroleum:

I refer to photographs available on my website showing fugitive dust from the tailings dam at Gidgee goldmine.

- (1) Is the Gidgee tailings dam still active?
- (2) If no to (1), has it been rehabilitated?
- (3) Has the tailings dam been capped?
- (4) If yes to (2) and/or(3), why are these fugitive dust storms occurring?
- (5) What action will the Department of Mines and Petroleum take to prevent further fugitive dust storms occurring at and around this site?

Hon NORMAN MOORE replied:

Again, I need to make the point that I actually do not spend a lot of time accessing the member's website. I suspect that I should in future so that I am able to answer these questions. This is now the third question put to

me that relates to that website. It must be a fascinating website. It seems to contain photographs of the sorts of things that I should be aware of. I give the member an indication that from now on I will look at his website on a regular basis so that I know what is happening in the mining industry.

- (1) No.
- (2) The tailings facility has not been fully rehabilitated.
- (3) No.
- (4) Not applicable.
- (5) In April 2009, following a site inspection, environmental inspectors from the Department of Mines and Petroleum advised the tenement holder that measures should be taken to manage dust arising from the tailings facility. Environmental inspectors are due to revisit the site in December 2009 and will investigate the concerns raised by the honourable member. If the inspectors determine that significant adverse effects on the environment are occurring, the inspectors have the ability to direct the tenement holder to take immediate measures to reduce the dust arising from the tailings facility.

WA POLICE — COST RECOVERY FOR SPECIAL EVENT PRESENCE

1241. Hon ED DERMER to the minister representing Minister for Police:

I refer to the 2009-10 budget and, in particular, to the entry under the police budget, "Cost Recovery from Police Presence at Special Events", which was predicted to produce savings of \$625 000 in the current financial year.

- (1) Have criteria been developed and implemented for when cost recovery will be sought from event organisers; and, if so, what are they?
- (2) Has Western Australia Police begun charging promoters?
- (3) What amount has been recovered so far this financial year?
- (4) Have any promoters been approached and told that the police will no longer be attending events?

Hon PETER COLLIER replied:

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

- (1) Criteria have been developed for when cost recovery will be sought from event organisers. In terms of the criteria, it is considered that the user-pay principle should apply to the provision of policing services in cases when charges are made for admission to the event or participation in the event, the event is commercial in nature, or when the event is commercially promoted or sponsored. Additionally, WA Police accepts that the fees are not subject to events considered charitable in the context of the Charitable Collections Act 1946, community events where the financial gain is for the benefit of local institutions or communities, or government-sponsored events, being events sponsored by local, state or federal governments that provide significant economic or media benefits to Western Australia.

To ensure that there is appropriate control over the costs that are to be levied, it is intended that the fees to be charged be detailed in the Police (Fees) Regulations 1981. It should further be noted that the fees are to be determined on a cost-recovery basis only, including relevant on-costs; the fees are to be treated as retained revenue for WA Police to assist in covering the cost of providing the policing and associated resources; and the commissioner will have the ability to waive or refund fees in whole or in part, where considered appropriate, noting that regulation 22 of the Police (Fees) Regulations 1981 presently contains such a provision. This provision is similar to the Police Regulation Act 1958, Victoria, and the Police Act 1990, New South Wales.
- (2) Not yet. This is due to the fact that WA Police is awaiting the passage of the legislation that amends the Police Act 1892 so charges for special events can be levied. The legislation has not yet been introduced into Parliament. The relevant bill is being drafted and is expected to be ready for introduction into Parliament in early 2010.
- (3) None.
- (4) No promoters have been advised that police will no longer be attending events. However, WA Police has undertaken ongoing consultation with the Events Industry Association, which is the overarching body for concert and other entertainment event promoters in relation to this proposal. WA Police has consulted with Eventscorp, which has agreed to this proposal. Previously, Western Australia Police consulted with the Western Australian Cricket Association, which manages international and domestic cricket fixtures; ALLLIA Venue Management, which manages events at ME Bank Stadium, including Perth Glory Soccer Club matches; Rugby WA, which manages the Super 14s and international Rugby matches; the Western Australian Football Commission, which manages Australian Football League

fixtures and Western Australian Football League fixtures; and various concert promoters. WACA and ALLIA were both supportive of the fee proposal on the basis that it provides them with some degree of certainty as to the numbers of police provided at their sporting events.

PERTH PARKING MANAGEMENT AMENDMENT REGULATIONS (NO. 2) 2009 —
JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

1242. Hon LIZ BEHJAT to Minister for Transport:

I refer to the debate on the disallowance of the Perth Parking Management Amendment Regulations (No. 2) 2009. Why did the minister not respond to Hon Ken Travers's question during that debate about whether the minister had had any conversations about these regulations with any members of the Joint Standing Committee on Delegated Legislation?

Hon SIMON O'BRIEN replied:

It is groundhog day! I thought I might have to hold myself back in anticipation of next March to address this question, so I thank the honourable member for asking it just now. There was a debate yesterday on the Perth Parking Management Amendment Regulations (No. 2), which Hon Ken Travers sought to disallow. Unfortunately, I was not here for part of that debate because I had urgent business elsewhere, which the Leader of the House was aware of and about which I expressed my regret to the house. Nonetheless, like everyone else, I am dispensable, and life goes on, so it was open to Hon Ken Travers to ask the question about this, which, as he said, he put on notice yesterday. Hon Peter Collier was here to answer questions and did answer questions on my behalf. It strikes me that if, on the day that we are about to debate a relevant disallowance motion, a member was going to give notice of a question about what contact I or my staff had had with a standing committee, he would ask that question before the debate is brought on. However, that question was not asked. Other questions were asked by Hon Ken Travers of the minister standing in for me; but, apparently, this question was not important enough even though, within a few minutes of question time yesterday, we were about to move onto that matter. Curiously, now that the horse has bolted—in fact we cannot even hear the clip-clop of the hooves, it is so far down the street. As it turns out, Hon Ken Travers has asked me an identical question asking why I did not answer his question during debate. I do not get to answer that because that question does not come on until the house resumes, presumably in March. Therefore, I am very glad Hon Liz Behjat has asked me the question, because I do not want hanging in the air some sort of accusation that I have somehow avoided providing information. That is what is sought to be done today, and that is offensive. However, that is the sort of tactic we get from people who are prepared to make accusations by innuendo during one's absence from the chamber. I think that is quite pathetic. Let me answer the member's direct question, and maybe it will take some of the sting out of this awfully important matter, which now has been treated in this way when it would not otherwise be addressed for four or five months.

I notice the uncorrected *Hansard* from yesterday at pages 56 and 57—it is the uncorrected edition so we cannot rely on it, but it is probably a very good guide—where the remarks attributed to Hon Ken Travers relate, apparently, to a question that I failed to respond to. That is even though I had a written answer ready to go at his request. The question was, "But the question to the Minister for Transport is: has he spoken to any other members of the committee? I am sure Hon Alyssa Hayden would not necessarily know." Apparently Hon Alyssa Hayden interjected and then, reportedly, Hon Ken Travers went on to say, "The person who could answer would be the Minister for Transport, but, unfortunately, he is not here." There we have it! The reason I did not respond to that question when I arrived shortly after to give my speech was that I had not been here in the place to hear it asked. However, if Hon Ken Travers so desperately wanted to hear the answer, he could have asked the question of which he had given notice, and for which I had an answer ready—which I am happy to give him a copy of any time he likes.

PEOPLE WITH DISABILITIES — RURAL AND REMOTE COMMUNITIES

1243. Hon LYNN MacLAREN to the Minister for Disability Services:

- (1) What steps is the government taking to meet the special needs of people with disabilities who live in rural and remote communities?
- (2) Would the minister support the establishment of a youth-specific advocacy service for young people with disabilities?

Hon SIMON O'BRIEN replied:

I thank the honourable member for some notice of this question and for asking it in my presence and for giving me the opportunity to respond, which is nice. I know that Hon Lynn MacLaren is very interested in these matters. She might be interested to know that during the lunch break, I was with my Ministerial Advisory

Council on Disability, and she will be pleased to know that that group has a number of youthful members. The formal answer to the member's question is —

- (1) The commission's country community support directorate, with a budget of \$11.2 million, has a specific focus on the provision of services and support to people with disabilities and their families living in regional and remote WA. The government continues to provide growth funding to ensure the statewide local area coordination program remains responsive to the needs of people with disabilities living in rural and remote communities.

The disability services country community support directorate provides regional and remote services from 25 offices statewide. The Disability Services Commission has a remote area strategy that is based on ensuring culturally appropriate responsive services are provided to people living in remote areas. Nine projects are currently in operation. A Broome-based respite facility has been announced as part of the current government's election commitment to construct five facilities statewide. An additional rurally based facility is soon to be announced. The Disability Services Commission has just signed a second tri-state disability strategic plan with the Northern Territory and South Australia to provide seamless services to Aboriginal people living in the remote central lands area. The commission's country community support directorate has recently taken an increased role with regional and remote service providers to ensure responsive services for people with disabilities and families living in remote areas.

- (2) No. Disability advocacy services are funded to provide advocacy support across all ages, including youth.

CAPE PERON TOURISM PRECINCT

1244. Hon LYNN MacLAREN to the Minister for Environment:

My second question without notice, of which some notice has been given, is to the Minister for Environment. Can I proceed?

Several members interjected.

The PRESIDENT: Too late now! The member has a bonus.

Hon LYNN MacLAREN: I ask —

- (1) Is the minister aware of the community group known as Preserve Point Peron for the People, which includes 3 444 members?
- (2) Has the minister been advised that this group believes the Cape Peron tourist precinct will entail the construction of canals, luxury housing and hotels and an inland marina at Point Peron?
- (3) Is the minister aware of concerns that such a proposal is likely to —
- (a) result in the loss of a large area of healthy seagrass;
 - (b) threaten the thrombolite community at nearby Lake Richmond;
 - (c) require the sale of public land, including a Bush Forever site; and
 - (d) require the sale of a large section of Rockingham Lakes Regional Park for high-rise apartments and car parks?

Hon DONNA FARAGHER replied:

I thank the member for the question. I did try to indicate with a nod that, unfortunately, I do not have a copy of that and I do not recall seeing that question at all. My apologies, but it has not been brought to my attention.

FREMANTLE PORTS OPTIMUM PLANNING GROUP — REPORT

1245. Hon JOCK FERGUSON to the Minister for Transport:

My question without notice, of which some notice has been given, is to the Minister for Transport. I will start again, Mr President.

Hon Simon O'Brien: You do not have to start again.

Hon JOCK FERGUSON: The minister was not listening.

It is understood from industry representatives that the report from Fremantle Ports Optimum Planning Group has now been finalised.

- (1) Has the minister received a copy of the report?
- (2) When will the report be made public?

Hon SIMON O'BRIEN replied:

I thank the honourable member for his question, which I listened to with interest.

- (1) I have not received the final report. It might be in transit, but I have not had it in my hands. I am not aware of its arrival as yet. I expect it any day.
- (2) As to whether and when the report will be publicly released when it is received, that is a matter for government to consider when it evaluates the report.

STATE CORONER — UNBURIED BODIES

1246. Hon HELEN BULLOCK to the parliamentary secretary representing the Attorney General:

I refer to the Attorney General's media release of 19 November regarding two bodies that have been unburied for more than a year and are subject to proceedings in the coroner's office.

- (1) Why has it taken so long for the coroner's office to finalise proceedings?
- (2) When is it expected that these findings will be completed?

Hon MICHAEL MISCHIN replied:

I thank the member for some notice of the question. The Attorney General advises as follows —

- (1)-(2) Once a post-mortem examination has taken place and an authority for the release of the body issued, the coroner ceases to have control of the body and has no power in relation to funeral arrangements et cetera. In normal circumstances, following the release of the body an undertaker—usually arranged by the deceased's family—will collect the deceased from the mortuary for the burial or cremation service. In cases where there is no family or anyone else willing to claim the deceased, the body will remain at the State Mortuary. If, after three months, the body is not claimed, police will bring the matter to the attention of the Public Trustee who can authorise the release of funds from the deceased's estate to pay for a funeral. In the absence of an estate, the matter is referred to the Department for Child Protection. On application, the department may provide funds for a pauper's funeral.

With respect to one of the bodies, the coronial file is complete. The coroner's finding into the death was issued by the Bunbury coroner on 24 December 2007. Since the death occurred, there has been an ongoing dispute regarding the administration of the will, which has prevented the burial of the body. This dispute is outside the control or jurisdiction of the coroner's office or other state authorities. In addition, the Public Trustee is in the process of contacting the executive of the estate to ascertain whether the government can be of any assistance in relation to the burial of the body. It should be noted, however, that the Public Trustee was not previously involved in this situation as an estate existed that could provide for the burial.

The other body at the mortuary was exhumed at the request of police for the purposes of an investigation. Proceedings were recently completed and the coroner awaits the police report before a finding can be issued. In that regard, on 20 November 2009 a request was sent to police asking for their report. In the interim, the body can be released for reburial.

DISABILITY SERVICES COMMISSION — MORATORIUM ON HOUSING

1247. Hon SUE ELLERY to the Minister for Disability Services:

I refer to the dire need for more social housing to meet the specific needs of people with disabilities and the request by the Disability Services Commission to the Department of Housing to effectively put a moratorium on new stock for this group while a research project on alternative models is undertaken. Will the minister ask the Disability Services Commission to reconsider its position that a moratorium on any new stock is reasonable, and at least release some new stock suitable for people with disabilities while the research project continues?

Hon SIMON O'BRIEN replied:

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

The Disability Services Commission has not asked for a moratorium on the release of new housing stock for people with disabilities. The commission has asked for an 18-month moratorium on the Department of Housing implementing a registration process for all disability service providers to ensure that all service providers can get access to housing for people with disabilities without policy impediments. This means that the Department of Housing can release new stock to people with disabilities, as it has always done.

STOCK ROAD EXPANSION — ROE HIGHWAY STAGE 8*Question without Notice 1216 — Answer Advice*

HON SIMON O'BRIEN (South Metropolitan — Minister for Transport) [2.36 pm]: I would like to provide an answer to Hon Lynn MacLaren's three-part question without notice 1216 asked yesterday. I seek leave to have it incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

-
- (1) Stock Road has always been planned to be ultimately upgraded to a controlled access highway with grade separation at some point in the future.
 - (2)
 - (a) There is no intention to upgrade Stock Road at this point in time.
 - (b) Main Roads has plans available which indicate a possible upgrade to Stock Road. The MRS is based on these plans, which date back to the 1970's. Consultation will occur if and when the upgrade progresses.
 - (c) Costs are unknown at this stage.
 - (3) The Department of Planning is currently undertaking a road network study of this area.
-

PAPER TABLED

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

WASTE AVOIDANCE AND RESOURCE RECOVERY AMENDMENT BILL 2009*Discharge of Order and Referral to Standing Committee on Legislation*

Resumed from an earlier stage of the sitting.

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [2.37 pm]: Before the lunch break I was about to conclude my comments by saying that the government will not support this motion.

The Waste Avoidance and Resource Recovery Amendment Bill is basically a bill that requires a decision. There are two points of view—the government's position and the opposition's position. We each have a different point of view. We could have 27 000 committee hearings and it would not make any difference in respect of the outcome of this. The government has made a judgement that this is what it wishes to do. The opposition has chosen to take a different point of view. In my view committee hearings would achieve nothing.

I was a little surprised at the comments Hon Ken Travers made that somehow or other a person such as me would be opposed to this house sending bills to committees. Indeed, I have been involved over many years in moving motions to send bills to committees. On many occasions I have been successful; on many other occasions unsuccessful. The sorts of bills that should go to committees are those where there is some likelihood that evidence taken by the committee could achieve some variations in the content and structure of the legislation. On this occasion I do not see that as being something that could be achieved by a committee hearing.

I also make the point, for the benefit of the member who talked about rubber stamps, that it was only yesterday that this house referred the Criminal Investigation Amendment Bill to the Legislation Committee at the request of the government. It is our intention that that may in fact provide for a better piece of legislation at the end of the day.

Hon Sue Ellery: I thought that was our fault, according to the Minister for Police.

Hon NORMAN MOORE: I am not going to get into that argument now. I am making the point that the opposition cannot say it never happens when in fact only yesterday it did happen. There may be an outcome that will come from that which will improve that legislation. But in respect of this bill, I do not see that much would be achieved in sending it to committee; certainly for two weeks at this time of the year.

The government will not support this motion. I hope that some time this day we will finally come to a conclusion in respect of this bill so that the house can adjourn and we can get on with the business of government.

HON SALLY TALBOT (South West) [2.39 pm]: I rise to speak in support of the motion moved by Hon Ken Travers to discharge the Waste Avoidance and Resource Recovery Amendment Bill 2009 and refer it to the Standing Committee on Legislation. I listened very carefully to the whole debate, as I am sure did Hon Norman Moore —

Hon Norman Moore: I listened to only three hours of your contribution and then I get bored because you kept repeating yourself.

Hon SALLY TALBOT: That is disappointing because Hon Norman Moore knows very well that I did not repeat myself.

Several members interjected.

The PRESIDENT: Order members! This is a specific motion. It is not a motion on the second reading debate on the Waste Avoidance and Resource Recovery Amendment Bill; it is a motion to refer the bill to a committee for a certain time. Members' comments must be restricted to that motion.

Hon SALLY TALBOT: We will get through this more quickly if government members contain themselves. I did not repeat myself and I give the house an undertaking that I will not do that at any stage of the debate as we progress —

The PRESIDENT: Order! The member is retracing ground that I just pulled her up on a minute ago. This is a specific motion to refer this legislation to a committee.

Hon SALLY TALBOT: I thank you, Mr President. I will restrict my remarks to why I believe this bill should be referred to the committee. We have had countless reviews, reports, scoping documents and studies into the issue of waste management in Western Australia, and members might well ask whether we need one more. There is a simple answer to that. The answer is that we do need one more. We need a committee inquiry into this bill and I am absolutely certain that the bill will come back from the committee as better legislation.

Hon Simon O'Brien: Haven't you already told us it is beyond redemption? Wasn't that the subject of your contribution to the second reading debate—that we cannot fix this bill?

The PRESIDENT: Order! We will make a lot more progress if there are no interjections and members concentrate on the subject matter of the motion. Let us proceed on that basis.

Hon SALLY TALBOT: I say that for one reason; that is, although the issue of levy rates has been raised in many of the previous reports and studies, an issue that is constantly raised is the need for more support from government. That is a recurring theme throughout all the reports that have been done. The government has got itself into a mindset whereby it thinks that it can proceed on the basis that none of those previous studies has been done. If that were not the case, the government would have suggested amendments to rectify those problems, but it has done nothing of the kind. When I first got to my feet during the second reading debate, I asked whether the government would do us the courtesy of coming to us with its proposed amendments, but I heard nothing.

Hon Simon O'Brien: We don't have any amendments.

Hon SALLY TALBOT: I am talking about the amendments that were moved by the government in the other place in response to some of the questions, queries and points that we have raised in this debate. We have not seen any amendments from the government in this place. Despite that, the stakeholders never gave up hope, and they still have not given up hope.

Hon Norman Moore: They're all hanging over the public gallery balcony listening to this debate, along with the media, who take a very big interest in this! You should know that.

The PRESIDENT: Order!

Several members interjected.

The PRESIDENT: Order! Let us concentrate on the motion, which, I repeat, is a very narrow and specific motion.

Hon SALLY TALBOT: The stakeholders have never given up hope. One of the reasons for that is that they believe they have had a sympathetic hearing from the Premier on several occasions. I will not go so far as to say that they believe they have had a sympathetic hearing from the minister, because they have heard nothing from the minister. The impression among all the stakeholders is that the minister is not very interested in what is going on here. They do not get very much from her, but certainly from the Premier —

Hon Donna Faragher: You seem to know an awful lot about what I do. You know absolutely everything.

The PRESIDENT: Order! Members will have to exercise some willpower and restrain themselves from interjecting, otherwise this will be a very, very long day. If Hon Sally Talbot—or any other member who is on his or her feet—addressed her remarks through the Chair, I would not interrupt and we could make some progress.

Hon SALLY TALBOT: Thank you, Mr President. On that basis, I believe that the bill should be referred to the Standing Committee on Legislation. As Hon Norman Moore said, if this motion is successful, it will be the second referral to that committee in as many days. The stop-and-search legislation, as it is colloquially known, has been referred to that same committee because when it was introduced into this place, after having been

passed in the other place, government backbenchers put pressure on their leaders to not force that bill through this chamber. They want us to have a careful look at it, and that is exactly what we will do.

It is worth considering a couple of points made by Hon Norman Moore. By opposing this motion today, the Leader of the House is happy to endorse the fact that government members have all come in here with closed minds. What is the point of having a debate in this chamber if members opposite just walk in here and say that it does not matter what we do, what arguments are considered or what evidence is presented to them because they will not change their minds? If we have failed to get government members to change their minds during the lengthy debate that we have had, we will simply keep trying. Just as stakeholders have not given up hope, nor has the Labor Party given up hope that we might be able to get a significantly different outcome from the dreadful outcome that has been presented to us in the shape of this bill.

Hon Simon O'Brien: There are only about two provisions in the whole bill.

The PRESIDENT: Order!

Hon SALLY TALBOT: I know that government backbenchers have received the same correspondence that I have received because, as I have said before, all the letters that I have received have been carbon copied to them. I know that government backbenchers have seen that correspondence and that they are aware of the stakeholders' concerns. If government backbenchers have not yet brought those concerns to the attention of either the minister or the Leader of the House, they must do so jolly quickly so that we can refer this bill to the Standing Committee on Legislation.

After listening to the contributions from members on this side of the house, I have learnt a lot more about this legislation than I knew originally. I include the Greens (WA) as well as my Labor Party colleagues in that statement. What we have heard has indicated not only the breadth, but also the depth of concern that exists right across the sectors. If that has failed to impact on government members, it can only be because they were not listening. Any engagement with the material that we on this side of the house have presented would have government members seriously questioning what they are doing.

Hon Ken Travers made the point that we can only try to represent the views of the stakeholders as best we can. The referral of the bill to a committee would give the stakeholders a chance to express themselves in a more compelling way than perhaps we have been able to do. One of the stakeholders is very keen to eyeball the government on this—I should not say “eyeball the government” because that is probably a little unfair; it would like to eyeball the Parliament. The committee hearings would give stakeholders the chance to do that. Local government is very, very angry about being used as a tax collector. Earlier today there was an extraordinary situation when, by interjection, the Leader of the House conceded that the levy is a tax. The Leader of the House has not been listening either to me or to the rest of the debate in both this place and the other place. Government members have been denying that this is a tax. They have said that it is not allowed to be a tax. The government is very confused. On the one hand, it is saying that it is a tax and that it was a tax when we introduced it—I have heard that argument canvassed several times, which is nonsense—and, on the other hand, Hon Norman Moore has said that it is a tax and that the government is bringing it before the people in a public forum. As I recall that section of the debate earlier today, Hon Norman Moore took exception to Hon Ken Travers saying that the levy was being introduced in a less than transparent way. He stood in this chamber talking about it being a tax. Local government makes a very articulate point in expressing its anger about being used by this government as a tax collector. It is also angry that the money is being taken away from the Waste Authority. Local government—I will repeat myself because it is worth putting on the record again—is not known as the hero of waste management for nothing. It is at the coalface, it does the hard work and it puts in real resources and services on the ground. It needs the Waste Authority to be properly funded. The Labor government set up the Waste Authority so that it had access to the waste account.

Hon Simon O'Brien: We've already had six or seven hours of second reading debate. Why don't you at least speak to the motion or sit down?

Hon Peter Collier: If this is your speech on the second reading, you are making it again.

Hon SALLY TALBOT: No, it is not. I can show the member that this is entirely new material. My speech on the second reading is at the back —

Hon Donna Faragher: Have you got more?

Hon SALLY TALBOT: No, these are all the media reports. It is a very big pile because most of it contains media reports. At the back of this pile is my speech on the second reading. I am not referring to that; this is all new material.

Point of Order

Hon NICK GOIRAN: The honourable member has just indicated that she is referring to new material. My understanding of this motion, Mr President, as you have already indicated, is that it is very narrow and we are

supposed to be debating why this bill needs to go to a committee, not raising new material, as the honourable member knows perfectly well.

Hon JON FORD: The member needs to spend a bit more time in this chamber before he thinks he has some authority and experience to fall on. Hon Sally Talbot is clearly speaking to the motion before the house. She is saying that she has new material to support that argument, not new material from her speech on the second reading.

Hon Simon O'Brien: If you were paying attention to her, you wouldn't say something as stupid as that.

The PRESIDENT: Order! As it turns out, I was listening very closely to what the member was saying at that point. I was assuming that she was getting to the point of saying that local government had not had the opportunity to put its case one way or the other. She was mounting the argument that another forum should be made available to put its case. That was an assumption on my part. I was listening to work out where the member was going with her comments. I will allow the member to continue with her comments and keep listening intently to ensure that her comments relate to why the matter needs to go before a committee. It is not a point of order in that sense but it well might be in a few minutes if the member does not structure her remarks along those lines.

Debate Resumed

Hon SALLY TALBOT: Thank you, Mr President. Your assumption was entirely right and was no doubt based on what I had just said, which was precisely that.

The third argument that I imagine local government would welcome a chance to air in front of the standing committee is the issue of illegal dumping and the fact that there are provisions in this bill that will clearly, and by the minister's own admission, lead to an increase in illegal dumping —

Hon Donna Faragher: Don't say what I am saying or whatever. I will respond to you in my reply to the second reading but please do not say what I have said or not said.

Hon SALLY TALBOT: I am simply using the material that the minister has already put on the public record. Indeed, I could quote sections of *Hansard* back at her.

Hon Simon O'Brien: Have you falsely accused her of anything in public lately?

The PRESIDENT: Order!

Hon SALLY TALBOT: If local government had a voice in this debate on the bill's referral to a standing committee, I am sure it would support the motion moved by Hon Ken Travers. We would also find that numerous members of the community would take the opportunity to explain in detail the effect of these massive cost increases that have been imposed by the government. This is just one example, as many honourable members have canvassed, of these cost slugs. I feel sure that the public would welcome the bill being referred to such an inquiry.

The third group of stakeholders who would welcome the chance of a proper inquiry into this bill would be the environment groups, which are very angry about the ending of hypothecation and the effective trashing of the main objects of the WARR act.

Based on the debate that we have had in this place, many other questions could be addressed more adequately by the standing committee than will be addressed by debate in this house. I will canvas a few of those issues. The first and perhaps most obvious one is whether this tax is legal. When a measure is brought to us that raises such serious implications, clearly, the government is aware of how serious these implications are because of how it changed the timing of how this bill was going to be introduced. It had to make its own amendments to the bill in the other place because of the adjustments it made, and it had to get legal advice. The government will not table the legal advice; we do not know what it is. My suspicion is that the government has not been able to answer all these questions to its own satisfaction. Will we be able to tease that out in debate in the house? Would it not be much more effective to take the bill to the committee, where the committee can call witnesses and hold a public hearing so that all the material is on the public record for the government to see and then we can make our decision on that basis? I think that would be a much better way to proceed.

Hon Simon O'Brien: Why didn't you move that way weeks ago?

Hon SALLY TALBOT: I will answer that interjection.

Hon Simon O'Brien: You need to because you're flagging. You have to last another 30 minutes. I am trying to help you. You're wasting time.

Hon SALLY TALBOT: I do not need any help. If I have proved one thing, it is that I do not need the help of Hon Simon O'Brien. I notice that Hon Norman Moore referred to the fact that I had already spoken on this bill for seven hours. One of the things I have noticed when one makes a long speech in this place —

Point of Order

Hon NICK GOIRAN: The member is now talking about whether Hon Norman Moore indicated that she spoke for seven hours. That is not the purpose of this motion.

The PRESIDENT: That is an obvious point. I am sure the member realises that the motion is a specific motion to refer the bill to a committee and really has nothing to do with how long anybody has spoken here, there or anywhere else.

Debate Resumed

Hon SALLY TALBOT: I apologise for that. I was tempted to respond to the interjection by Hon Simon O'Brien about whether I needed assistance. I will skip lightly over that by noting that clearly Hon Norman Moore is one of those people who always exaggerate the size of things.

Hon Ljiljana Ravlich: Not everything.

Hon SALLY TALBOT: Oh, I suspect everything. I am referring to the fish that he catches.

The PRESIDENT: Order! Let us get back to the motion.

Hon SALLY TALBOT: I will move right along because I do want to respect the standing orders that apply to this debate.

Were this bill referred to the legislation committee, of which I am a member, another thing I would raise as a matter of priority is what aspects of the bill the minister has concerns about and what aspects she thinks might be ultra vires.

I will let Hon Simon O'Brien answer his phone.

The PRESIDENT: No, you will not. It is entirely unparliamentary to have a mobile phone turned on in the chamber.

Hon SALLY TALBOT: Clearly, that is one of the things that has troubled the Minister for Environment since she announced, in the context of the budget, that this move would be made. We really need to see that legal advice. If the government will not show it to us, which I gather is the case, we need a proper inquiry that could be carried out by the standing committee.

There are many other things we need to know. We heard the minister admit that many councils are already collecting this extra money. One of the minister's colleagues who has been assisting with this bill has already placed on the public record several times that what councils do with the money is their own business, but—this, I think, would be central to the Standing Committee on Legislation's inquiries—councils will spend the extra money they have collected on waste management. When I realised that that was the line being run by a government minister, I looked at the act and then went back to the local governments I have been talking to and asked them about that. Somebody is wrong here. It is not clear to me who is wrong, and that is exactly the sort of question that could be canvassed by the standing committee. If the government is wrong, then surely we should be putting that right before we proceed to debate the Waste Avoidance and Resource Recovery Amendment Bill 2009 further in this house. Surely, if councils are not obliged to spend the extra money on waste and recycling, that is something the government itself would want to address. If it is labouring under a misapprehension, how else can we find out what the real case is?

Another question I think needs to be looked at very carefully is the impact of the delay on the Department of Environment and Conservation's budget; again, I do not know if we will be able to obtain that information during debate in this house. On the issue of any further delay being caused by a referral to the committee—I have had discussions with Hon Ken Travers about this—I note that Hon Ken Travers' motion refers to a report back to the house in mid-December. I further note that he has even taken account of school holidays. In fact, we could have all this done, in a much better way, before the school holidays start. That means we would not get in the way of the minister's timetable for plugging the black hole in the Department of Environment and Conservation budget.

Several members interjected.

Hon SALLY TALBOT: I do have a little difficulty here, Mr President. Perhaps, through you, I could remind the minister that she will get a chance to respond at some point.

The PRESIDENT: In return, we can do a deal. If you direct your comments through the Chair, whether I am in the chair or somebody else is in the chair, not at the minister, I am sure that I will not interject, and the minister will then have no reason to interject.

Hon SALLY TALBOT: Absolutely. Mr President, you have given me that undertaking, and it is one that you keep your word on; I do see that.

The minister was asking—it is part of this debate—why we did not move the motion earlier in this debate. I think I have already addressed that, but just in case honourable members opposite did not hear, we did not move it earlier because we wanted to get to the end of the second reading debate and see whether we got any amendments from the government, which would have demonstrated to us that some of the things we had said had been listened to. That did not happen; therefore, what other course was open to us other than to refer the bill to the committee? And that is exactly what we are doing now.

Something else that the committee inquiry would be able to look into is whether the budget announcement was premature, which I suspect it was. I think the government wanted to go down a certain path, which may even have been a direction that the Labor Party would have supported—I have never ruled that out. I have certainly never ruled out the fact that we might support an increase in the waste levy, and, indeed, I have pointed out that we had our own mechanisms in place for doing that. But an important part of this referral would be to look at whether the government got the timing and sequence of the Waste Avoidance and Resource Recovery Amendment Bill 2009 in the right order; I suspect the answer would be that it did not.

There are further things that a committee inquiry would test. The minister has claimed, and put on the public record in the *Hansard* of 19 May, that —

We believe that an increase in the levies ... will provide a significant opportunity for industries to recycle.

What we have heard argued so far in the second reading debate is that levies do not provide opportunities. Of course levies are an important part of controlling the amount of waste that goes to landfill, but can levies be used as leverage to create opportunities? I really cannot think of a way that that would work, and neither can any of the stakeholders I have spoken to. But because the Standing Committee on Legislation has representatives from all parties in the Parliament, undoubtedly we would hear evidence from people who would support the government's position that levies do provide opportunities. I have not been able to find that information, but a referral to the committee would give us the chance to look into that and consider it properly.

There are two other gaping holes in what the government is proposing whereby I think, under any other circumstance that I can think of other than this mismanaged bungling of the government's program, the referral would have been supported by Hon Norman Moore and Hon Donna Faragher, because it would have given them the chance to have more material to consider on two particular aspects. The first is the economic modelling that presumably underlies this bill, about which I, and many of my colleagues on this side of the house, asked during the second reading debate. It was put very succinctly by Hon Ken Travers—who, as members of the government know, is our spokesperson on budget issues and things to do with Treasury—when he asked where the economic modelling was and how it was done. The minister has not tabled any documents that explain how the model is supposed to work. When she was asked during estimates week, for example, why there was no decrease in income from the waste levy in the out years, she brushed the question aside. That is just not good enough.

We have ended up, towards the end of November, at the end of the second reading debate, with the only move left open to us, other than referral, being to go into the Committee of the Whole stage without any proper explanation about why there is no decrease in the out years and why the dollar numbers associated with the out years in the budget papers specifically contradict the narrative in the budget papers about this bill. It is just not good enough. Of course we will pursue this matter in committee, if that is the only opportunity the government gives us to do it, but, my goodness me, how much more effectively and how much more efficiently could we have done this if it had been referred to a committee? I do not know how members of the government feel about committees and about referrals of this kind. They seemed happy to accept the referral of the stop-and-search legislation. This legislation, in its own way, is as contentious amongst the stakeholders in the waste industry as that other legislation is amongst the community of Western Australia. I constantly explain to my constituents in the south west that about half—if not more—of the work of a member of the Legislative Council is done in committees. I constantly explain that, because obviously it is done behind closed doors. People who are particularly interested in these things can log on to websites to see what various inquiries we are doing, but the general public does not know this. I take great pride in explaining to people in my electorate what goes on in committees, and people are impressed when they hear that. They are impressed by the powers we have in committees and they support the committee system. I do not know whether government members have a different view; if they do, I guess we will see it come out in the review of standing orders being undertaken at the moment, but they have given me no indication of that. They must surely be feeling uneasy about the statement of their leader in this place that they are not going to support this motion.

I have talked about the economic modelling. The other part of the government's modelling, which presumably exists in a filing cabinet somewhere, or maybe it is in the minister's files that she is surrounded by now, is about the price elasticity. This is a related point to the economic modelling. The central assumption in the bill that the government has put before us is to do with the price elasticity and the way that the levy is used, and the effect that increases will have on the overall amount of waste going to landfill.

Earlier this year the Standing Committee on Environment and Public Affairs conducted an inquiry into municipal waste. That produced the sixteenth report, which has been referred to several times, entitled “Municipal Waste Management in Western Australia”. As a member of the legislation committee, I would have the chance to have some input if the bill were referred to the committee. If this motion were to be successful, one of the first things that I would do—I am foreshadowing another item that would be at the top of my agenda when I walk into that first committee meeting—would be to recall Councillor Doug Thompson to hear again the evidence that he gave to the Standing Committee on Environment and Public Affairs’ inquiry. It was an open hearing—it was a public hearing. This is all on the record if members want to look at the record. Mr Thompson talked specifically about the price elasticity of waste management and about the reprocessing costs. According to Councillor Thompson, reprocessing costs about \$130 a tonne. This material has not been talked about previously in this debate. This material is directly germane to the question about what a referral to a standing committee could achieve. The point that Mr Thompson was making was that the cost of reprocessing is about \$130 a tonne and that it currently costs about half that to send the waste to landfill. If the government has made assumptions about price elasticity, I am suggesting that it may be wrong. Where can we test these assumptions, Mr President? The committee system in the Legislative Council is set up in such a way that it is precisely these kinds of detailed, technical and complex questions that can be addressed in a thorough and efficient way in the context of a committee hearing.

Yet another issue is connected to the question of whether this tax can legally be imposed. That is a question to which I believe there are at least two answers—one being yes, it can and the other being no, it cannot. I have already suggested that if the government will not table its legal advice, the committee would be in a position to get its own legal advice on that question. But there is a related question here. It seems to me that the government has created a situation without precedent in which, to the best of my knowledge—if anybody opposite can correct me, I would be pleased to stand corrected on this—we will be making provisions that will allow the act to be used for purposes totally outside the originally stated objects of the act. If the government is not expecting a legal challenge on that, it is not doing its job as a government.

Hon Ken Travers: Is it an excise?

Hon SALLY TALBOT: Exactly; is it an excise?

What are the implications for this state of provisions that will allow the act to be used for purposes outside its originally stated objects?

I do not want to repeat the point already made during the second reading debate, but the objects of the act are clearly set out in section 5 of the WARR act. Section 5 is very short; it will take the minister only 30 seconds to read it. I ask the minister to read the objects of the WARR act and then tell me that these amendments are consistent with the original objects of the act. I want to hear those arguments because so far they have not been publicly canvassed. I shall certainly be asking the minister during the committee stage of the bill to address those points, but how much more effectively could they be addressed in a committee hearing?

I notice a cross-reference in section 5 of the WARR act. These are complicated matters, Mr President, and that is why I think that they would be more effectively considered by a parliamentary committee than they would be during the second reading debate in this place. Section 5, “Objects of this Act”, refers to the Environmental Protection Act. Section 5(2) states —

The principles set out in the EP Act section 4A apply in relation to the objects of this Act.

It troubles me, and I am sure that the committee would look into this in some detail, that there is no equivalent cross-reference in the EP act. We are taking money that has been collected using the provisions of the WARR act and the WARR levy act and putting it into a consolidated account to be used to fund the general activities of the Department of Environment and Conservation. Surely we must at least have a cross-reference to the WARR act in the EP act, because presumably some of the provisions of the EP act will be funded using money raised by the WARR levy. We cannot have two sets of objects in two different, not mutually encompassing acts and have money used from one act to fund activities covered by the other. These are complicated points, but one does not have to be interested in rocket science to work out that there is a problem.

Hon Donna Faragher: You are certainly not a rocket scientist.

Hon SALLY TALBOT: I am certainly not a rocket scientist—no, absolutely not! I have never claimed to be. I would have quite liked to have been in another life, but that is a subject for another time. However, they are just a few of the problems that we on this side of the house have identified.

There are lots of other questions Mr President, one of which is about the proposal in this bill to set up a new account. A new account will surely add a whole new layer of bureaucracy in DEC.

The PRESIDENT: Order! I think that the member is straying into a repeat of the general principles associated with the second reading debate. I have said before that the motion is quite specific and to the point and that members' remarks need to be directed towards the motion.

Hon SALLY TALBOT: Thank you, Mr President, for reminding me of that. I must say that this is an act about which I feel very strongly, and the temptation to go into longer explanations is one that I must learn to resist. I recognise that we are debating the referral to the standing committee and I have already said that the time lines do not interfere at all with what the government is proposing to do. I am speaking in support of this referral, but I do want to put on the record the number of questions that I believe can be more adequately addressed by a standing committee than can be addressed during the second reading debate or in the Committee of the Whole House. One of those questions is about how this new account will to be managed and whether a new layer of bureaucracy will be needed—a new bureaucratic layer that, on the basis of what we have heard during this debate, the Department of Environment and Conservation can ill afford to put in place.

The bill is desperately scant when it comes to details about these sorts of things. During my six years on the legislation committee I have learnt that the committee is one such place where members can ask questions about whether each clause and each proposed section of a bill will comply with not just the letter but also the spirit of the law and whether the bill will put in practice that which we are trying to achieve. We are talking about the spirit and the letter of the law and the intent of the government. I certainly would not foreshadow the recommendations of the standing committee because it would be entirely inappropriate for me to do so. I will not foreshadow the committee's recommendations or the outcome of a referral because I genuinely do not know them. I would not ask these questions unless I believed that the committee would establish answers to my questions that would either affirm my arguments or show them to be based on false premises—I am open to either being the case.

[Quorum formed.]

Hon SALLY TALBOT: I was just making the point that I am not in any way foreshadowing the outcome of the Standing Committee on Legislation's inquiry. Indeed, I remain, as I hope every member of this house does, open to persuasion that the government is adopting the right course, but, sadly, that is not clear to me at the moment. It is obviously not clear to Hon Ken Travers either, which is why he moved his motion to refer the Waste Avoidance and Resource Recovery Amendment Bill to the committee.

In the time available to me I will to refer to a couple of other things in connection with this referral motion. As well as the economic modelling and the modelling on price elasticity in relation to the waste levy, I think there are also questions about whether the appropriate economic impact studies have been done. Has the economic impact study been done? Assuming the answer is yes—we do not know because we have not seen anything yet, but the standing committee might be able to get that answer from the minister—it would be up to the standing committee to consider whether that economic impact study had been done properly and whether its conclusions had been correctly interpreted and, therefore, that the bill would not have an adverse economic impact on, for example, the many small businesses that are associated with the waste industry, such as people who operate mini bins and skips. Certainly, the evidence that they will be severely impacted on has been presented to opposition members. My feeling is that these small business owners would welcome the opportunity to take part in a public hearing. That would give them the chance to satisfy themselves about whether their needs have been taken into account and it would certainly give them the feeling that they have been heard. I think that is the crux of the matter. One of the main purposes of making a referral, particularly to the Standing Committee on Legislation, which has the role of scrutinising legislation clause by clause and section by section, is that people can feel that they have been heard and that their concerns are being taken seriously by this Parliament, and nobody is left at the end of the process feeling as though they have been banging their head against a brick wall or just shouting into the void and that all their energies have been wasted. I know that honourable members sometimes have that feeling themselves, particularly when somebody like Hon Norman Moore comes into this place and says that he is not even listening to the debate because it is boring him!

Hon Norman Moore: I said I listened to the first three hours and then it got boring because you said the same thing all over again.

Hon SALLY TALBOT: In the context of a committee hearing, that does not happen. I have seen members demonstrate that they have remarkably long concentration spans in committees.

Several members interjected.

Hon SALLY TALBOT: If Hon Michael Mischin thinks that nobody's evidence will take three hours, he really needs to familiarise himself with some of the history of this place because there have been some very significant breakthroughs arising from the work of parliamentary committees. As the chair of a parliamentary committee, the member needs to take this very, very seriously. Look at some of the previous inquiries that we have had! I do not need to stray outside the terms of this debate on the bill's referral to the legislation committee to make my

point. If honourable members opposite are labouring under the impression that parliamentary inquiries never produce results that change the direction of the discussion, they are sadly mistaken. I urge Hon Michael Mischin, who is the chair of the legislation committee and who is really seriously alarming me, and, I am sure, other members even on his own side of the house, with his comments about what a standing committee does, to, in the short time that is available to us in this debate, familiarise himself with what a referral of this kind might achieve. The short answer is that a committee inquiry can achieve an enormous amount. I am happy to give Hon Norman Moore and Hon Donna Faragher my assurance that we will come back with a better bill. There is no question about that.

Hon Ljiljana Ravlich: It cannot be any worse!

Hon SALLY TALBOT: As Hon Ljiljana Ravlich said, it cannot be any worse! What does the government have to lose by this referral? I will tell government members what they have to lose—that is, a bit of their pride. What we are hearing in this debate and what we have heard since this debate started—of course, I am talking about the debate on the referral of this bill to the Standing Committee on Legislation—is a lethal combination of arrogance and inexperience on the part of this government.

Several members interjected.

The PRESIDENT: Order, members! If you want to get up and make a speech, there is opportunity for that in the debate. Do not interrupt the member, who I am sure is trying to wind up her remarks.

Hon SALLY TALBOT: Thank you, Mr President. I will conclude in the few minutes that are left to me. I was just saying that if honourable members opposite vote against this motion because they believe there is no point in sending the bill to the legislation committee, I urge them in the short time that is available before they have to commit themselves on this to do a bit of homework. I am a proud member of the Standing Committee on Legislation, and I always put my hand up to be on that committee because I believe that the work it does is very interesting. I am sure that view is shared by everyone who has ever been on that committee. In the time that I have served on the committee, since 2005, we have done some very significant things. I am not blowing my own trumpet; it is teamwork. We have changed legislation and we have brought things before members of this house that honourable members could not have been aware of without the committee's inquiry. Before my time, the legislation committee conducted the inquiry into electoral reform, a topic that I would have thought would have been very close to Hon Michael Mischin's heart. The legislation committee held the inquiry into the anti-fortification legislation and, again, some significant changes were made.

I am not being a partisan in making these comments; those two pieces of legislation referred to the committee were put up by the Labor government. People who were on this side of the house were in the process of producing those reports and able to make significant changes. That is what the legislation committee is for. We would come back with a better piece of legislation and we would come back with legislation that brought the community with it. I can guarantee that! If honourable members opposite do not know that one of the main complaints that the three sets of stakeholders—local government, the community and the environmental groups—have is that the government will not listen to them, government members simply have not been doing their job. I can guarantee that when the committee comes back with a better piece of legislation, it will also come back with the support of significant people from those three stakeholder groups, such as members of the community, specialist waste providers, industry representatives and environmental groups. These stakeholders are desperate because they have not been listened to. They have made some extremely well-informed, erudite points about the shortcomings of this legislation and they have not been listened to. Put them in front of the Standing Committee on Legislation, let us listen to what they have to say, let us analyse the merits of those arguments and let us make the changes that we feel are requisite on the basis of that evidence. Let the committee come back to this place with a piece of legislation that will not have government members going out to face complete antagonism from people who feel that this government is behaving like a tired, sad, worn-out mob of people whose opposition to this motion is based only on their arrogance and inexperience.

HON ED DERMER (North Metropolitan) [3.29 pm]: I wish to start my comments by explaining my own assessment of the arguments put forward by Hon Ken Travers. From the word go I thought the referral to the Standing Committee on Legislation was appropriate. Having heard his very erudite comments, I am now even more convinced. I suggest to members of the house that it would be a better use of their time to listen to the wise and convincing arguments of our colleagues, such as Hon Sally Talbot and Hon Ken Travers, rather than counting minutes or seconds or otherwise moaning or interjecting and behaving in the most disorderly fashion that I have seen by members opposite this afternoon. Hon Sally Talbot's speech was particularly interesting—one I believe I have learnt a great deal from. I recommend to all my colleagues in this chamber to listen carefully to her words. It is very important that the bill be referred to the Standing Committee on Legislation, as moved by Hon Ken Travers, because I have a great deal of respect for the committees of this chamber and the powerful work they show time and again that they are capable of doing.

I noted with interest earlier this afternoon Hon Norman Moore's suggestion that there was no need for this bill to be referred to the legislation committee because the members of the opposition had presented all the possible arguments, evidence and facts that should be considered. I have paraphrased him a little, but that was the gist of what he said. I thank him for his confidence in our ability to summarise our argument and to draw together the threads of the evidence that need to be considered. However, I do not believe it is possible in debate in this chamber to draw together all the evidence that needs to be considered before we make final decisions on this bill. That is the work that can be performed by the committees of the Legislative Council because they succeed in that work time and again, not least because they are aided so effectively by the very competent staff employed by the Legislative Council committee office. I have every confidence that the Standing Committee on Legislation will do a very effective job in drawing together the very wide range of evidence that I believe will be presented by the large number of Western Australians and institutions that are very concerned about this bill. The committee will draw all the evidence together and present it in a logical and orderly fashion to demonstrate the significance of that evidence and recommendations that will arise from the committee's work. I think we will all learn a great deal from the work of the legislation committee if the house chooses to give it the opportunity to examine this bill. I am hoping that the government will also learn from the work of the committee and come to realise just how flawed this bill is.

In explaining why it is important that the committee have an opportunity to examine this evidence and bring its recommendations into the house, I would like to refer to my own experience. Since the bill was first brought to the attention of me and my colleagues, I have taken steps to consult the local government authorities—the people who are doing the real work to achieve resource recovery and waste avoidance in our society. As we explained during the second reading debate, Hon Ken Travers and I wrote to each of the local government authorities and the regional councils in our North Metropolitan Region electorate to seek their view. Discussions followed. Mr Ron Norris, the chairman of the Western Metropolitan Regional Council and the Mayor of the Town of Mosman Park, comes to mind as a person from whom I have learnt a great deal about the whole process of waste avoidance and resource recovery. I believe that if people like Mr Norris were given an opportunity to present evidence to a committee, given the normal excellence of Legislative Council committees, and the legislation committee was able to draw that evidence together from the range of people who might take up that opportunity, that would be a much more persuasive argument than I believe it is possible for all of us in the chamber to provide. The opportunity through the committee will be very effective. I am very pleased to say from talking to people like Mr Norris that I have learnt a great deal. It is essential we all share in that knowledge.

This government obviously needs to be persuaded away from this dreadful bill. I am hoping that by giving all the people who would be so affected by this bill, if it becomes an act, an opportunity to present the evidence. They will be able to persuade the government away from persisting with this very deleterious bill. I have learnt a great deal. Government members in this house particularly need to learn a great deal because they are going down a very unfortunate course of action to have this bill enacted. Their need to learn is desperate. I am hoping that referral to the legislation committee will have the effect of consolidating evidence.

When I spoke on the second reading debate I endeavoured to share with the house the wisdom I had gained from people responding to the requests from Hon Ken Travers and me to the various local government authorities and regional councils in our electorate to comment on this bill. If I had had more time in the second reading debate, I would have read from this letter I received from the Mayor of the City of Joondalup. I think this letter is particularly relevant to whether we should refer the bill to the legislation committee. This letter is almost like the tip of the iceberg. It gives a little sample of wisdom that is held by the local government authorities in this state. It is wisdom that I would like to see the legislation committee harness by listening carefully, gathering evidence and presenting it in a professional and logical fashion, as committees of this chamber so often do. I would like to cite Mr Pickard's letter as one example, because it indicates the wisdom that comes from local government authorities on the issues of waste avoidance and resource recovery. Why is it that these local government authorities have this wisdom? It is because they are out there doing the work. There are various types of wisdom in the world, but my general assessment of life is that the wisdom that comes from experience, particularly the instructive experience of doing the work, is often the most sound. This bill should be referred to the legislation committee to enable the informed experience, and the evidence based on that informed experience, to be considered by the committee and brought to the attention of the house in the very clear and logical fashion that our committees have an excellent professional reputation for achieving.

I turn for a moment to the letter I received from Mr Troy Pickard, the mayor of Joondalup. As I explained earlier, the letter was responding to a letter that Hon Ken Travers and I sent to each of the mayors in the North Metropolitan Region at an earlier time.

Hon Sally Talbot: He is not a well-known supporter of yours.

Hon ED DERMER: That is interesting. I must confess that I voted for another candidate when it came to the recent elections for the mayor of Joondalup. I voted for the other candidate based on my enthusiasm for him rather than any lack of enthusiasm for Mr Pickard; I think he does his job well.

The PRESIDENT: Order! The council elections of Joondalup have absolutely nothing to do with this motion. I direct your comments specifically to this motion.

Hon ED DERMER: Thank you, Mr President; I will do that.

The strength of the Mayor of the City of Joondalup, whom I totally respect although I voted for Mr Corr, comes from the excellent work that he and his council do and the wisdom that comes from their experience of doing the work that I think would be potentially impeded in a serious way if this bill were to become an act. I will read a bit of his letter because it gives an idea of the type of work that the council does that would provide a small sample of the body of important evidence that should be considered by the Standing Committee on Legislation and brought to logical recommendation by that committee for this house to consider. Mr Pickard wrote a letter on 5 November. I will not read all of his letter, but it has some important substance. In one part the letter states —

In 2005 the City approved its Waste Management Strategy and a copy is provided in Attachment 1. The overall outcome of the Strategy is to divert over 50% of the domestic waste stream from being disposed to landfill.

I think it would be very important for the standing committee to learn about the detail of how that will be achieved. If a report of the standing committee were presented to this house, it would give this house, the government and all Western Australians the opportunity to learn from the wisdom and experience of the City of Joondalup and other local government authorities. The letter continues —

The City introduced the following initiatives to achieve the objectives of this strategy:

- Provision of a recycling service utilising the yellow top recycling bin where all City residents received the service.
- The upgrade of the Materials Recovery Facility at ... Wangara in partnership with the City of Wanneroo and the City of Swan to ensure the collected recyclables are sorted and then sold into the commodities market.

It is excellent to see the cooperative spirit demonstrated by these various local government authorities working together. Mr Pickard's letter continues —

- The development of the Resource Recovery Facility (RRF) located in the Neerabup Industrial area. The RRF was commissioned earlier this year and started accepting waste in July. This RRF is designed to process 100,000 tonnes per year and divert approximately 70,000 tonnes of waste from landfill.

As capable as my colleague Hon Sally Talbot is in presenting these arguments, I think the legislation committee needs to be given an opportunity to consider more evidence. This letter from Mr Pickard is a small illustrative example of the evidence that our hardworking local government authorities could usefully present to the legislation committee. Mr Pickard's letter continues —

It is anticipated that the City will achieve the 50% diversion rate proposed in the 2005 Strategy in the year 2010.

It should be noted these initiatives have been at considerable expense to the City's residents with the current annual waste charge set at \$264.80.

The original negotiations on the WARR legislation included an agreement with the State Government, Local Government and Industry that any levy funds raised from the introduction of the legislation would be hypothecated and the funds used for waste avoidance and waste minimisation projects.

It is a very sad reflection that this bill seeks to change the rules under which the work has been undertaken to date, especially as a great deal of success has been achieved under the act. Mr Pickard's letter continues —

There are many existing programs that are currently under funded and other programs that need to be introduced and funded on a regular basis.

I think it is very important that the legislation committee have an opportunity to hear about the programs that are currently in place, because I am sure that committee members would reach the same conclusion that I have reached that the local government authorities that have done this important work have a degree of predictability with their investment decisions. I would like the legislation committee to hear more detail about the investment decisions, the initiatives and the progress being made by local government authorities with a view to making it very clear to the Legislative Council what would be the likely disruptive effect of imposing this tax at a time when these local government authorities need to be supported and encouraged rather than to have the impediment of a further tax. However, I divert. I return to Mr Pickard's letter —

An example, of the existing programs is the Household Hazardous Waste program where collection days for these chemicals are arranged and the disposal fee is paid out of the levy fund. The Waste Authority has indicated that funding for this proposal is to be limited and is looking for a way forward to reduce costs when the current budget of \$1million does not accommodate one collection per year at each Local Government.

It is clear—I am sure that the committee would probably find further evidence to support this—that there are many useful ways in which the money to be gathered through the levy could be spent. Unfortunately, that is not the intention of this government. Mr Pickard's letter continues —

Previously the State Government provided a recycling rebate scheme which was funded from the Levy and distributed on the tonnage of waste recycled by each Local Government.

Debate interrupted.

[See below.]

Sitting suspended from 3.45 to 4.00 pm

MEMBERS' DINING ARRANGEMENTS

Statement by the President

THE PRESIDENT (Hon Barry House): Members, before we resume debate, I want to point out a couple of things. This is a very abnormal situation that is placing the parliamentary staff at great inconvenience. There is a function in the dining room this evening, which is the former members' annual dinner. This function has been organised, booked and slotted into the calendar for a long time. Accordingly, there will not be any dining facilities available in the dining room for members when I anticipate we will break between 6.00 and 7.00 pm. There will be dining facilities available for members in the staff cafeteria, which is on the ground floor, and members can avail themselves of those facilities. Also, in order to provide some certainty for the parliamentary chefs and staff, I have decided that there will be no seafood and refreshments if proceedings extend beyond midnight tonight.

WASTE AVOIDANCE AND RESOURCE RECOVERY AMENDMENT BILL 2009

Discharge of Order and Referral to Standing Committee on Legislation

Resumed from an earlier stage of the sitting.

HON ED DERMER (North Metropolitan) [4.02 pm]: I believe it is particularly important that all members of the house and the government take the opportunity to learn from the experience of those who are leading the way with waste avoidance and resource recovery. As I was explaining a little earlier, I think the City of Joondalup provides a very good example. I was referring to the mayor's letter as a small, tip-of-the-iceberg example of the type of evidence that should be considered by the Standing Committee on Legislation and, through that mechanism, brought to the attention of the house. I will resume sharing with the house the mayor's letter. The letter reads —

Previously the State Government provided a recycling rebate scheme which was funded from the Levy and distributed on the tonnage of waste recycled by each Local Government. The State Government withdrew from this commitment leaving Local Government to fund the full cost of recycling programs.

Again, there is evidence of unmet need whereby extra money raised by a levy could be very well spent by the people providing leadership in local government who are showing us how waste should be avoided and resource recovery carried out. Returning to the letter, it reads —

These costs have recently escalated with the global economic downturn which reduced commodity prices and Local Government has had to bear the burden of further subsidising the kerbside recycling program. The Municipal Waste Advisory Council has sent a proposal to the State Government promoting the reintroduction of a rebate scheme. There has not been a response to date.

I do not know whether a response has occurred since 5 November when Mr Pickard wrote this letter to me, but I think that whole area of the effect of a rebate would be a worthwhile matter for our legislation committee to examine and present recommendations on to the usual, highly professional standard that we have come to expect from the legislation committee. Mr Pickard's letter continues —

The design of the levy is essentially to make land filling an unattractive option by raising the cost of disposal to a level whereby other disposal alternatives become financially viable.

The economics of this whole exercise are extremely important, and the Standing Committee on Legislation should examine it in detail. It continues —

Logically, in support of this position, a waste levy should be used for waste management initiatives to enable these pathways to succeed. It is therefore not appropriate to use the waste levy to fund non-waste services, that is, all funding generated from the Levy should be directed to waste initiatives.

I would like to learn more, through the committee, about the City of Joondalup's evidence in support of that proposition, because it makes sense to me. That is one of the main reasons I am opposing this bill, but obviously other members of the chamber need to be convinced. If the Standing Committee on Legislation were to provide a report that harnessed the wisdom of the local government authorities, it may be effective in persuading all members of the chamber to oppose the Waste Avoidance and Resource Recovery Amendment Bill 2009. Mr Pickard's letter continues —

The Minister for the Environment has also been given greater discretionary and statutory powers which could impact on the capacity of the Waste Authority to meet its obligations to the waste industry.

The Mayor of Joondalup, Mr Pickard, is consistently polite and respectable, but I think his letter touches on a very important point about who is making the decisions under this proposal and the importance of allowing local government authorities to continue their very good work. Putting evidence before the Standing Committee on Legislation would be a more effective way of bringing this wisdom forward in a way that even the Minister for Environment and her colleagues on the other side of the chamber could understand. The letter continues —

In conclusion, as previously stated, the City supports the continued hypothecation of the waste levy to address waste management issues throughout the State. It cannot be expected that Local Government will take complete financial responsibility for all waste management.

I believe local governments have in large part taken that responsibility; they have shown tremendous leadership. It would only be common courtesy for the Legislative Council to give local government authorities an opportunity to share with us, through the Standing Committee on Legislation, their wisdom derived from experience. In that way, we could give local government authorities—the ones doing all the work—an opportunity to keep the Legislative Council as fully informed as possible before it makes a final decision on this very disappointing bill.

HON JON FORD (Mining and Pastoral) [4.07 pm]: This bill should be referred for consideration by the Standing Committee on Legislation. From a regional perspective, many local governments would like to have the opportunity to push their case for a permanent allocation of levy funds to local governments, so that they can effect positive change in an area that has become a problem for many local government jurisdictions.

The minister's second reading speech was about a page and a half long. The opening statement is —

This government is committed to increasing rates of recycling in Western Australia and reducing waste to landfill.

Further along, it states —

Levies in Western Australia are well below those in other jurisdictions.

There follows a comparison of the levy cost per tonne of waste between Western Australia and New South Wales—\$8 per tonne versus \$58 per tonne. The government's justification for increasing the levy is that it will in some way assist to reduce the amount of landfill. Further along in the second reading speech it is revealed that at least 25 per cent of the forecast levy revenue for any financial year will be used to fund waste recovery initiatives. Many people are unconvinced. The government claims to have the support of local governments, but if the government would like to test the views of local governments, a committee is the way to do it. It has also been said by others in local government that they are the champions in this state and, it could be argued, across Australia, in recycling and dealing with waste in an innovative way. They should have the opportunity to have a direct input into the way in which this bill is structured.

The minister's second reading speech also states —

The balance of the levy moneys not credited to the WARR account may be applied by the Chief Executive Officer of the Department of Environment and Conservation for broader environment and conservation purposes of the department.

Members on this side of the house would certainly like the opportunity, through the committee, to talk to representatives from the Department of Environment and Conservation to see what the department's views are on the way this levy will be divided. We would also like to talk to representatives from a number of authorities about the way it is proposed in this bill to divvy up the levy.

I am sure a number of companies—the example I used was Sims Metal—would like to put forward their case on why there should be incentivisation in how exemptions to the levy will be applied. I know a number of companies that would be interested in that. In fact, a number of companies in this state are worried that, because

of the additional costs that will be imposed on them by this bill, their business may be forced to close down if they are not granted an exemption. I do not know whether that is true, but we had that debate at the second reading stage, and, if this motion is lost, there will be more debate on that when the bill goes into committee. That is one of the reasons that this bill should be referred to the legislation committee.

There has been enough argument by both sides of the house to indicate that this bill is complex. We know it is complex because members can continuously argue different aspects of it. Although there is general agreement to the legislation by members on both sides of the house, everybody is coming at it from a different angle. Therefore, this bill is sufficiently complex that it is reasonable for it to be referred to the legislation committee for a brief time, as Hon Ken Travers said, to give the stakeholders the opportunity to put forward their views. I urge the house to support this motion for those reasons.

HON ROBIN CHAPPLE (Mining and Pastoral) [4.13 pm]: I rise to speak on the motion to refer the Waste Avoidance and Resource Recovery Amendment Bill 2009 to the Standing Committee on Legislation for consideration and report not later than 15 December 2009. I will make my comments brief and to the issue of the referral.

It is interesting to note that although the referral of this bill to the Standing Committee on Legislation is of great validity, it has not been referred to the Standing Committee on Environment and Public Affairs, given that that committee has previously looked at municipal waste management in Western Australia. Although the membership of that committee might be different now from what it was when that issue was considered, the staff of that committee still have a considerable amount of expertise in dealing with waste issues. They probably could assist quite dramatically in bringing an inquiry into this bill to a resolution more quickly. However, in the interests of the time of this place, the Greens (WA) will not be moving a subsidiary motion that this bill be referred to the environment and public affairs committee. Quite clearly, an inquiry into the matters that are before this place, and that will be before the committee should this motion be successful, might alleviate the problems being experienced by local government—the third tier of government—which has considerable concerns about the direction this bill is taking. Although the WA Municipal Waste Advisory Council does not support this levy, it has indicated that it has concerns that need to be clarified. A committee could inquire into that, as well as inquire into whether the impact of this legislation will be extended to non-metropolitan regions, because that seems to be unclear. It is clear from representations by local government to that council, and also the government's representation to that council, that issues like that might need to be clarified.

It is also important to note that the Forum of Regional Councils, which comprises all the metropolitan councils, including the councils that currently handle waste for recycling, has indicated that it is prepared to have a negotiated outcome. Those sorts of outcomes and those tests could be arrived at quite amicably within a committee situation, and an outcome from that committee back to this chamber might provide a better outcome for local government. I refer to the briefing paper given to me by the forum, in which it indicates support for a change to the WARR amendment bill 2009 to provide that 50 per cent of all landfill moneys collected will go to local government waste management programs and the increased diversion of that waste from landfill. Although we are all extremely concerned that funding from this levy will not be hypothecated back to the Waste Authority at all—which is the fundamental thrust of local government, the third tier of government in this state—it is also important to note that local government was prepared to look at options. I would have thought a committee could have looked at some of those options and maybe reach a compromise. However, what we will be faced with here is a Committee of the Whole in order to deal with the amendments standing in my name. If the progress to date has been an indication of the way government wishes to deal with the amendments, we will argue the point ferociously, but we will go down in a screaming heap. That is why I think that referring the bill to a committee would provide some value to the determination of those amendments, because they could be dealt with before that committee, and any government amendments that could be forthcoming that might ameliorate the impact on local government could also be addressed through that committee.

HON JOCK FERGUSON (East Metropolitan) [4.18 pm]: I support the motion that the matter be referred to the appropriate committee. My reasons are similar to those that the previous speakers have outlined.

Hon Norman Moore: Surprise! Surprise!

Hon JOCK FERGUSON: I am not surprised it does not surprise the Leader of the House.

Hon Norman Moore: I just draw your attention to standing order 100.

Hon JOCK FERGUSON: What is that?

Hon Norman Moore: It says that you can't keep repeating yourself ad nauseam.

Hon JOCK FERGUSON: I am not repeating myself ad nauseam. I just said that I agree with the previous speakers, and maybe along the same lines.

Hon Norman Moore: I suspect it will be, and I could regurgitate the speeches of somebody else, to help you.

The DEPUTY PRESIDENT (Hon Matt Benson-Lidholm): Order, members! I think the honourable member is going to get a move on with his speech.

Hon JOCK FERGUSON: I will if I can get the opportunity without interjections, Mr Deputy President.

I base my opinion around this issue of consultation. I do not think that anyone should underestimate how angry local governments are that they were never given an opportunity to voice an opinion in relation to this legislation. A consultation process certainly did not take place. In my view, effective consultation is a key factor in good decision making, good policy and good legislation. The bill should be referred to the Standing Committee on Legislation so that local government, industry and environmental groups, which are the major stakeholders in this issue—apart from the community at large—can put their points of view in a consultative process, and put their views to the committee, and the committee should take them into consideration. An examination should occur to show that this proposal is in the public interest. There should be systematic scrutiny given to this legislation to allow Parliament to consider whether this legislation is justified. We have heard a number of speakers outline why it is not justified. Local governments certainly would not have a problem if this tax—it is a tax—was applied in the appropriate way, but obviously it is not the case.

Local government has been very vocal in the East Metropolitan Region that I represent. As I said during the second reading debate, not one local government that I spoke to supported the legislation. The government should take a leaf out of the trade union movement's book. I see a few smiles on the other side! Within the trade union movement, no policies are made and nothing is done without full and frank consultation with the membership and with delegates. That is why the trade union movement is one of the pillars of democracy in our society—unlike this government. This measure is just a case of, "We're going to tax you. Just suck it up. Take it or leave it. That's the end of it!" It is an absolute disgrace that this government will not consult local government and will not consult the various stakeholders. I think at the end of the day, it will come back and bite it because if it continues in this vain, it will cause a real problem for this government. I think it is already starting to cause a problem for this government.

There are a couple of members here who also represent the East Metropolitan Region. I do not know whether they have spoken to local governments within the East Metropolitan Region, but I can tell members they are very angry that this tax is being applied at a time when they face various other charges. I note with interest that it was reported again in the media today that Western Australia is more expensive than anywhere else in the commonwealth to buy a basket of groceries. That is also an indication that some people within this community are doing it pretty tough and struggling. This measure will impact on them because, obviously, rates will increase. Some rates have already increased. People out there are struggling and doing it tough. This government should do something to alleviate that issue and not impose extra charges and taxes on them by way of this disgraceful tax.

I urge the government to think again about referring this legislation to a committee so that the major stakeholders in this issue can put their positions. It seems to me that it does not matter what we on this side say, it does not matter how much of a logical argument we put up, everything is being completely ignored. The government has adopted this absolutely myopic position: "We're going to tax them. That's the end of it." It does not matter what we say, but at least let the major stakeholders on whom it impacts have a say. Let it go to committee and then review the decision and make a decision appropriate to the issue.

Question put and a division held, the Deputy President (Hon Matt Benson-Lidholm) casting his vote with the ayes, with the following result —

Ayes (12)

Hon Matt Benson-Lidholm
Hon Robin Chapple
Hon Sue Ellery

Hon Jock Ferguson
Hon Jon Ford
Hon Lynn MacLaren

Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers

Hon Giz Watson
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

Noes (17)

Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Phil Edman
Hon Brian Ellis

Hon Donna Faragher
Hon Philip Gardiner
Hon Nick Goiran
Hon Nigel Hallett
Hon Alyssa Hayden

Hon Col Holt
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien

Hon Max Trenorden
Hon Ken Baston (*Teller*)

Pairs

Hon Adele Farina
Hon Kate Doust
Hon Helen Bullock

Hon Robyn McSweeney
Hon Wendy Duncan
Hon Liz Behjat

Question thus negatived.

Second Reading Resumed

HON DONNA FARAGHER (East Metropolitan — Minister for Environment) [4.30 pm] — in reply: I thank members for their contributions to this debate. I do not intend to speak at length in my summing up.

Hon Max Trenorden: The process of getting here has been very long.

Hon Ken Travers interjected.

Hon DONNA FARAGHER: I say to Hon Ken Travers that I am not someone who filibusters. I know there are a few members on his side of the chamber who like to very much. Eight hours is probably a pretty good record so far.

A few issues were raised during the second reading debate that I want to pick up on in my summing up. It is fair to say that pretty much all the opposition speakers spoke on very similar matters, so I will speak in general terms on some of those issues. A couple of specific questions were asked, and I am happy to provide some information to the house in response.

The government's decision, as reflected in this bill, to enable at least 25 per cent of the landfill levy to be provided for waste-related purposes, with the remainder to be utilised for broader environmental and conservation purposes within the Department of Environment and Conservation, is not novel. The approach is not dissimilar to the practices in New South Wales, South Australia and Victoria, which apply levy revenue to a broader range of purposes than waste alone. I appreciate that the Western Australian Local Government Association would like to see all the levy funds used for waste-related purposes. I accept and acknowledge that. However, the government has made a decision. That decision is now reflected in this bill. It was also reflected in the budget papers.

Despite the claims that have consistently been made by the opposition, I have clearly said that funding will still go towards waste management. The opposition has consistently tried to suggest that nothing will go to waste management. The fact is that there is a specific requirement under clause 7 of the bill that not less—I repeat, not less—than 25 per cent of the forecast levy be credited to the waste avoidance and resource recovery account. This year that will be around \$13 million.

The opposition, in particular its lead speaker, Hon Sally Talbot, has made some wild claims, if I can put it as mildly as that, that the world is going to end. After what we have heard today, I do not know whether we will be allowed to have Christmas. We are getting close to Christmas and I would like to think that members had some Christmas spirit. The way Hon Sally Talbot has been acting over the past few days, we have not quite got there. At some point the member even suggested that the proposed new glass recycling plant was already in trouble. That is just ridiculous. I say to Hon Sally Talbot that it does not do her cause any justice when she makes remarks that are quite simply wrong. Hon Sally Talbot thinks that she can say things in this place and hope that they will stick. That is wrong.

Hon Ken Travers: Let's not make it personal.

Hon DONNA FARAGHER: I am not making it personal. I had to listen to eight hours of personal attacks from Hon Sally Talbot. I am quite happy for Hon Sally Talbot to say whatever she likes but I am saying that she is wrong, just like she was wrong in the press statement she put out yesterday, I think, suggesting that I had misled the Parliament.

Hon Sally Talbot: Sorry, it was Hon Simon O'Brien. He came in here and apologised.

Hon DONNA FARAGHER: Hon Sally Talbot should not get too cute. She said in a press release that I had misled Parliament and the Western Australian community, which are very serious allegations, particularly when made outside parliamentary privilege. Hon Sally Talbot should withdraw that statement. I am sure she will not because she has no integrity.

Several members interjected.

The DEPUTY PRESIDENT (Hon Matt Benson-Lidholm): Order! Minister, if your remarks were made through the Chair, maybe you would find there may well be fewer interjections.

Hon DONNA FARAGHER: Thank you, Mr Deputy President; I will continue.

Hon Ken Travers: And focus on the Waste Avoidance and Resource Recovery Amendment Bill 2009.

Hon DONNA FARAGHER: I am very focused on the bill, Hon Ken Travers. Most of the opposition speeches were not actually, necessarily, focused on the bill, but anyway.

The truth is that Hon Sally Talbot just hates the fact that the Liberal-National government has actually done a number of very positive things for the environment—she actually hates that. She hates the fact that we have

made very good decisions such as an independent Environmental Protection Authority; Camden Sound; glass recycling plant; community grants—I could go on and on. Many things still need to be done, but I know that she hates that we have already done those things, but that is something for her to deal with, not me. I can go home knowing we have done those things, and she is the one who has a problem, not me.

Hon Sally Talbot: Now back to the bill!

Hon Ljiljanna Ravlich: Why don't you get it all off your liver; it is Christmas!

Hon DONNA FARAGHER: I actually do not have a problem; I can actually go home, Hon Ljiljanna Ravlich, and know that —

Hon Ken Travers: Before the bill's finished?

THE DEPUTY PRESIDENT (Hon Matt Benson-Lidholm): Order, members!

Hon Ljiljanna Ravlich: That's a good idea!

The DEPUTY PRESIDENT: Order, members! The way the comments are going, it will be Christmas fairly soon, so I would continue to suggest that the minister simply make her remarks through the Chair, and avoid the necessity for excessive interjection.

Hon DONNA FARAGHER: Yes, I will, Mr Deputy President.

Hon Ken Travers: She's smiling; that's the important thing!

Hon DONNA FARAGHER: I am always smiling.

Hon Sally Talbot does not know how to smile, but that is not my problem! With respect to the staffing issues, particularly those related to clause 4, Hon Sally Talbot has indicated that staffing should not be paid for out of levy funds. I can advise the house that currently the Waste Authority includes the costs of all services provided by the department, including staff from the waste management branch, in its annual work plan. This amendment will legislate for this practice. It has been suggested that this is new; it is not. In fact, the previous Minister for the Environment, Hon David Templeman, signed off on the same arrangement, and I understand it is the same arrangement that was undertaken previously when it was the Waste Management Board. I have not veered from the arrangement set up by the previous government and others, and the amendment within this bill just verifies the procedure that already occurs.

Hon Kate Doust, who is out of the chamber on urgent parliamentary business, indicated in her contribution that none of the staff of the waste management branch assists the Waste Authority; that is simply incorrect. The fact is that the branch is dedicated to supporting the authority; in fact, the department advised the Standing Committee on Environment and Public Affairs of that during its hearings, and it was referred to in the committee's report. To say that it does not is wrong. It has consistently had access to professional staff within the department for the provision of administrative policy and program support. Having said that, I have worked to address the outstanding issue with respect to the office of the Waste Authority with both Mr Carbon and the director general of the department, and it has been agreed that the authority will have five additional staff as part of that office.

With regard to the levy being extended to rural councils, at no time since the budget announcement have I said that it would be extended. The opposition has peddled that story, and, if I can be blunt, some of the metropolitan councils have suggested to me that there be an extension of the levy to their rural counterparts. That is not something I have indicated. I am just not sure where that started from.

Hon Sally Talbot: If you will take an interjection, have you said that it won't be extended?

Hon DONNA FARAGHER: Hon Sally Talbot asked me a question in the Parliament, as she knows as well as I do, about whether or not it would be extended, and I said no and that I had not ever said that.

Hon Sally Talbot interjected.

Hon DONNA FARAGHER: I am the minister, and I have never said that it would be extended.

Hon Sally Talbot: But that is my point; why have you not said that?

Hon DONNA FARAGHER: Okay; I listened to the member for seven hours—seven hours!

Hon Sally Talbot: I'll speak to the hand!

Hon DONNA FARAGHER: Give me a couple of minutes! I can advise, as I have previously done in this house many times, that the advice that I have is that the legislation is valid. The opposition has tried to suggest that the legislation is not valid; the clear advice to me is that it is.

Hon Sally Talbot made a number of interesting claims, if I can be so bold as to say, that we had delayed the increase in the levy because we did not want it to go into the waste avoidance and resource recovery account. However, she continues to change her mind in relation to this because I can recall a speech Hon Sally Talbot gave a little while ago in which she said that the government did not want to increase the levy because we were not supportive of recycling, I think, and that we were never really intending to increase it by 300 per cent, which, either way, is wrong.

Hon Sally Talbot: You must have misunderstood.

Hon DONNA FARAGHER: I am sure it was, Hon Sally Talbot. We will find it in *Hansard*, just as the member reckons she can find what I said. Either way, the member is wrong. The simple fact, which I reiterate, is that having received legal advice, the government decided it was appropriate that prior to the 300 per cent increase identified in the budget taking effect, this bill should be passed first. I did not dream up that advice; it was advice that was provided through the State Solicitor's Office. I have responded to that point on a number of occasions in this place.

Hon Ken Travers: Is the minister able to table a precis of it?

Hon DONNA FARAGHER: No, I am not. Governments as a general rule do not provide legal advice that has been provided to them, as the member would know.

Hon Ken Travers interjected.

The DEPUTY PRESIDENT (Hon Matt Benson-Lidholm): Order, members!

Hon DONNA FARAGHER: Some members have raised issues about illegal dumping and as they noted, this is not an aspect that is part of this bill. Notwithstanding that, I want to reiterate that legislation is currently being drafted to significantly increase the penalties for illegal dumping. Currently, if a case for pollution cannot be made, the penalties are only up to \$1 000. We intend to increase those penalties quite significantly to \$62 500 for individuals and \$125 000 for bodies corporate. When I spoke to the department and asked what the penalties were for illegal dumping and it told me only up to \$1 000 under the Litter Act, my view was that that was a clearly inappropriate penalty. Whether or not we have an increase in the levy, that penalty is clearly inappropriate, which is why the government is taking action to increase the penalties. That legislation will be introduced on our return to this place. Also in relation to illegal dumping, I advise the house that there are now no unmanned landfills operating on the fringe of the metropolitan area—I think that was a question asked by a member. I am advised that all the nearest rural landfills are also manned. Furthermore, as part of the monitoring program, the department employs a landfill levy inspector to monitor compliance with the levy regulations. The department also has about 200 trained inspectors who are authorised to investigate and enforce offences under the Environmental Protection Act.

Hon Sue Ellery mentioned pensioner rebates. I am advised that if waste management charges are not included in the general council rates, a rebate on that portion cannot be accessed by pensioners or those who would otherwise be eligible. However, I am advised that many councils, probably for this very reason, choose to keep their waste charges within the general rates for this very purpose—that is, so that the rebate can be given. I suppose my response to that is that the councils are in fact in charge here. They are the ones who can change the situation by changing their own rate charging practices. That is the advice I have through the department. With regard to the matters surrounding a potential conflict of interest, I noted the comments by Hon Robin Chapple who suggested that, as a result of this bill, the department will now not regulate landfills—I am paraphrasing his words—because of a conflict of interest.

Hon Robin Chapple interjected.

Hon DONNA FARAGHER: Yes. That is just wrong. The fact is that the department and its officers have clear obligations under the act and they will enforce those provisions. The suggestion that the department and the officers would not undertake those duties is just wrong.

With respect to the comments made by Hon Wendy Duncan, who is away on urgent parliamentary business, I noted her comments about local governments and access to funding. The member was correct in saying that local governments have a number of opportunities to apply for funds. There is the strategic waste initiative scheme and the household hazardous waste and used oil management program. These are some of a number of examples of either funds that can be applied for or partnerships that are in place.

Hon Robin Chapple interjected.

Hon DONNA FARAGHER: As I said at the beginning of my summing up, the reality is that at least 25 per cent of levy revenue will be going, deliberately and correctly, into the WARR account. It will be used solely for waste-related purposes. These programs will continue. We have supported measures such as improved battery recycling and mattress recycling. Of course, the glass recycling facility is the most recent example. It is a very

good example of where a great deal of work has been undertaken to ensure the establishment of what will be a \$5.4 million facility in Western Australia. I anticipate it will be operational by the first half of next year. In the first year, up to 20 000 tonnes of glass will be recycled, increasing to 40 000 as demand increases. That is a far better situation than we have now, whereby only around 15 000 tonnes are recycled and sent to South Australia at quite an extreme cost to local government and others. When it gets there, if it is deemed to be not clean glass, it must be either sent back or, I understand, put into South Australian landfill at quite significant cost. The development of this new facility will be a very good thing for Western Australia.

Hon Sally Talbot, in mentioning the ministerial council, made quite a few comments in support of her commonwealth counterpart. As a state, we recently endorsed the new product stewardship scheme relating to TVs and computers. Given that there will be a lead-in time for that scheme, the state is in discussions with industry to see whether there are opportunities for the establishment of a voluntary scheme before that national scheme comes into place. We think there is an opportunity here for that to happen, knowing the national scheme will come into effect shortly. If we can do something positive in that area in the intervening period, we will do that.

A number of other issues were raised during the second reading debate that do not pertain directly to the bill. Given that none of us wants to be here until Christmas, I might have those arguments in this house on another day.

Finally, I will not have another opportunity throughout the debate to record my thanks to some very good officers in my department. Therefore, in closing, I thank in particular Mr Robert Atkins and Mr Bernard Ryan; and Ms Cara Babb from my office. I also particularly want to acknowledge Mr Stuart Cowie, who could not be here today but who has sat diligently through many, many hours of debate in both the other place and this place. I thank those officers and others within the department for their work on this bill and many other important waste-related matters. On that note, I commend the bill to the house.

Question put and a division taken with the following result —

Ayes (17)

Hon Liz Behjat	Hon Brian Ellis	Hon Alyssa Hayden	Hon Max Trenorden
Hon Jim Chown	Hon Donna Faragher	Hon Col Holt	Hon Ken Baston (<i>Teller</i>)
Hon Peter Collier	Hon Philip Gardiner	Hon Norman Moore	
Hon Mia Davies	Hon Nick Goiran	Hon Helen Morton	
Hon Phil Edman	Hon Nigel Hallett	Hon Simon O'Brien	

Noes (12)

Hon Matt Benson-Lidholm	Hon Jock Ferguson	Hon Ljiljana Ravlich	Hon Giz Watson
Hon Robin Chapple	Hon Jon Ford	Hon Sally Talbot	Hon Alison Xamon
Hon Sue Ellery	Hon Lynn MacLaren	Hon Ken Travers	Hon Ed Dermer (<i>Teller</i>)

Pairs

Hon Robyn McSweeney	Hon Adele Farina
Hon Wendy Duncan	Hon Kate Doust
Hon Michael Mischin	Hon Helen Bullock

Question thus passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Matt Benson-Lidholm) in the chair; Hon Donna Faragher (Minister for Environment) in charge of the bill.

The CHAIRMAN: Order, members! We are dealing with the Waste Avoidance and Resource Recovery Amendment Bill. Before we get to clause 1, I just remind members that we do have another amendment at clause 3, so a new supplementary notice paper will be distributed shortly. However, in the meantime we will move to clause 1. Given the nature of the debate we are having, I just remind members of the specific nature of the short title debate. It does no more than give members an opportunity to range over the clauses of the bill, foreshadow amendments and indicate, consistent with the policy of the bill, how its form or content might be improved. I would go so far as to say that it is also not a vehicle for continuing debate on policy.

Clause 1: Short title —

Hon KEN TRAVERS: This is an interesting bill and I find it a little fascinating. I do want to range across some general issues in respect of the way in which the different clauses in the bill operate, to get a sense of how the government foresees the different clauses coming together and operating. Has the government taken any advice

on whether, in the way this tax is structured, it will actually become an excise, in that it will be a tax on a chain of production? Is that something the government has considered?

Hon DONNA FARAGHER: I think that Hon Ken Travers would be referring to section 64 of the act in respect of excise. The advice I have is that it does not apply because the bill specifies where the funds will go.

Hon KEN TRAVERS: Perhaps the minister misunderstood me; if she does not have the correct advice, perhaps she might like the Chairman to leave the chair until the ringing of the bells to seek the correct advice. I am not referring to clauses within the bill; I am talking about the way in which this legislation will operate. As all members know, states are not able to levy excises. We are all familiar with cases in which excises have been charged on petrol and alcohol consumption. An excise is a tax on production. This situation is quite interesting, because this is a levy on the production of waste. It is based on the volume of waste produced; therefore, it could be described as an excise. If it is an excise, it is contrary to the Constitution for the state government to impose it. I am not referring to a specific clause in the bill; I am talking about the way in which the bill is structured, the various clauses, and whether this legislation will impose a tax on the production of waste. If it does, the question is whether this Parliament is able to pass legislation of this nature.

Hon DONNA FARAGHER: I understand that the department has received legal advice on this matter and, as I have said, that advice is that it does not apply.

Hon KEN TRAVERS: I would like more of an explanation from the minister about why it does not apply. When I read the clauses in this legislation, it strikes me that it very much imposes a tax on the production of something. In this case, waste is being produced, and this legislation places a tax on it. It is a tax on the production of waste. That is, *prima facie*, an excise, but if the department has received more detailed legal advice, I would like an explanation from the minister about why it is not an excise.

Hon DONNA FARAGHER: As I understand it, it does not apply because the legislation specifies where the funds will go—that is, into the Department of Environment and Conservation account rather than into general revenue.

Hon KEN TRAVERS: Mr Deputy President —

Several members interjected.

Hon KEN TRAVERS: I cannot quite recall whether you have identified the term by which you wish to be known.

The CHAIRMAN: I have always been one for appropriateness. While I am sitting here, I am the Chairman.

Hon KEN TRAVERS: My apologies to you, Mr Chairman, and to the chamber.

The CHAIRMAN: Quite all right.

Hon KEN TRAVERS: The main issue with an excise is not where the money is applied; it is how the money is raised. In this case, the money is being raised on the production of waste. It concerns me that the minister keeps referring back to section 64, which is about how the money is spent. I suspect that the minister's advice relates to some other legal matter on which she has sought advice, not excises. I again ask the minister whether she can explain to the house why this is not an excise. The issue with an excise is how the money is raised, not how it is spent. To refer to section 64 is to refer to a matter that I am not asking the minister about.

Hon DONNA FARAGHER: The funds have been raised in the same way as they were under the previous act and the current act. This bill does not change the way in which the funds are collected.

Hon KEN TRAVERS: Mr Deputy President—sorry, Mr Chairman —

The CHAIRMAN: It will be Christmas soon.

Hon KEN TRAVERS: It will be. All of us may have celebrated a birthday before we finish considering this bill.

The CHAIRMAN: Certainly not a sixtieth.

Hon KEN TRAVERS: I certainly hope it is not my sixtieth!

It may be that the levy is being collected in the same way as it has always been collected. However, often people do not consider matters when money is going to a cause that they believe is noble. In other words, these questions may not have arisen in the past. A number of clauses in this bill deal with how money will be distributed. Therefore, I suspect there will be a greater focus on whether this levy is an excise. Until now, people might have said that they would not ask the question because they believe it is a good tax, but technically it is illegal. I think that is what happened with the fuel levy. Nobody really asked whether it was an excise when it was introduced.

Now that we are considering this bill and dealing with clauses that provide for the purposes for which the levy will be raised, some people might feel that the purposes are not as valid as they previously once were. The issue of whether this levy is an excise will become far more crucial to these people.

Before we delve further into this bill and spend time going through, in detail, each of these clauses, it is important that we understand what this levy is. The minister should explain to the committee that this bill is not seeking to impose an excise. People would then be confident. If that does not happen, and if the bill and the fundamental way of raising the money is invalid, going through each clause in detail will be a waste of time.

Hon Norman Moore: What has changed to make it different?

Hon KEN TRAVERS: This is what happens when the Leader of the House walks into the chamber halfway through a debate.

Hon Norman Moore: I know what you are saying, but you tell me what is different.

Hon KEN TRAVERS: I just went through it. I will not waste the time of this chamber by repeating my statements. The Leader of the House might want the time of this chamber wasted, but I do not. I have made my comments. This minister is a capable minister and is quite competent on her own, without the Leader of the House's interference, to answer my questions. I ask her to answer my question. I am sure she heard it. If she did not hear it and wants me to repeat it, I will.

Hon DONNA FARAGHER: I will repeat what I said previously. The funds will be raised in the same way as they have been raised previously, under both the current act and the previous act. It is raised in the same manner in which the levies are raised in other states.

Hon KEN TRAVERS: Mr Chairman —

Hon Norman Moore: You just will not accept the answer, that's your problem.

Hon KEN TRAVERS: I have not had an answer. I have had what we have become used to from this government. I accept that in question time that is the government's right. We can ask questions and government ministers can give an answer about something that we did not ask about. We are left with that, and we proceed. One of the advantages of the committee stage when we consider a bill in detail is that we can ask a question, and if we do not get an answer, we can ask it again to ensure that the minister understands it. If the minister does not want to answer the fundamental question I am asking, that is absolutely her right. It would be, I think, of grave concern to this chamber if a fundamental question about whether the bill that we are dealing with is valid and whether the levy is an excise is not answered. I think it is a fundamental question and the minister should be able to say that she has advice that it is not and then give the reasons. If she does not have that advice, because of the lateness of the hour, I suggest that she ask you, Mr Chairman, to leave the chair so that she can get that advice before it gets too late into the evening and that advice may not be available. The answers we have had to date have included comments such as, "Oh, look every other state does it." Every other state may do it. Every other state raised petrol taxes and alcohol taxes that were deemed to be an excise and had to be returned! It is not unreasonable for members in this place to get a clear explanation from the minister on whether or not this bill creates an excise. I would like an explanation about that point: is it an excise—not that it has always been done that way!

Hon Simon O'Brien: Where is the provision that creates an excise? Is it in the 2007 act or in the bill before us?

Hon KEN TRAVERS: That is the interesting question. The point I made earlier in debate is that a fundamental issue is the raising of the levy. I know that this bill will amend the Waste Avoidance and Resource Recovery Levy Act 2007, which is the taxation vehicle. That is why I am raising this point at this time, because I do not want to waste a whole lot of time as we go through the debate dealing with these matters and finding out later that it is an excise.

Hon Simon O'Brien: Where is the thing that you're suggesting is an excise? Is it in the current legislation or the bill before the house? That is so I can follow the argument that you're proposing.

Hon KEN TRAVERS: I accept that it is in the existing act.

Hon Simon O'Brien: Where?

Hon Norman Moore: Are you saying that the current act is unconstitutional?

Hon KEN TRAVERS: I am asking whether a vehicle by which money is raised is an excise. That is what I am asking!

Hon Norman Moore: You're saying it is in the act; the current act provides for it, so are you saying that the current act is invalid?

Hon KEN TRAVERS: It very much could be.

Hon Norman Moore: Is that what you are saying? You are saying that, are you? So your government operated under an unconstitutional act for eight years?

Hon Ken Travers: I am asking the question. The point I am making and the point I made earlier is that this bill is seeking to change the way in which money is spent. I accept that. But when the government changes the way in which money is spent that may make people think again. I will have to go back over my earlier comments, and I apologise to members for doing that, especially for those who were listening earlier and understood. The point I made earlier is that when we have a taxation regime that people believe is going to a noble cause, they may not seek to ask the question of whether it is a legal tax. Members may think, "Well, I will not get into a fancy argument about this because I actually agree with the bill." The reality is that we all did that.

It may have been that when the former government made the decision to set up the original act that it was wrong to have done it in that way, because it was a tax on production, which would make it an excise and therefore illegal. Because of the way in which we are dealing with this bill to change the way in which the money is being spent, I believe that people are starting to focus on this legislation to determine whether the fundamental basis of the substantive act is legal; and, therefore, my question is related to the amendments we will be making to the act. If we pass the amendments, then that may direct the focus onto the question of whether it is an excise. Therefore, before we spend an awful lot of time working our way through this legislation, clause by clause, we need to make sure that we have got in our heads the situation and we need to understand what is an excise and whether or not this legislation creates an excise. That is why I am asking the minister the question at this point. That is not an unreasonable proposition to be putting to this place on the short title. That is why I want an explanation from the minister. Has she sought advice on whether this is an excise; and, if it is not an excise, can she explain in a little more detail why it is not an excise?

Hon Simon O'Brien: I have listened with great interest to what has been said, certainly in the context of the question that clause 1 be agreed to. Hon Ken Travers has raised a question of the constitutionality of the parent legislation. I would like to offer the following for the member's consideration. Firstly, I believe the creation of what is in the member's mind as a possible excise is contained in the Waste Avoidance and Resource Recovery Levy Act 2007. That provision is not of itself what we are considering now. In a moment I am going to ask members to consider the question of relevance. The point has been raised now, and I think we need to work it through. The Waste Avoidance and Resource Recovery Levy Act gives the head of power for a levy to be prescribed. The nature of the levy is an amount prescribed by regulation that is payable in respect of waste received at disposal premises. Correct me if I am wrong, but I think that is the head of power that Hon Ken Travers is questioning?

Hon Ken Travers: You make your comments, and I am happy to respond.

Hon Simon O'Brien: We need to know. If it is so clear, I thought he would be able to say whether I am on the right track. If I misunderstand what he saying, I need to be put right before I continue. I think that is the act that the member is referring to.

Hon Ken Travers: Yes.

Hon Simon O'Brien: Looking at that act, which is a very brief act with only six sections in it —

Hon Ken Travers: Because it is a taxation act. It can only deal with the matter of taxation.

Hon Simon O'Brien: Indeed it is. For immediate purposes, that is actually rather useful because it means we can take it all in at a glance. It is basically all on one page. This is the head of power that imposes a levy. Technically, I think it is the case that this is a tax. It is certainly not a fee or a charge, in lawful terms, because the amount is levied to raise money, not to fund a process of administration. The amount of money that will be raised clearly has nothing to do with the modest amounts that might be required in administering a system —

Hon Ken Travers: It is clearly a taxation. It might be called a levy but for the purposes of the Constitution Acts Amendment Act it is a tax.

Hon Simon O'Brien: Indeed. There are probably plenty of other examples where this happens. The Perth parking management levy is one that comes to mind.

Hon Ken Travers: It is interesting, though, that the Perth parking levy is not a tax on production.

Hon Simon O'Brien: That is a very good point. Now we are zeroing in on the key issue here: is this a tax on production? No, it is not. It is a tax on disposal. It is about how much material an entity is committing as waste at disposal premises. It is not a case of production at all.

Hon Ken Travers: If the minister understands some of the constitutional issues about what "production" means—I do not want to interrupt Simon O'Brien, QC, on this point!—this is why I was hoping the Minister for

Environment would be able to give us advice on it. The issue about what is production is the key question on which my question rests. That is why I am seeking to get advice from the minister.

Hon SIMON O'BRIEN: Clearly it is not.

Hon Ken Travers: I think you are wrong on that point.

Hon SIMON O'BRIEN: That is something the member will have to argue if he is to establish a point. I am not a Queen's Counsel, but, as a layman, I believe I have a reasonable understanding of what excise is all about. I do not believe that we are looking remotely at an excise on this occasion. It is not a tax on production; it is a tax on ultimate disposal. There is a very big difference, and it is an important difference. If the Waste Avoidance and Resource Recovery Levy Act 2007 imposed an excise, it would indeed be challengeable on constitutional grounds and could be struck down by a court of competent jurisdiction in response. That is a matter for another day. Even if it is, as Hon Ken Travers has suggested, an unconstitutional and therefore unlawful tax that is being raised, when the Labor government introduced it in 2007 it was somehow wink, wink, nudge, nudge, alright because everyone felt warm and fuzzy about it. Sorry, but that does not cut it. It is either constitutional or it is not. The fact is that it is constitutional and it remains that way until it is challenged. Members cannot challenge it here. The time to challenge here was back in 2007, if members were of a mind to do so.

If I may conclude my remarks, I think that has been a helpful discourse and gets us beyond the yes it is, no it is not aspect. I am sure that the minister has had a chance to obtain even further advice and might be able to tell us whether I am right or wrong. In any case, the matter before the house is not the 2007 act in any way, shape or form. Before the house is the 2009 Waste Avoidance and Resource Recovery Amendment Bill. That is what we are considering. The question is whether clause 1 of the bill should be agreed to. Whether or not one of the parent acts that this bill proposes to amend has a constitutional cloud hanging over it is entirely irrelevant to our consideration in committee of clause 1. It might have been a very valid point to have raised during the many, many hours of debate on the second reading debate, but I am not aware that it was raised. Although it is an interesting point, I do not believe it is a genuine point and, in any case, it is irrelevant. I ask the Chairman to indicate whether we will consider this matter as part of clause 1. I respectfully submit that although the Chairman has exercised the prerogative of the Chair wisely by allowing a matter that has been raised to be considered, now that members have had a chance to consider it, we can clearly see that it is irrelevant and that it should not hold up the progress of the consideration of clause 1.

Hon SALLY TALBOT: I rise on the same point that was pursued by Hon Ken Travers, partly to have my say on this aspect of the problems that we face. Sometimes when people express things in a slightly different way, some of the clouds roll away and that might enable the minister and other frontbench members who are trying to assist her to get their head around our question. I will make four points, but firstly I note that Hon Norman Moore missed the crucial part of what Hon Ken Travers was saying.

Hon Norman Moore interjected.

Hon SALLY TALBOT: I will do my best. Hopefully we can work together on this. During the second reading debate, I canvassed the business about changing the concepts that are central to the management of waste and recycling. Hon Simon O'Brien said that this is not a matter of production but is about the disposal of waste. That is central to his point. During the second reading debate I used the concept of "completing the circle". That is not my concept. I am sure that the Minister for Environment is familiar with it because she talks to the same people whom I talk to. They talk to me about completing the circle so that waste is regarded as a resource. That is absolutely key to changing our concepts if we are to improve the way we do these things. In that regard, clearly there is a production issue going on. Clearly, we are looking at something that is regarded as a resource from the moment it is picked up in a kerbside collection or the moment it is put into a waste skip. Where does it go? It does not become rubbish at any particular point. We have spoken about the fact that a calorific value is inherent in much of this material that is currently going to what we have traditionally called waste. It is a matter of production. Waste is being produced. That is the first point that I wanted to make. I know that it involves maybe changing the conceptual framework that many of us were brought up with, but that is the reality of the nitty-gritty of this debate.

I turn to the second point. I know that the minister has said a couple of times that she has received legal advice on the specific point made by Hon Ken Travers and that it is not the practice "as a general rule" to provide that legal advice to the opposition. I accept that. However, it is standard practice to provide a precis of that legal advice. If the government has received legal advice on this matter, the minister should be able to clarify this by giving us a precis right here and now within the next couple of minutes so that we can move on. If the government keeps going on like this, it will wish it had agreed to refer the bill to a committee. If it had been referred to a committee, we would have been back here with an answer on 15 December. The way the government is going about this bill, we will still be debating clause 1 on 15 December. I ask the minister to please ask her advisers, her leader or whichever opinion she would take seriously whether we can get a precis of that legal advice in the next couple of minutes.

My third point is that the first group that raised this question about the legality of what the government is doing was not the opposition; it was the Western Australian Local Government Association. Within days of the budget being brought down, WALGA questioned the legality of it. At that stage the head of WALGA, the president, or whatever his title is —

Hon Ljiljanna Ravlich: Bill Mitchell.

Hon SALLY TALBOT: Councillor Mitchell was absolutely pilloried in the other place for having the temerity to suggest that this government could be doing something that was outside the law. The government then came back and said that it had had another look at it. It got the legal advice and then had to backflip on when the levy was changed. I will pursue this point in considerable detail. I seriously doubt that the minister has explained this to the satisfaction of her backbench, but it will not take it up to her. We will take it up to her. What is the connection between the 300 per cent increase in the landfill levy and this bill? The minister has clearly received some legal advice about the legality of increasing the landfill levy before this bill went through. I have asked what the connection is in this house, and during the briefing we had on the bill. The minister has never been able to explain that adequately. I am not saying that she has ignored me; she has not. She has repeated her advice and it was repeated in the other place. She stated —

Having received legal advice, the government decided it was appropriate that prior to the proposed increase in levy charges taking effect, the passage of the Waste Avoidance and Resource Recovery Amendment Bill 2009 should occur first.

That is not an explanation. Again, I ask the minister to provide us with a precis of that legal advice, if she will not share the legal advice with us, which may clarify the point that Hon Ken Travers has made about the excise.

I now turn to my last question on this point. In the minister's first couple of responses to Hon Ken Travers, she referred to having legal advice on the question about the excise. Is that the same legal advice that she referred to in connection with getting this bill through before the government tries to change the regulations to increase the levy? Is it the same legal advice or did the minister take legal advice on two things? I think that is absolutely germane to the point that Hon Ken Travers is raising.

Hon DONNA FARAGHER: I do come back to what I have said previously, and I do acknowledge the very sterling comments that were made by my colleague Hon Simon O'Brien.

The advice that I have, including that of parliamentary counsel, is that the levy is on the disposal of waste to landfill—that is, rubbish going into the ground. Hon Sally Talbot referred to the whole circle of waste, but we are actually talking about rubbish going into landfill; not rubbish going into a glass recycling plant or something such as that, where there is a continuation of the cycle. We are talking about rubbish going into the ground. The advice that I have, as I have said, is that the levy is on the disposal of waste to landfill; it is not a tax on the production of waste, and therefore it is not an excise.

Hon Norman Moore: Quite right; spot on.

Hon SALLY TALBOT: With respect, I asked four questions, but the minister has chosen only to talk about this notion of production. Let me take that one first: it will not be so just because the minister says so. The minister has to give us the arguments.

Hon Donna Faragher: That is the argument!

Hon SALLY TALBOT: That minister must be familiar with the concept of argument. The most common comment I wrote whilst marking undergraduate essays was, "Who says?" It is not good enough just to assert it.

Hon Donna Faragher: I'm not one of your students, surprisingly enough!

Hon SALLY TALBOT: I do not think the minister was, because I think I would have remembered her if she had been, but there have been an awful lot of them.

Hon Donna Faragher: I would have certainly remembered you!

Hon SALLY TALBOT: But I have a new job now, and that is the job I am trying to do, and I am perfectly happy to be doing it.

It is a standard point, Mr Chairman, that it will not be so just because the minister says it will. That might be her opinion, but if she is not able to substantiate that, then it counts for nothing. On the basis of what she just said, I have thought of another point I can make on this notion of production: if it is just rubbish going to landfill, and then in some way this cycle that I have talked about obviously, in her mind, closes at that point, how come landfill is being factored into the carbon pollution reduction scheme? I mean, it is not finished; it is still part of the cycle. In itself, it is a producer of carbon. The minister cannot just tell us that the circle closes there, and then sit down and expect us to move on.

Hon Simon O'Brien: But what's your point? What is your point?

Hon Ljiljana Ravlich: She's got to answer the questions.

Hon Norman Moore: She has answered the question.

Hon SALLY TALBOT: I think the minister knows what my point is. Does Hon Simon O'Brien need me to explain it to him?

Hon Simon O'Brien: Are you saying it's an excise, and therefore unconstitutional; is that what you're saying?

Hon SALLY TALBOT: Yes; I am asking exactly the same question —

Hon Simon O'Brien: It is not a tax on the production of waste. Even if you accept your cycle theory, the product you're talking about is not an excisable product; it is, in your terms, an input.

Hon SALLY TALBOT: That is what we are asking the government to demonstrate to us, but it has not done it yet.

Hon Simon O'Brien: You've been asserting it!

Hon SALLY TALBOT: Can I just remind the minister of my other three questions? I will take them backwards: firstly, in the minister's first couple of responses to Hon Ken Travers, she referred to having obtained legal advice about this specific question; is that the same legal advice that caused the minister to delay the introduction of the 300 per cent increase and the regulation change? Secondly, we know that there are challengeable aspects of what the government is trying to do—the ones that were raised by Western Australian Local Government Association—and was this one of them? Thirdly, if we cannot see the legal advice, why can we not see a precis of the legal advice?

Hon DONNA FARAGHER: We receive a variety of legal and parliamentary advice at different points in time. I will just reiterate what I said: the levy is on the disposal of waste to landfill—that is, rubbish going into the ground. It is not a tax on the production of waste, and therefore it is not an excise.

Hon KEN TRAVERS: This bill seeks to amend the substantive section in the taxing act—that is, the Waste Avoidance and Resource Recovery Levy Act 2007. I might in a minute go to the point about whether it is appropriate that we are seeking to change the way in which the levy is handled, which is arguably a new form of taxation. We can come to that point in a minute, but for now I want to stay on the point about taxation. The question that we face is understanding what an excise is. I understand that it is hard for us to comprehend waste as a product but it is a product and in terms of that —

Hon Michael Mischin: Why is waste a product?

Hon KEN TRAVERS: I am about to use the *Macquarie Pocket Dictionary* to tell members what “production” means. The dictionary states —

production ... the act of producing; creation; manufacture ... something that is produced;
products ... the creation of value; producing of articles able to be bought and sold.

Hon Michael Mischin: Rubbish!

Hon KEN TRAVERS: That is what we are talking about—absolutely!

The CHAIRMAN: Order, members! I interrupt the debate for a second to indicate to members that if they want to make a remark, for starters they should make it from their own place in the chamber.

Hon KEN TRAVERS: The dictionary definition continues —

4. the total amount produced ...

We would not normally think about a business manufacturing waste as a form of production, but that is what happens.

Importantly, later in the committee stage we will deal with Part 3 of the bill and clause 12, which seeks to amend section 4 of the Waste Avoidance and Resource Recovery Levy Act, which is the substantial section by which the levy is raised. The interesting thing about clause 12 is that it will change the act so that the minister, not the Waste Authority, will make recommendations to the Governor. That is a fundamental and significant change to section 4 of the levy act. The minister earlier made the comment that in this particular circumstance the levy is charged at the point of going to landfill, but section 4 states that the levy is “payable in respect of waste received at disposal premises”. “Disposal premises” may be landfill and that may be how it currently operates, but that is a far broader term and a far broader head of power than just “to landfill”. Therefore, once this legislation is passed, the government could make the levy payable at a different point. I do not think that there will be a question mark about whether we are producing the waste; there are more fundamental issues about whether this an excise. Those are the more complicated issues, which is why I ask whether this is something the government

has dealt with. If it is not, just say so and we will have to simply fly blind, unfortunately, through the rest of this process and potentially spend an awful lot of time on legislation that one day might be found to be invalid. If the government has dealt with it, the minister can give us that confidence and we can move on. However, I do not think that the key issue around production will be resolved because I think that is not the hard part. Clearly, this is a tax on the production of waste. It will be very much around the point at which the taxation and the levy is applied, but because we are changing that clause, that has relevance to this debate tonight. I would like to know whether the minister has had advice about whether it is an excise. If she has not she can tell us and I am more than happy to move on to my next point and we will know that we are flying blind on this matter. I am not sure that the minister has that advice. If she has, I want a better explanation. If not, she can tell us and we will move on to the next point.

Hon DONNA FARAGHER: I have already said that the department has received advice.

Hon Ken Travers: On the specific point of the excise?

Hon DONNA FARAGHER: Yes, with respect to the excise. As I have said, the bill does not introduce a new form of taxation. There is no change to the form of the levy and the way it is raised. Waste that is considered a resource for resource recovery and recycling; that is, produced for other things, is not subject to the levy.

Hon Ken Travers: At the moment.

Hon DONNA FARAGHER: I do not know what more I can add. The government has accepted the advice that it is not an excise.

Hon ROBIN CHAPPLE: On this very point, landfill quite often produces methane energy. It is common production these days and it is growing. In future, will we be able to identify that the waste that is going to landfill is producing or is a production and is indeed an energy source, and thereby would it not be caught under the terms Hon Ken Travers is alluding to?

Point of Order

Hon SIMON O'BRIEN: The whole question before the Chair seems to be about whether there is an excise involved here as a ground to make one of the parent acts, at least, invalid and, thereby, for some reason that invalidates the bill before us. Indeed, I respectfully submit that we must be getting awfully close to tedious repetition on that point. If those who are trying to frustrate the passage of the bill are relying on an ultra vires aspect, why are we considering the bill in the first place? Why was it allowed to proceed? Why has the Chair not said before now, "Well, hang on this bill is invalid?"

The CHAIRMAN: As an example of that, in clause 5, proposed subsection (4) is to be inserted after section 73(3) and to include the words "Any levy paid ...". I am using that as an example of Hon Ken Travers' capacity to range over clauses of the bill and discuss how its formal content might be improved by way of addressing that very point. If I am mistaken, I do not want to put words in Hon Ken Travers' mouth. That is my interpretation of where Hon Ken Travers may be coming from.

I also need to say that it is not the Chair's position to rule on legality or not of a bill; it is not my particular capacity.

Committee Resumed

Hon KEN TRAVERS: Yes. I think the Chair has the right to rule on whether the house has a competency to deal with whether a matter contravenes the Constitution Acts Amendment Act, but not the specifics.

You are absolutely right in your interpretation, Mr Chairman; that is why I am raising it at this early point. Understanding this issue will help inform us as we progress through the remainder of the bill of the way it operates. That is why it is important for us to get a good understanding of some of the more general issues about the clauses and the way they operate, so that we can consider whether we need to improve them by way of amendment over and above what exists here. I think there is a real need for us to understand it. It is clear that we are not going to get an answer from the government tonight; it will just keep pushing on. I am not completely satisfied about the legal advice. The minister may have got advice from parliamentary counsel and others that this legislation is legal. That is fine; I accept that. I am not absolutely convinced from the minister's words—she can give us more clarification if she wants to—that that legal advice went into the specifics of whether it is an excise. Often, it is not until these points are raised that people go back and look at them. When I first thought about this, my concept was that we are producing waste, so how can this be a tax on the means of production —

Hon Simon O'Brien: It's not about producing waste. Nothing in here is about producing waste.

Hon Helen Morton: It's about avoiding waste.

Hon KEN TRAVERS: It is not, and that is my next point. I thank Hon Helen Morton for raising the issue of whether this legislation is about avoiding waste or whether it will set up a regime that will encourage waste.

If the minister does not want to answer the question about whether the advice she got dealt specifically with the excise, it is clear that we are not going to resolve that matter tonight, which is unfortunate because we could have moved on. I am more than happy to leave that matter at this point and move on to the next set of questions I have on the short title.

Hon SALLY TALBOT: I also feel that we are probably going to have to move on, but I want to give the minister one last opportunity. I understood the minister, in answer to Hon Ken Travers' first question about legal advice, to say that she had specific legal advice relating to the excise. Can I first of all ask the minister to clarify that point?

Hon DONNA FARAGHER: As I have said, we have received advice and that advice has come at different points in time on different aspects of the bill.

Hon Ken Travers: But not specifically about excise.

Hon DONNA FARAGHER: I have just said that.

Hon Sally Talbot: Not specifically about excise.

Hon DONNA FARAGHER: We have received advice about section 64—that is, excise.

Hon Sally Talbot: So you have received advice about excise?

Hon DONNA FARAGHER: I do not know how much more I need to say.

Hon SALLY TALBOT: I will have one final go at this. Hon Simon O'Brien is obviously taking a close interest in this debate, but I just want to say something about the way he framed his comments. He asked why we did not raise the matter earlier if there was a problem or whether we were making comments about the 2007 act. Being a legislator in this chamber is not like getting married.

Point of Order

Hon MICHAEL MISCHIN: I understand that at the committee stage members are supposed to deal with the bill and question the minister, not have a debate across the chamber with the Minister for Transport.

The CHAIRMAN: I know what the member is saying. I am sure that Hon Sally Talbot is, in essence, talking through the Chair. It is the right of any member in the Committee of the Whole, not necessarily only the minister, to stand and respond.

Committee Resumed

Hon SALLY TALBOT: Thank you, Mr Chairman; I am indeed directing my comments through you. Indeed, I am encouraging the minister, through you, to listen to what Hon Simon O'Brien said and I am raising a question in her mind about it. I am suggesting that being a legislator in this chamber is not like getting married. When people get married —

Several members interjected.

Hon SALLY TALBOT: I am trying to make a point. If members let me get through it, I will sit down.

Several members interjected.

The CHAIRMAN: Order, members!

Hon SALLY TALBOT: There is a point in the marriage ceremony at which anyone who has an objection is invited to make that objection or "hold their peace", which I think is the expression. It does not apply to us here. The moment that any member of this chamber perceives that there might be a problem with a bill that is going through the chamber—however that problem has arisen—that member is absolutely obliged, because of the oath of affirmation that members take when they come into this place, to draw that to the attention of the chamber. If a mistake has been made, let us face up to it and consider what we can do about it. That is the spirit in which we should be proceeding.

Hon KEN TRAVERS: A very quick question to the minister: when the minister referred to section 64, section 64 of which act was the minister referring to? I am just a bit confused.

Hon DONNA FARAGHER: Apart from the patronising comments of Hon Sally Talbot and references to weddings and whatever else, I just say that we have received advice and we have accepted the advice. The member might think that we have a problem. We actually do not have the problem; the member is the one who seems to have the problem. I have been very clear about the advice we have received. We see that there is not an issue—that is, that it is not an excise. As I have said, the member might want to provide her gratuitous advice to me, as she does all the time, which is fine, but the advice I have is that it is not an excise. I just really do not know what more I can add. The member is saying that we have a problem. I am saying that we do not because that is the advice we have received. The member is the one who seems to have the problem; not I.

Hon KEN TRAVERS: Is the minister sure she is not referring to section 64 of the Constitution Acts Amendment Act, which is the section of the Constitution Acts Amendment Act that defines the powers of the two houses and differentiates their ability to deal with taxing bills and appropriation bills?

Hon Simon O'Brien: What we are on is clause 1 of this bill, and you know it.

Hon KEN TRAVERS: The minister made a comment. I am not trying to be —

Hon Simon O'Brien: I give you full marks for your attempts to spin this out as long as you can. Who cares? Get on with it.

Hon KEN TRAVERS: I am trying to get on with it. I made a point a minute ago, and I just want to clarify one simple point. The minister has been talking about section 64. I am just wondering whether she means section 46, which is the section I think we would be more likely to deal with, which is the competencies and the respective powers of the houses with regard to both taxation and appropriation. If that is the case, that is fine. Again I would say that the issue about excise is not in the Constitution Acts Amendment Act; it is actually in the Australian Constitution. Can we get that clarified? I want to move on, but I think it is reasonable to ask the minister to make sure that we are talking about the right section of the act.

Hon DONNA FARAGHER: It is section 64 of the Constitution Act 1889.

Hon ROBIN CHAPPLE: Before we move on from the short title, it would be pertinent for me to question the minister on a couple of matters rather than try to tease them out during consideration of the clauses. I return to the issue of policing and control. The minister indicated that there were five additional officers in the Department of Environment and Conservation who would deal with the issue, and that there were 200 trained inspectors who would be able to facilitate the monitoring of sites. I also return to a comment that was made by Hon Wendy Duncan in this place on Wednesday, 18 November 2009. The debate was about illegal dumping, and Hon Wendy Duncan stated —

This is a real concern and I have raised it with the minister; she assured me that she and her department are very aware of this and that they will be increasing the fines for the illegal dumping —

As we know, the levels of fines do not really make any difference to whether people dump waste —

and increasing resources to monitor and police illegal dumping.

We have seen nothing in the budget that deals with this. I would like to know where the funding is going to come from to increase the resources to monitor and police illegal dumping. Will it come out of the WARR account, or will it come out of the Department of Environment and Conservation account? How many extra officers will there be to deal with that, and where will the funding come from?

Hon DONNA FARAGHER: For clarification, the member may have mistakenly referred to five officers; I was referring to the new office of the Waste Authority.

There are around 200 inspectors—or, more appropriately, authorised officers—within the department who have the capacity to deal with matters surrounding illegal dumping. Local government officers can also be authorised in that regard. This legislation does not deal with funding, but this will form part of such officers' normal duties. If they were to see illegal dumping taking place, they would undertake the necessary actions. The penalties for illegal dumping are currently so low that they need to be increased. I would like to think that everyone in the chamber will support the increase in penalties. As I said, there are around 200 authorised officers who already have the capacity to deal with that.

Hon ROBIN CHAPPLE: Did the minister therefore advise Hon Wendy Duncan that she would be increasing resources to monitor and police illegal dumping? If so, what is the increase in resources, and where will it be funded from? I will reiterate my entire statement. On Wednesday, 18 November 2009, when Hon Wendy Duncan was speaking on this legislation, she said —

Another issue that was raised was the possibility of increased illegal dumping in forests or native bush, or even in unmanaged tips in regional areas close to the metropolitan area. This is a real concern and I have raised it with the minister; she assured me that she and her department are very aware of this and that they will be increasing the fines for the illegal dumping and increasing resources to monitor and police illegal dumping.

The minister has indicated that local government officers will be able to do this also. How will those local government officers be funded? Will the tab be picked up by local government?

Hon DONNA FARAGHER: Local government officers will have extra powers to look at illegal dumping issues. The Liberal Party made an election commitment to increase the number of compliance and monitoring officers; that obviously includes monitoring for illegal dumping. I think there are an additional eight officers. That is a specific additional aspect. There are around 200 authorised officers. The department also employs a

landfill levy inspector to monitor compliance with the levy regulations. One of the inspector's functions is to patrol major transport arteries out of the metropolitan area to prevent waste from being transported to rural landfills.

Committee interrupted.

[Continued below.]

BUSINESS OF THE HOUSE

Dinner Break — Motion

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [6.00 pm]: I move —

That the house resume at 7.00 pm.

HON SALLY TALBOT (South West) [6.00 pm]: In the absence of the Leader of the Opposition, I can indicate that we will be happy to do that.

HON ROBIN CHAPPLE (Mining and Pastoral) [6.00 pm]: I am also quite happy with that motion.

Question put and passed.

Sitting suspended from 6.00 to 7.00 pm

WASTE AVOIDANCE AND RESOURCE RECOVERY AMENDMENT BILL 2009

Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon Jon Ford) in the chair; Hon Donna Faragher (Minister for Environment) in charge of the bill.

Clause 1: Short title —

Committee was interrupted after the clause had been partly considered.

Hon ROBIN CHAPPLE: Just before the dinner break I was trying to seek from the minister clarification of Hon Wendy Duncan's statement that there would be increased resources to monitor and police illegal dumping. I was trying to find out whether there is a budget line item for that; and, if there is, where the increased policing will come from. The minister in response so far has indicated that a number of people are being trained for that. I am trying to find out whether the words of Hon Wendy Duncan, when referring to the minister's commitment, are correct.

Hon DONNA FARAGHER: I did respond to that before the dinner break.

Hon ROBIN CHAPPLE: I am sorry, I did not hear the response.

Hon DONNA FARAGHER: I will go through it again. Approximately 200 trained inspectors are authorised to investigate enforced offences under the Environmental Protection Act. A Liberal Party commitment was to increase the number of officers for monitoring and compliance, and their role would include investigating illegal dumping and any other matters in that regard. There will be an additional number of officers for those general monitoring and compliance duties, around 200 trained inspectors and a Department of Environment and Conservation landfill inspector as well.

Hon ROBIN CHAPPLE: We will have additional staff. Can the minister identify how many additional staff will be employed? Are those the staff that she referred to in her reported comments to Hon Wendy Duncan that there would be increased resources to monitor and police illegal dumping? Previously the minister indicated that local government officers would be taking on an increased role. How will that increased role be funded?

Hon DONNA FARAGHER: I have responded to Hon Robin Chapple's request. I advised him in terms of additional staff for monitoring and compliance. This does not relate to the bill currently before us.

Hon SALLY TALBOT: On this same subject of illegal dumping, minister, imagine a situation where the fines were much more. Imagine the fines were \$1 000 at the moment. Let's say we had 300-odd prosecutions a year for illegal dumping—about one a day—and those people were prosecuted. Imagine that the minister wanted to try to reduce that amount of illegal dumping. I think the minister might then look at increasing the penalties. The minister will be familiar with the "Freakonomics" argument in the book bearing the same name. The public reaction to taxes, charges and fines and that sort of thing is quite unpredictable and quite counterintuitive sometimes. The minister might look at that situation and think, "For \$1 000 maybe people have come to regard that as a fee for dumping illegally." The minister might think about significantly increasing the fines. In the case of Western Australia, in four years we have had two prosecutions. One of those was acquitted. In other words, we have had one prosecution in four years. What sort of model is the government working on that says we can reduce the amount of illegal dumping by changing the amount of the fines? I cannot see how the two things are connected.

Hon DONNA FARAGHER: Again, I am more than happy to discuss this matter at length when we actually have a bill before us to deal with illegal dumping. Having said that, there is currently no offence of illegal dumping. We are seeking to address that problem through the drafting of legislation to ensure that we have appropriate penalties, and much more severe penalties. The reality is at the moment if a case for pollution cannot be made, the maximum fine is up to \$1 000. That is under the Litter Act. The reality is there is currently no offence of illegal dumping. We are seeking to address that.

Hon SALLY TALBOT: I still cannot make the link to stopping people dumping illegally. One does not stop people dumping illegally by changing the name of what they are doing; or, if one does, can the minister show us the evidence that that is the case. Maybe I have not explained myself sufficiently. We have got an activity that is currently illegal. It is not that we are making it illegal—we are giving it a different name but it is the same activity we are talking about. The government's argument seems to be that we can stop people doing this by giving the offence a different name and ramping up the fines. Can the minister explain to the house how those two things are connected?

Hon DONNA FARAGHER: Again, I draw the member's attention to the fact that illegal dumping is not what we are discussing in this bill. I do not want to keep going on about this, but the reality is there is no offence of illegal dumping. I would like to think that the fact we are increasing penalties will increase the incentive for people to not dump illegally. I cannot—nor can Hon Sally Talbot or anyone else for that matter—stop someone from illegally dumping. I would like to think that no-one would illegally dump, but I cannot watch every single person to make sure that they do not do that. However, what we can do is make sure that we actually have appropriate penalties in place so that they might think twice about it. An increase in the penalty from \$1 000, at most, to \$62 500 might make people think about it more closely than they do now.

Hon SALLY TALBOT: Given that we have had only one prosecution in four years —

Hon Donna Faragher: That was under your government, not ours.

Hon SALLY TALBOT: That is a bit of a tired argument in this context.

Several members interjected.

The DEPUTY CHAIRMAN: Order! All members are tired, but everyone interjecting at once does not help Hansard or the debate.

Hon SALLY TALBOT: I will leave that and move on to something else.

Hon Ken Travers: I have some issues on that.

Hon SALLY TALBOT: It is on the same subject. The minister just said that we are not here to discuss illegal dumping. The government introduced this bill into the house and we stood up and said that there was a major problem with it. Surely the reasons that people dump illegally are that they cannot get to a landfill site or the landfill site is too expensive. The government wants to ratchet up the amount of levy to make it more expensive. We asked whether that would increase illegal dumping and the government said that we were right and that it would change the law. Now the minister is saying that the government will introduce a law but that is all she will tell us. Illegal dumping is still as much of a problem today as it was on the night of 14 May, which is when we raised it. All the minister has said is that she will change the name of the offence and ratchet up the fines. I will ask the minister this question one final time and if she cannot answer it this time, I will let it go. Where is the connection and the proof that changing the name of the offence and increasing the fines will make people change their minds about dumping illegally?

Hon DONNA FARAGHER: Forgive me, but I do not make decisions about increasing penalties following advice from Hon Sally Talbot. As I said in my summing-up, I asked the department what the current penalties are for illegal dumping and the department informed me that the penalty was up to \$1 000. Whether or not there is a 300 per cent increase is irrelevant. The fact is that a penalty of up to \$1 000 is clearly inadequate. Whether or not we were increasing the levy by 300 per cent is irrelevant. I would be seeking to increase the penalties anyway because, as I have said, I would like people to think twice about illegal dumping if they know that they could face a penalty of between \$62 500 and \$125 000. That is an awful lot more than \$1 000.

Hon SALLY TALBOT: The minister is now altering the story a little bit.

Hon Donna Faragher: You make your own story. I am telling you what I have said, consistently, but you don't like listening to me.

Hon SALLY TALBOT: If the minister keeps calm, we should be able to get through this.

Several members interjected.

The DEPUTY CHAIRMAN (Hon Jon Ford): Order, members! This is a debate on the short title of the bill. The purpose of the debate is about canvassing amendments that have been put on the notice paper and talking

about the clauses that members feel will not achieve the aims of the bill. Having said that, during my time as a member, the range of discussions on the short title has broadened. It would be very hard for me or for any other Chair to make a ruling to restrict that. I make that point in the interests of progressing the bill. With regard to interjections, I was starting to feel that some of the debate was becoming personal rather than objective. I remind members—I know it is late and it has been a long year—to restrict their comments to specific items in the bill.

Hon SALLY TALBOT: I want to be absolutely clear. Maybe I misunderstood the minister at the time. Is she now saying that the changes that she has foreshadowed to the Environmental Protection Act to create the offence of illegal dumping are entirely unconnected to this amendment bill?

Hon DONNA FARAGHER: I really do not know how many more times I have to say that a bill is being drafted that will seek to increase the penalties for illegal dumping. Illegal dumping is currently not an offence. The matters surrounding illegal dumping will be the subject of a bill that I would like to think will be debated when we come back next year. This issue does not relate to the bill that is currently before us.

Hon ROBIN CHAPPLE: I would like to ask the minister two questions relating to matters that have been discussed about bringing this bill forward and matters that will be dependent on the bill. My first question relates to the policing of illegal dumping. Does illegal dumping cause environmental harm? If so, is it caught by the new regulations, which carry fines of \$1 million for a corporation or \$500 000 for an individual?

Hon Norman Moore: Where's that in the bill?

Hon Donna Faragher: It's not in the bill.

Hon ROBIN CHAPPLE: It is not in this bill but it is in one that the government has already introduced.

Point of Order

Hon NORMAN MOORE: Mr Deputy Chairman, members are now canvassing a bill that is in the process of being drafted. It has nothing whatsoever to do with this bill. I ask that you remind members that we are debating the Waste Avoidance and Resource Recovery Amendment Bill 2009 and their comments should relate to this bill, not some other bill that may or may not be in the pipeline. If members want to talk about another bill, they should wait until it gets to the house.

THE DEPUTY CHAIRMAN (Hon Jon Ford): The Leader of the House is absolutely right. That was completely out of order and it is out of the scope of the bill.

Hon ROBIN CHAPPLE: My understanding was that that bill had been enacted, and it was not something to be enacted.

THE DEPUTY CHAIRMAN: Even so, it is not within this bill.

Hon ROBIN CHAPPLE: I take the Chair's position on that.

THE DEPUTY CHAIRMAN: We are dealing with the Waste Avoidance and Resource Recovery Amendment Bill 2009.

Committee Resumed

Hon ROBIN CHAPPLE: I turn to my second point. The minister has spoken about prescribed additional officers, and they were budgeted for. Could the minister tell us how many additional officers there are?

Hon NORMAN MOORE: This is not a point of order; I am simply making the point that, again, this has nothing to do with this bill. If the member wants to talk about the bill in committee, that is what he is supposed to do. Members can range widely in the second reading debate but we are talking about clause 1 of this bill. I ask you, Mr Deputy Chairman, to remind Hon Robin Chapple, as you did a moment ago, that this debate is about clause 1 of this bill, not about all sorts of extraneous matters that he wants to introduce at this point.

It is getting late and we are all getting very irritable. That irritation could be diminished if members would just stick to the bill and deal with the issues before the house, not something they want to talk about because they think it happens to be of some relevance to them.

Hon KEN TRAVERS: Is the Leader of the House making a comment or taking a point of order?

Hon Norman Moore: I made a speech. I am entitled to make a speech.

Hon KEN TRAVERS: I just want to make a speech as well then. I understand that we are dealing with the short title of the bill. We are trying to deal with potential issues so that when we get to specific clauses, we can be informed of whether we can amend them to achieve certain outcomes. The Waste Avoidance and Resource Recovery Amendment Bill 2009 does not, as far as I can tell, seek to amend the objects of the substantive act, the Waste Avoidance and Resource recovery Act 2007. Section 5 of the act states —

- (1) The primary objects of this Act are to contribute to sustainability, and the protection of human health and the environment, in Western Australia and the move towards a waste-free society by —
- (a) promoting the most efficient use of resources, including resource recovery and waste avoidance; and
 - (b) reducing environmental harm, including pollution through waste; ...

I think that was Hon Robin Chapple's point. Section 5 continues —

- (c) the consideration of resource management options against the following hierarchy —
 - (i) avoidance of unnecessary resource consumption;
 - (ii) resource recovery (including reuse, reprocessing, recycling and energy recovery);
 - (iii) disposal.

That is the object of the substantive act we are seeking to amend tonight, and I think it is important for us to understand the context in which we find ourselves, as to whether or not any of the amendments in this bill actually counteract the object of the substantive act. If it is the view of members that that might be the case, we then may seek to try to amend the clauses of the amendment bill in a way that mitigates that, so that we are in accordance with the objects of the substantive act, and we are also trying to obtain the policy of this bill, which must be, by its own nature, in accordance with the objects of the substantive act. I think many of the questions that have been asked have been very relevant, and certainly I am interested in the answers for my own understanding, so that as we move through the debate we will be informed by that knowledge and take it into account in the amendments that we may or may not move to try to improve the detail of the bill. To talk about the context in which this is framed is absolutely crucial, and this is the appropriate time to have that debate.

The minister said earlier that she intends to bring in legislation to deal with legal dumping —

Hon Donna Faragher: Illegal dumping.

Hon KEN TRAVERS: Illegal dumping. This bill contains a number of clauses that we will come to at a later stage about which it will be quite crucial to have an understanding of this issue. The minister has talked about introducing legislation some time next year; is the minister able to give us a more precise time line of when she would expect that legislation to be introduced into this Parliament? I am also interested to know what processes the department has in place at the moment to monitor illegal dumping in and around the Perth metropolitan area because, again, I think those answers will certainly assist me to determine how we may handle clauses as we progress through this bill.

The DEPUTY CHAIRMAN (Hon Jon Ford): Before I give the minister the opportunity to respond: we have now had about six or seven minutes of debate between members across the floor about whether what they want to say is relevant or not. I have made a ruling that Hon Robin Chapple's comments were out of order and had no relevance to the bill before us. The point I made before—I will make again—is that the Committee of the Whole stage is about canvassing the scope of the bill, inasmuch as it is able to achieve what was stated to be the object in the second reading speech. Since I have been in the chair the debate has broadened. I am simply making the point that if we want to proceed and get through this bill, we should just bear that in mind. I was not trying to encourage people to have a debate over that opinion, or the views expressed in the past few minutes between Hon Ken Travers and the Leader of the House. It is about getting to the business of proceeding with the bill. Please, members, bear that in mind.

Hon DONNA FARAGHER: As I have said, this matter does not pertain to the bill before us. I have answered a number of questions about the issue of illegal dumping; however, it does not pertain to the bill that is before us. I am very happy to discuss these matters at any point in time that we are dealing with a bill that will introduce an offence of illegal dumping. As I have said, that bill is being drafted and when it is ready for introduction and debate in this house, we can canvass all these issues. I have made some general comments and there is nothing further that I can add at this point in time because it does not pertain to the bill before us.

Hon SALLY TALBOT: I have one last question on illegal dumping. I have listened very carefully to the minister's advice and I want to draw the house's attention to the amendment to clause 8 standing in the name of Hon Robin Chapple, which deals with "particularly enforcement activity that relates to illegal dumping". I make this comment in the debate about the short title of the bill, but with specific reference to an amendment that is on the supplementary notice paper.

Hon Norman Moore: Why can't the member make the comment when we deal with that clause?

Hon SALLY TALBOT: I want to do it now because it is —

Hon Norman Moore: That's transgressing the rules.

Hon SALLY TALBOT: I am taking guidance from the Deputy Chairman who said that the comments in the debate on clause 1 should relate to either the clauses of the bill or to amendments that are on the supplementary notice paper. That is the reason that I think I am —

The DEPUTY CHAIRMAN: Order, members! It is to the amendments you propose to move, or to broadly canvass the reasons why a clause will not achieve the purpose of the bill.

Hon SALLY TALBOT: In relation to these amendments to the WARR bill, when the opposition made the point that the provisions contained in the bill are likely to lead to illegal dumping, the minister then said that she would introduce a new offence and new fines. In answer to our question at the time about who would be responsible for monitoring and catching people doing this, the minister said the police. The Commissioner of Police then made it known the next day that the police would not do it, so I would like some clarification from the minister about what her understanding is.

Hon DONNA FARAGHER: I am not going to continue to engage on discussions about illegal dumping, which is not the subject of this bill.

Hon Ken Travers: It is.

Hon DONNA FARAGHER: It is not.

Hon KEN TRAVERS: With due respect to the minister, this bill—I will go through it again so she can get all the acts out and follow them very clearly—seeks to amend the Waste Avoidance and Resource Recovery Act 2007 and the Waste Avoidance and Resource Recovery Levy Act 2007. We know this because the long title of the bill says that. I have already read out the objects of the Waste Avoidance and Resource Recovery Act and I will not waste the house's time by re-reading them out; however, a primary object of the act is "reducing environmental harm, including pollution through waste". I do not know what the minister would call illegal dumping if it is not environmental harm including pollution through waste. There are a number of sections in the act that deal with the ways in which the money that is raised under the existing levy of the Waste Avoidance and Resource Recovery Act 2007 can be used. Clause 7 seeks to amend it, so only 25 per cent of the levy will be applied to recycling. It is possible that by applying the levy that is currently in place to other purposes, including recycling, dumping would be minimised. However, by putting it into consolidated revenue for DEC, and not using it according to the objects of the act that I talked about—we have accepted the policy of the bill—it is possible that it will have an implication for illegal dumping. That is the point members on this side of the chamber are making. I know we can deal with the clause in more specific detail when we get to it. Hon Robin Chapple, for instance, will seek to delete everything on page 4 of the amendment bill from lines 8 through to 33. That is the clause that deals with how this money is dealt with. At this stage of the debate, to get a general sense about the issues that surround this bill and to determine whether we support Hon Robin Chapple's amendment, for me, issues about illegal dumping are absolutely crucial to achieving the objects of the act because the two are interlinked.

The minister can get upset that we are going down this path, but it is important we ask those questions. I want a clearer indication of when she expects that legislation to be introduced into Parliament. That will help me determine how, down the track, those amendments are handled. Under this government, ministers have promised that legislation will be introduced and it has taken significantly longer than indicated. That is why I am looking for a clearer indication on the time line and how the department intends to handle monitoring illegal dumping. That is absolutely crucial because, without that, we will not be able to make decisions about whether more of that money that will be paid into consolidated revenue should be allocated to that issue or be put into the waste account to be used in another way to try to minimise environmental harm, including pollution through waste. We need those answers.

Hon Norman Moore: She gave you the answers; she told you she will put it in legislation.

Hon KEN TRAVERS: If she does not want to provide the answer, that is fine, but she will not help the progress of this legislation tonight by being obstructive.

Hon Norman Moore: Let Hansard record loud laughter from the government front bench.

Hon DONNA FARAGHER: I cannot see that I am being obstructive after I have answered probably a number of questions on illegal dumping.

Hon Ken Travers: You have given answers but you have not answered.

Hon DONNA FARAGHER: I have answered those questions. I have indicated that the government is currently drafting legislation, and that will be introduced when we return next year.

Hon Ken Travers: In the first session?

Hon DONNA FARAGHER: I would like to think so. The previous government might have taken an awfully long time to introduce legislation, but that is not my problem. I have indicated that we see this, and I do, as a priority. I have nothing further to add about matters surrounding illegal dumping than what I have already canvassed.

Hon SALLY TALBOT: I have asked a number of questions and they have not been answered. I draw the minister's attention to page E4 of the uncorrected transcript of the estimates hearing of Thursday, 18 June, when the minister said in this place —

There is a recognition that an increase in the levy may result in some people who might not ordinarily illegally dump actually looking to do that.

I do not think that could be more clear, minister. It is all very well for her to say in this place that she will not talk about illegal dumping because it is not in the bill before us. We pointed out to the minister on 14 May that a problem with this bill was that it makes no provision, as she has admitted on the record, for a likely increase in illegal dumping. I am quoting the words she spoke in this very chamber —

There is a recognition that an increase in the levy may result in some people who might not ordinarily illegally dump actually looking to do that.

The minister is on the record as saying that the police would have responsibility for monitoring illegal dumping. The police commissioner has said that that is not true. What is the minister's understanding now about who will police the offence of illegal dumping?

Hon Donna Faragher: I have nothing further to add. We have gone through this.

Hon KEN TRAVERS: Can the minister answer the question about whether the department has any processes in place to monitor illegal dumping and whether any of the money that will be raised as a result of the passage of this bill will be used to monitor illegal dumping?

Hon DONNA FARAGHER: I have said that around 200 officers are authorised to deal with matters arising under the Environmental Protection Act. The legislation that we are drafting will, in effect, place illegal dumping in the Environmental Protection Act. This will be monitored by DEC inspectors and rangers. At the moment, all they can do is impose an on-the-spot fine of up to \$1 000; that is it.

Hon KEN TRAVERS: I am sorry. Perhaps I have not made myself clear enough in explaining what I am interested in. I take the minister's point that there are officers, and I heard her earlier answers to Hon Robin Chapple and I accept them. However, when I talk about monitoring, I am not talking about people physically being out there; I am asking whether the department collects and records statistics on the incidences of dumping, where it is occurring and the volume and type of material dumped. When I talk about monitoring, I am talking about it in that context, not just whether officers drive around. Does the department keep any records of the type and volume of material that is dumped, so that after the passage of this bill we will be able to see whether there has been an increase or decrease in illegal dumping? That is the sort of information about the operations of the department that I am trying to understand.

The DEPUTY CHAIRMAN (Hon Jon Ford): Members, we are dealing with clause 1 and the question is that clause 1 stand as printed.

Hon Ken Travers: Are we going to get an answer?

Hon Norman Moore: You've had more answers tonight than you've had in your whole life!

The DEPUTY CHAIRMAN: Members! Can the minister sit down for a moment? Members need to be mindful that they can ask a question and the minister can choose whether to answer that question. Members might be happy with the answer. Members also have to be mindful of the call. I have given a bit of latitude in giving the minister adequate time to respond when members ask questions. I remind members to pay attention to that point. The minister has the call.

Hon DONNA FARAGHER: As I have said, these officers deal with a range of offences under the act. The department also keeps statistics on littering and other offences, and that information is available in the annual report.

Hon SALLY TALBOT: Other honourable members on this side of the chamber may want to come back to this point, but I will take this opportunity to ask a couple of questions and survey some of the clauses of the bill, and, if I have time, some of the amendments in my name.

I want to start with this whole question about whether this tax is legal. I know that we have covered one particular aspect of that, and I thank Hon Ken Travers for the work that he did on the whole question of that excise. I suppose that my question arose before that, and it is about the legal advice that the government sought. I

wonder whether the minister could give me an answer to the question of when she sought legal advice. Was it before or after the Western Australian Local Government Association had raised the question about the illegality of what the minister was attempting to do? Perhaps in that context the minister could also confirm my understanding—which I have checked with a number of people who I think are in a position to advise me correctly, including Mr Barry Carbon, the chairman of the Waste Authority—that we are not here today looking at the 300 per cent increase and that the increase can be done by regulation. What I want to know is at what moment did the minister walk into her office and think of this, or did she take a call from the Premier or Hon Norman Moore, saying, “We are going to have to check the legality of this.” I want to know what it was that went through her mind before she made that decision. In this context she might also want to consider my earlier question. My recollection is that she did not answer this in her summary of the second reading debate. What aspects of the bill did the government conclude might be open to the challenge of being ultra vires? It is a very particular question. I know it is a bit technical, but it is very important that we have an understanding about this.

In relation to clauses 2 and 3, which we will move to in due course, that is where this question about whether we are considering the 300 per cent increase arises. We need to be very clear when we are debating clauses 2 and 3 whether we are talking about the 300 per cent increase. Have the regulations been changed already? We know that many local councils are already charging the increase, but have the regulations been changed already? What is the government’s contingency plan if the regulation is disallowed? There must be a plan B, surely.

Points of Order

Hon SIMON O’BRIEN: Again, I appeal to the Chair. This is patently not a clause 1 debate that is being conducted. I listened closely to every single item that was just raised by the member, and none of them could be seen as relating to a debate on clause 1 of the bill—none of them. At best it got back to a rerun—and it was even admitted by the member by the way she phrased it that it was a second reading debate—but beyond that, it was an interrogation wanting to know what was in the mind of the Premier, the minister or someone at some remote point in time. This is not, I would submit to you, Mr Deputy Chairman, with respect, a clause 1 debate that is going on here. I would ask you to make sure that members —

Hon Ken Travers: This is not a point of order, the way you are going on; it is very much —

Hon SIMON O’BRIEN: I am not wasting as much as the chamber’s time as you are, sunshine! Quite clearly, my point of order is that this is not a clause 1 debate that is happening here.

Hon JOCK FERGUSON: Point of order.

The DEPUTY CHAIRMAN (Hon Jon Ford): Hon Simon O’Brien needs to finish his point of order.

Hon SIMON O’BRIEN: Hon Jock Ferguson is obviously keen to rise to support me, so I will let him.

Hon NICK GOIRAN: I would respectfully draw to your attention, Mr Deputy Chairman, that Hon Sally Talbot has in effect ignored your previous requests to this chamber. I am happy to be corrected if I am wrong on this, Mr Deputy Chairman, because, as you have pointed out on a number of occasions, I have been in this place for a short period of time, but I seem to recall that there were two things that we ought to be doing under this clause. The first is speaking to amendments that will be moved—in other words, the amendments themselves—and the second is giving any reasons that clauses will not achieve what the bill seeks to do. Mr Deputy Chairman, I would just like to remind you and the chamber that apart from what was pointed out in the excellent comments made by Hon Simon O’Brien a moment ago, the other thing that Hon Sally Talbot has asked for is the timing of legal advice. She then went on to ask what went through the minister’s mind at the relevant time. Neither of those two things does what you have asked the chamber to do, Mr Deputy President, with regard to the short title. So I would certainly support the point of order made by Hon Simon O’Brien.

The DEPUTY CHAIRMAN: Would anyone else like to make a point of order before I —

Hon Sally Talbot: I would like to carry on with the debate.

Hon Nick Goiran: Stick to the standing orders and you won’t have a problem.

The DEPUTY CHAIRMAN: Order, members! Before I respond, sometimes points of order can be counterintuitive, because they end up adding to the debate. But I agree with the general thrust of what Hon Simon O’Brien is saying. It is true—I am going back to my earlier comments—that there is a limit to the debate. However, what has happened in my past eight years or so in this chamber is that there has been a broad-ranging debate on the short title. I am just asking members to bear in mind that we need to get on with the debate. We need to not so much concentrate on having snipes at each other across the chamber. But I do agree with the comments that have been made. I am sure Hon Sally Talbot was bringing to a conclusion the point that she was making.

Hon NICK GOIRAN: I would ask, Mr Deputy Chairman, that you rule those questions out of order. I take the gist of what you have just ruled. But, with respect, you made it very clear that there are two things that members

of this chamber are entitled to do under this particular clause. The questions are not pertinent—they are about the timing of legal advice, and they are about what went through the minister's mind. I would respectfully submit that those questions are out of order at this point in time for this committee.

The DEPUTY CHAIRMAN: Well, member, I have made my ruling, so if you are now challenging or questioning my ruling, then that is a different matter. I have made my ruling. I want the business of the chamber to proceed. If the member wants to question my ruling, there are other standing orders to deal with that matter. I am quite happy to leave the chair and seek the advice of the Chairman of Committees or the President, if that is what the member wants to do. But, at the moment, I will give the call to Hon Sally Talbot, and I am hopeful, as I have said, that she is going to come to a conclusion in the near future.

Committee Resumed

Hon SALLY TALBOT: Thank you, Mr Deputy Chair. I think I can put Hon Nick Goiran more at ease if I relate my question about the legal advice directly to the letter from the minister to me dated 14 October. That letter answered the question that I had raised at the briefing provided to me—an excellent briefing—by one of the minister's officers. I had asked what was the reason for the change in date for the implementation of the proposed landfill increases. The minister said in her letter —

Having received legal advice, the government decided it was appropriate that prior to the proposed increase in levy charges taking place, the passage of the Waste Avoidance and Resource Recovery Amendment Bill 2009 should occur first.

My question to the minister is quite straightforward. Why could not the levy have been raised by regulation? Given that the government has the numbers in both houses of this Parliament, and that, presumably, even if we had moved disallowance motions, they would not have been successful, if the levy had been raised by regulation, the money from the increase in the levy would now be being paid into the waste account. Surely, if the government had done that, there would now be a lot more money in the waste account. Then, as we progressed through the legislative program for this year, at some point this bill would have come up, and we would have then considered the ending of the hypothecation to the waste account. All the minister has ever been able to say to me on this matter is that, having received the legal advice, the government decided that it wanted this bill enacted before the regulations were changed. My simple question is: why?

Hon DONNA FARAGHER: With respect to the legal advice, parliamentary counsel advises on the legality of bills during drafting. Other advice is obviously sought from time to time; that is, whether it is with respect to this bill or any other bill.

I appreciate that the member does not like the answer that I am giving her. I have said consistently, and I will repeat it again, that having received legal advice it was determined appropriate that we do not increase the levy by 300 per cent until such time as the legislation has passed. We have received legal advice and we have accepted that advice and we have determined that it is appropriate that this bill passes both houses first—I think it will pass at some point in time—and then we would seek to increase the levy on 1 January. The reason we decided to choose 1 January was that we were not sure of the timing of when this bill might pass; therefore, to provide certainty we gave an actual date rather than the date on which the bill would pass. Therefore, if the bill were to pass tonight, it would not come into effect tomorrow. We have received legal advice, and accepted that legal advice, that it is appropriate that we pass this bill first before we increase the levy.

Hon SALLY TALBOT: I was endeavouring to ask the minister a range of questions in an attempt—last week we talked about roughage bills; I was about to do a roughage clause 1 speech—to have the minister address them in the context of the clause 1 debate and we could then move on to clause 2. I do not think it will work in this chamber because members opposite are getting so agitated that they keep jumping in and interrupting us.

I ask the minister once again: what aspects of the bill has she had concerns about in the context of them being *ultra vires*?

Hon DONNA FARAGHER: As I have consistently said the advice is that the bill is valid. We do not have a problem with that. The advice is that the bill is valid. All I have said is that, having received legal advice, it was deemed appropriate that we pass this bill first before we introduce the increase of 300 per cent to the levy. That was the announcement we made. I have consistently said that the advice that we have is that the bill is valid.

Hon SALLY TALBOT: I ask the minister what would have been the effect if the events had been the other way around? What would have been the effect if we had changed the amount of the levy by 300 per cent by regulation and then introduced this bill?

Hon DONNA FARAGHER: The fact is that we did not increase it and we are not increasing it until 1 January. We are dealing with the bill now.

Hon SALLY TALBOT: I am asking the minister what would have been the effect if we had increased the levy first?

The DEPUTY CHAIRMAN (Hon Helen Morton): With all due respect, that question is irrelevant.

Hon SALLY TALBOT: I accept your ruling, Madam Deputy Chairman. In that case I will have to pursue this in a different context. Before I do that, I will refer to something else that the minister said in connection with the amendments to the bill. The minister talks constantly about using New South Wales as her model—in New South Wales things are happening that we are trying to put into effect with this amendment bill. How did the minister form the opinion that New South Wales is the model that we should follow?

The DEPUTY CHAIRMAN: Order! That is considered not relevant either.

Hon SALLY TALBOT: Perhaps the minister would care to answer it anyway.

Government members interjected.

Hon SALLY TALBOT: That is fine. I am not in any way dissenting from —

Point of Order

Hon JOCK FERGUSON: Hon Phil Edman keeps interjecting, and he is not sitting in his seat.

The DEPUTY CHAIRMAN: Members must be in their seats when they speak.

Committee Resumed

Hon KEN TRAVERS: I want to touch briefly on issues that were raised earlier. The minister gave me the advice that I would find the answer in the annual report. I have actually had a look in the annual report. I can find the examples of prosecutions and I can find general environmental harm statistics, but in terms of the issue of illegal dumping and what volume of waste is discovered in areas around Western Australia, I am still keen to know whether that is something the department monitors, whether it is something it keeps statistics on and whether the minister has those statistics.

Hon DONNA FARAGHER: As I have said previously, because there is no offence of illegal dumping there are no statistics as such. Clearly, there may be statistics for those under the Litter Act. We are seeking to address that issue. We will then be able to have that specific information, if that helps.

Hon KEN TRAVERS: I understand that the minister may not have specific statistics about the number of illegal dumping charges, but is it something that the department has been monitoring? Is it something that is on the increase or on the decrease? I suspect that a lot of illegal dumping occurs in state forests. It may be that the former Department of Conservation and Land Management and other joined-up agencies are the best people to get this information from. I am still keen to find out what sort of information the department might hold, though I accept that it may not have specific statistics about it because it does not have a specific offence.

Hon DONNA FARAGHER: We do not obviously have that information to hand. If we can get more information for the member at another time, I am happy to provide that to him.

Hon SALLY TALBOT: I want to ask the minister a question about a further piece of information that she provided to me when I attended a briefing on this bill. I asked about regional landfill sites. I was particularly concerned about some of the claims that we have heard from government members that regional landfill sites do not pay the levy—I accept that. I am not entirely sure why the minister has so categorically ruled out extending the levy to regional tips. I understood that that was still a question for open discussion at forums being run by the Waste Authority. I would have thought that there is a disadvantage in closing off that option at this very preliminary stage. It seems that the heart of this bill is gaining more revenue for the minister's department. Closing off the option to extend the levy to regional landfill sites was a very curious step to take. I am not saying that we on this side would support an extension of the levy, but I know that it was a topic of live discussion. Many people in regional communities have very firm ideas about what they need at those regional tips, and were the government in a position to start negotiating about the provision of things like weighbridges and proper resource recovery facilities in the regions, that that might have opened up the discussion about the extension of the levy to regional tips.

My question is about the situation that we on this side of the chamber have said might occur if the amendments in this bill are passed. Small and large businesses in the waste and recycling industries might be tempted to drive to regional landfill sites instead of paying the increased levy at the landfill sites in the metropolitan area. In that context it has been pointed out to me—I will check this figure in a moment—that the estimated increase in landfill costs from our resource recovery facilities in the metropolitan area will be in the order of \$3 million a year. That is a huge cost impost as a result of the measures in this bill. There is no way that the regional councils will allow their contractors to drive out to the bush to dump their rubbish on free landfill sites. However, who is to say that some of the non-government companies that are involved in this industry will not drive to Geraldton

or to Kalgoorlie to use the tips there when they are faced with costs of that magnitude? I would like to know whether there is any evidence that that will not be the case. My specific question is about the minister's response when I asked for more detail about the regional landfill sites that have paid the levy. I am not sure where the Light Range Cashman's Tyre Disposal is. Is the minister able to tell me where it is, by way of interjection? That is one of the two sites that are not manned; the other is the Chittering landfill.

Hon Ken Travers: Is the tyre disposal site not staffed?

Hon SALLY TALBOT: It is not manned, according to the chart that the minister provided to me. It is called the Light Range Cashman's Tyre Disposal. I am also interested in the Chittering landfill site, which is also unmanned. At an earlier stage of this debate, the minister said there were no unmanned landfill sites where people have ever paid the levy. According to the information that I received from the minister, that is not the case. I will leave that point and make some other points when the minister has had a chance to consider those.

Hon DONNA FARAGHER: I do not know the exact location of the Light Range Cashman's Tyre Disposal, but that would be able to take only tyres. If someone took metropolitan waste to Geraldton—I think the member mentioned Geraldton—the landfill levy would need to be paid. If metropolitan waste is taken to a rural landfill, the levy will have to be paid. That is the normal process.

Hon SALLY TALBOT: That being the case, how would the levy be calculated? We have a cubic metre measurement for inert waste but putrescibles are measured in kilograms. If a truckload of putrescibles was transported to Geraldton, although I am not sure whether Geraldton has a weighbridge —

Hon Robin Chapple interjected.

Hon SALLY TALBOT: In Chittering there is no —

Hon Ken Travers: For your information, Hon Sally Talbot, Light Range Cashman's is at Meekatharra.

Hon SALLY TALBOT: I thank the member. Have I asked enough of a question?

Hon DONNA FARAGHER: Yes, I think the member has. I understand that there are guidelines for estimating the weight; that is, the size of a trailer or truck and those sorts of things. The guidelines that are utilised estimate the weight.

Hon SALLY TALBOT: How is that calculated? I understand that the technical term in the regulations is "eligible waste". Imagine my truck arriving at Meekatharra, Chittering or Geraldton. How do we know that it is eligible waste? Is it self-reported or is it monitored? If the waste goes to an unmanned landfill site, how does self-reporting work if there is no monitoring?

Hon DONNA FARAGHER: The levy is calculated on the basis of the landfill that it goes to. For example, if it is putrescible landfill, the levy relating to putrescible waste will be paid. If it is inert landfill, the levy relating to inert waste will be paid. It is the responsibility of the landfill operators to monitor that, and the department monitors that back as well. As I said, whether the landfill is inert or putrescible determines what levy will be paid.

Hon SALLY TALBOT: I can absolutely understand how that works at a tip that is staffed because, clearly, pairs of eyes will look at what has come into the landfill. We have just spoken about Chittering. We will use that as an example because we have confirmed that it is unmanned. Is the minister telling the chamber that it will simply be self-reported?

Hon DONNA FARAGHER: It is the operator's responsibility to monitor what goes into landfill, whether it is manned or unmanned. In addition to that, I think I mentioned in my reply to the second reading debate that the department employs a landfill levy inspector to monitor compliance with the levy regulations. One of the function of a landfill levy inspector is to patrol the major transport arterials out of the metro area, looking for any evidence of waste being transported to rural landfills. The department has a role, but the operator has a responsibility as well.

Hon SALLY TALBOT: Just for the record, minister, how many landfill inspectors do we have in Western Australia?

Hon DONNA FARAGHER: We have one dedicated, and we also have about 50 licensing inspectors.

Hon SALLY TALBOT: The minister also referred to the landfill operator. Would I be right in assuming that the landfill operator, in almost every case in Western Australia, is the local council?

Hon DONNA FARAGHER: It is a mixture of local government and private industry.

Hon SALLY TALBOT: So, minister, is this yet another impost on local councils? The government is expecting them to not only monitor all the other things we have talked about for the past couple of hours—illegal dumping being the prime example—but also monitor the use of these unmanned landfill sites looking for people who

decide to inappropriately use those regional tips, and Chittering is hardly regional; Chittering is almost part of the metropolitan area. Is the government expecting local councils to monitor those for inappropriate use?

Hon DONNA FARAGHER: They are actually already required to monitor them; I am not changing that. That is a requirement of their licences. If they were not monitoring them, they would actually be in breach of their licences. I am not proposing any change to licensing; that is a requirement upon them now. There will be no change to that.

Hon SALLY TALBOT: That is a very reasonable point.

The DEPUTY CHAIRMAN (Hon Helen Morton): Can I just interrupt. Would Hon Sally Talbot wait for the call, because other members are seeking the call from time to time. Hon Sally Talbot has the call.

Hon SALLY TALBOT: Thank you, Madam Deputy Chair; I will do that. I was just getting interested in what is happening.

That is a very valid point, minister, and I accept it, but the crucial thing is that anyone who has looked at this bill—not just the opposition—believes that there might be a quite significantly increased use of those unmanned regional tips as a result of this legislation. I just make the point to the minister again that it looks as if it is yet another reliance on local government, with which, I suggest, they will be profoundly unimpressed.

I will move on to another question in relation to the clause 1 debate. This is really something else that will have an effect on our deliberations on each of these clauses as we move through the bill. We had the ministerial councils meeting in Perth recently: what did we commit to financially at the MINCO? And I ask the minister to consider a couple of related sub-questions: how much; and will the Waste Authority or the Department of Environment and Conservation pay, or will it be some other authority or part of government?

Point of Order

Hon MICHAEL MISCHIN: I take a point of order. This has nothing to do with the policy or whether the bill is satisfactory to implement the policy that has been written and decided by the chamber. This has got no relevance at all to the bill that is being considered in the Committee of the Whole.

The DEPUTY CHAIRMAN: That point of order is taken and the matter is considered irrelevant to the bill.

Committee Resumed

Hon SALLY TALBOT: Thank you, Madam Deputy Chair; I accept your ruling on that. Let me try to phrase it a different way.

Point of Order

Hon MICHAEL MISCHIN: I will raise a point of order again because it is not about how the question is phrased. The substance of what is being asked has nothing to do with whether the bill meets the objectives and policy that have already been decided by the chamber.

The DEPUTY CHAIRMAN: Does Hon Sally Talbot have a different question?

Committee Resumed

Hon SALLY TALBOT: Thank you; I will phrase that differently. I will ask a different question.

Point of Order

Hon MICHAEL MISCHIN: I raise another point of order.

Hon Robin Chapple: She is asking a different question.

Hon MICHAEL MISCHIN: She said she was going to phrase it differently. It is not a question of how it is phrased; it is the substance of what is being asked. I do not care how the member phrases her question; she could do it in Greek for all I care! The point I make is that it has nothing to do with this bill. If the member wants that sort of information, it is probably suitable to ask a question on notice or a question without notice.

Hon Ken Travers interjected.

The DEPUTY CHAIRMAN: The Chair will make the decision about the relevance of the question when the question is put. The question Hon Sally Talbot asked before was considered to be irrelevant. I invited Hon Sally Talbot to ask a different question if she had one.

Committee Resumed

Hon SALLY TALBOT: Thank you, Madam Deputy Chair. It would be an interesting test of the standing orders to ask a question in a different language. I do not think that that would make any difference because it would not change the substance of what I was asking.

The DEPUTY CHAIRMAN: Hon Sally Talbot, you might be interested to know that the standing orders indicate that we do speak in English.

Hon SALLY TALBOT: Thank you, Madam Deputy Chair.

Hon Ken Travers: That will be news to a few members around the chamber!

Hon Simon O'Brien: I'll stand by you, Jock; don't worry!

Hon SALLY TALBOT: It is a big problem for Hon Jon Ford!

This bill is a move that will take away 75 per cent of the funding that the Waste Authority would have expected to receive and put it to other purposes to do with the general revenue of the Department of Environment and Conservation. My question is: what will the Waste Authority be liable to pay as a result of commitments that the minister made at the recent ministerial council meeting held in Western Australia? I want to know: What did Western Australia commit to financially and who will pay? Is it the Waste Authority or is it the Department of Environment and Conservation? Because, clearly —

Point of Order

Hon MICHAEL MISCHIN: With respect, this has nothing to do with the bill before the house.

Hon KEN TRAVERS: On the point of order, I would have thought that the question Hon Sally Talbot just asked has everything to do with clause 7 of this bill, which determines how much money will go to the Waste Authority and how much will be appropriated to the department. The question the member is asking will help inform us about whether the 25 per cent that is contained in the bill as it stands is good or whether we might need to modify it. Therefore, I put it to you, Madam Deputy Chairman, that that question is absolutely relevant to this bill.

The DEPUTY CHAIRMAN: I will read again the Chairman's rulings on the relevance of the debate. Earlier a question was asked about what can be debated under the short title. Particularly for the interest of new members, the Chairman referred to the ruling that the then Chairman of Committees, Hon Barry House, made on 16 October 1996. Hon Barry House stated —

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 ask members to retain the relevance of their questions.

Committee Resumed

Hon ROBIN CHAPPLE: I refer again to the question asked earlier about ungated, unmanned tips. I come from the Mining and Pastoral Region and throughout that region we find many unmanned and ungated industrial, shire and town council tips. The minister has already indicated that this legislation is modelled on some New South Wales legislation and how that was developed. We know from New South Wales that waste is trucked into Queensland to ungated tips, so there is no problem with distance about trucking waste into the sandstone areas, the Pilbara or wherever else. If there are ungated and unmanned tips in that area, can the minister assure us that that waste will be caught by this legislation? I am not referring to the ability of her inspectors; but can she assure us all those tips will be manned and gated to inhibit the transportation of waste out of the metropolitan area into the regions?

Point of Order

Hon MICHAEL MISCHIN: As I understand it, the bill has to do with the imposition of the levy and the mechanisms for imposing it; it has nothing to do with unmanned tips.

Hon KEN TRAVERS: The substantive bill has to do with the levy. This has to do with distribution of the levy and how that operates.

Committee Resumed

Hon DONNA FARAGHER: The legislation we are dealing with does not deal with matters surrounding manned or unmanned landfills. As I said in response to Hon Sally Talbot, landfills are monitored and are required to be monitored as part of their licence. If a landfill operator does not monitor his site, he is in breach of his licence. There is no change to that. It does not pertain to the bill currently before us.

Hon KEN TRAVERS: I want a bit of an understanding from the minister about the way in which she sees the bill operating once it has been amended. Under clause 5, the levy is to be credited into an operating account of the department established under the Financial Management Act. Obviously, there are further amendments for how much will then be credited to the WARR account and the like. Before we get into the detail of those specific

clauses, I want to make sure I fully understand how it will operate. Will all the money initially go into a central account and be allocated to a departmental account and an account of the Waste Authority? Will that money be required to be appropriated as part of the annual budget or will the money be considered a standing appropriation rather than requiring further appropriation come budget time each year?

Hon DONNA FARAGHER: It will be determined at budget time. It will be paid in quarterly instalments. That is what is currently done; that will not change. The funds will go into an operating account of the department. Then the funding that is to go into the WARR account will be transferred across to the WARR account. As I said, that will be through the quarterly instalments.

The DEPUTY CHAIRMAN (Hon Helen Morton): The question that the member has just asked, and the follow-up question that I anticipate he will ask, is more relevant to clause 5 of the bill than clause 1.

Hon KEN TRAVERS: Madam Deputy Chair, I absolutely accept your ruling in terms of any detail I might go into; I am just trying at this point to get a general understanding of how clauses 5 and 7 will interact with each other, and I think it is appropriate to do so during debate on the short title. I certainly accept your ruling on any matters to do with the detail of the bill. It is important that we have a broader understanding of the bill before we deal with the specifics in the other clauses.

The DEPUTY CHAIRMAN: The previous question was too detailed for clause 1, but I will listen to the member's next question and determine whether it is appropriate at this stage.

Hon KEN TRAVERS: I appreciate the minister's comment that the amounts will be determined as part of the budget. What I was trying to understand was whether those amounts will need to be reappropriated through the appropriation bills, or whether this bill, once it is passed, will provide for an automatic standing appropriation. Will this bill provide for a standing appropriation or will a further appropriation of the moneys that are collected from the levy be required as part of the appropriation bills that come in with the budget package?

Hon DONNA FARAGHER: I understand that it will be a standing appropriation, but it will be determined at the time of each budget. The appropriation for the year will be published in the budget papers.

Hon KEN TRAVERS: In that case, I ask you, Madam Deputy Chairman, to give us a ruling on whether this bill is an appropriation bill.

Ruling by Deputy Chairman

The DEPUTY CHAIRMAN (Hon Helen Morton): There is already a Waste Avoidance and Resource Recovery Levy Act and a Waste Avoidance and Resource Recovery Act 2007. The bill before the house will amend both acts. The principal act, the Waste Avoidance and Resource Recovery Levy Act 2007, authorises the levy. The bill seeks to amend these acts to provide for the broadening of the purposes for which the levy imposed under the Waste Avoidance and Resource Recovery Levy Act 2007 can be applied. Section 46(6) of the Constitution Acts Amendment Act provides —

A Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

As a former President ruled in 1983, "ordinary" describes an annually funded service of a type which government must provide by law or which is provided by a government in the course of giving effect to its policy. Clause 8 of the bill before the house seeks to amend section 80 of the act by deleting subsections (1) and (2) and inserting a proposed new subsection (1) of the act. This will expand the application of moneys as currently provided in the act. The ruling states in part —

... I need to exclude some appropriations that clearly are not for the ordinary annual services. As the High Court has said —

... the Parliament forgoes its annually-exercised power over expenditure by government when a law containing a standing appropriation is enacted. Standing appropriations need not be included in annual appropriations.

It is not a bill that appropriates revenue or money for the ordinary annual services of the government and, therefore, section 46(6) does not apply.

Point of Order

Hon KEN TRAVERS: If I may seek some further clarification from you, Madam Deputy Chairman. I understand the clauses of the bill in respect of the Waste Management Authority in terms of your ruling, but what I understood the minister to say was that this also appropriates money for the department, which is a separate entity and not contained within the existing bill. I just want to clarify that your ruling covers that side of the legislation as well.

The DEPUTY CHAIRMAN: Yes, it does.

Hon KEN TRAVERS: If I may seek further clarification. In light of your comments about the ordinary annual services of government and waste management not relating to those, the department itself surely would come under the ordinary annual services of government.

The DEPUTY CHAIRMAN: Can you just repeat the last comment, please?

Hon KEN TRAVERS: I took your point about the Waste Management Authority. I think that is very clear. The point I am asking about is the standing appropriation that will be applied by this bill, which is not in the existing act, for the purposes of the department, but is the ordinary annual services of government and is currently provided for as part of those appropriations. Is the section of the bill that relates to that not an appropriation for the ordinary annual services of government, because it is appropriating money to the department? As I understand it, from what the minister said, the department will receive, as well as the Waste Management Authority, a standing appropriation as a result of this bill, which is not currently there.

The DEPUTY CHAIRMAN: I want to reiterate the comment that it is not a bill that appropriates revenue or moneys for the annual services of the government and, therefore, section 46(6) does not apply.

Hon KEN TRAVERS: I understand that. I would just like to get a bit more detail, if I could, of how that decision is arrived at with respect to the fact that appropriating money for the purposes of the department will not now be required to go through the budget processes. There will not be a requirement for the department to now have at least part of its budget appropriated on an annual basis. Could I get some more detail from you as to how your ruling applies in respect of that issue?

The DEPUTY CHAIRMAN: This bill will become a standing appropriation bill and will not be a bill for the ordinary annual services. Ordinary annual services are usually appropriated in the normal appropriation bills.

Hon KEN TRAVERS: If I may just seek to understand that ruling a little bit clearer. Is the logical extension of your ruling that where it is appropriated on an ongoing basis so that it becomes a standing appropriation, then a bill that does that is not required to comply with the rules of the Constitution Acts Amendment Act with respect to the annual appropriation of services of government?

The DEPUTY CHAIRMAN: That is correct. This is not a bill that appropriates revenue or moneys for the ordinary annual services of government. Therefore, section 46(6) does not apply.

Hon KEN TRAVERS: I must say I am still particularly confused, because I note that this is for the department. This is actually an appropriation for the operations of the department.

Hon SALLY TALBOT: I would like to come at this from a slightly different direction, in support of the points that Hon Ken Travers is making. This bill contains references —

The DEPUTY CHAIRMAN: At this stage, that ruling has been well considered, on the advice that has been given to me. The position is that the member either accepts my ruling or dissents from my ruling. It is not going to be further considered.

Committee Resumed

Hon SALLY TALBOT: Madam Deputy Chair, would you allow me to do neither of those things but to ask a further question?

The DEPUTY CHAIRMAN: So long as it has nothing to do with this particular ruling or issue.

Hon SALLY TALBOT: I do not think it has to do with this particular ruling, but I will stand guided by you, Madam Deputy Chair, once I have asked the question. Within this bill, we find several references to the Financial Management Act 2006, and specifically to section 16(1), which states in part —

- (1) The agency special purpose accounts of an agency consist of —
 - (a) any account established for the purposes of the operations of the agency; and

Does that come under the ruling that we have been discussing?

The DEPUTY CHAIRMAN: I reiterate that this is a bill that does not come under section 46(6). As such, the ruling that I have previously given stands.

Clause put and passed.

Clause 2: Commencement —

Hon SALLY TALBOT: I know that there is an increasing trend, presumably by the people who draft legislation, to spread out the days on which sections and parts of acts come into operation. This clause states —

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent ...;
- (b) sections 3 and 9 and Part 3 — on the day after assent day;
- (c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

What does that mean? Why have these distinctions been made?

Hon DONNA FARAGHER: Essentially, the reason for these differences in timing is that it will enable me as minister to recommend to the Governor the increase of 300 per cent before 1 January—that is, part 3, in terms of the minister making the recommendation. The remainder of the sections will apply from that day—that is, 1 January—when the higher levy rate will apply.

Hon SALLY TALBOT: The minister now seems to be bringing into her explanation something that is not connected to this bill. She is now talking about clause 2(a). Is the timing of that connected to the tabling of the regulation to increase the levy?

Hon DONNA FARAGHER: All it is doing is allowing things to be done in sequence. We obviously have clauses 1 and 2 and then we have clause 9, “Section 81 amended”, that provides for the Financial Management Act and the Auditor General Act to apply to the WARR account. Part 3 provides for the transfer of responsibility from the waste authority to the minister to make recommendations to the Governor about the levy. It is being done sequentially.

Hon SALLY TALBOT: What would be the latest assent day that would enable the regulations to be tabled on 1 January?

Hon DONNA FARAGHER: It would have to be prior to the last Executive Council this year.

Hon SALLY TALBOT: I am pursuing this point because I note that this clause has been amended in another place. I wonder whether there have been any changes between the amendments that were made in the other place and the bill before us. I am particularly interested to know whether we have passed the date when there is a workable assent day. I understand it is on the public record that the key date would be two days before the last Executive Council of the year. Can the minister enlighten the chamber as to what that date might be?

Hon DONNA FARAGHER: I understand that the department has been advised from the formalities officer that the last scheduled Executive Council meeting is 30 December.

Hon SALLY TALBOT: I refer to clause 2(c). I note, and I have expressed my opinions about this before in this place, that when the increase in the waste levy was delayed from 31 July 2009 to 1 January 2010, it was done so with some accompanying narrative about providing certainty for the various stakeholders. I cannot make that emphasis on certainty coherent in the light of the fact that clause 2(c) appears to leave it entirely at the discretion of something other than the act in circumstances in which clauses 4 and 5 would come into effect. Clauses 4 and 5, as honourable members know, relate to the establishment of the account into which the waste levy is to be paid—to say nothing of clause 7, which effectively ends the hypothecation. Proposed sections 1, 2, 3, 9 and part 3 will automatically have a time frame attached to their commencement if this bill is passed, but the commencement of proposed sections 4, 5, 6, 7, 8 and both amendments relating to the Waste Avoidance and Resource Recovery Levy Amendment Bill—the last two amendments in this bill that relate to the levy bill—float around entirely unfixed in time. Could the minister tell us her reaction to that point, and perhaps also indicate how it is proposed that the day will be determined for the day on which each of those clauses will come into operation?

Hon DONNA FARAGHER: They will come into operation on 1 January. I have made statements in this house and elsewhere publicly that the commitment is that, obviously the bill will be passed, but that the levy will increase on 1 January. The member talks about certainty. The certainty is that we seek to increase the levy on 1 January.

Hon SALLY TALBOT: In that case, why is that not what the bill says? What would be the difficulty in phrasing clause 2 in the standard way? As I understand it, the standard way is a two-section clause. It just looks as though this is more of the trickery, more of the sleight of hand, more of the attempt to persuade us that everything is under control and that the minister has a plan. I make the point again: this is another example of my Joker analogy. Does she look like a minister with a plan? No, she does not.

Hon DONNA FARAGHER: Really; it is almost getting to Christmas! I would like to think there would be a little bit more Christmas spirit by Hon Sally Talbot. But clearly not. It is drafting convention, as I understand, that a date is not generally applied. I do not know how much clearer I can be. Jokes about the Joker are really not all that funny, but anyway! I have said 1 January. I do not know how much clearer I can be.

Hon SALLY TALBOT: I make my last attempt: the minister has said 1 January, the bill does not say 1 January. Why does the bill not say 1 January?

Hon Donna Faragher: I have said it is drafting convention. It does not apply.

Clause put and passed.

Clause 3: Act amended —

Hon SALLY TALBOT: I simply want to ask the minister about the objects of the Waste Avoidance and Resource Recovery Act, which we are amending, because she did not address this point in her reply to the second reading debate. I have drawn honourable members' attention to the fact that the objects of that act are spelt out in section 5. I will not go through them again because I referred to them at length in the second reading debate and Hon Ken Travers has read them into the record tonight during the committee stage. The objects of section 5(2) of the Waste Avoidance and Resource Recovery Act state —

The principles set out in the EP Act section 4A apply in relation to the objects of this Act.

Section 4A of the Environmental Protection Act is headed "Objects and principles of Act". I note that this section was inserted in 2003.

The DEPUTY CHAIRMAN (Hon Michael Mischin): Order, member! We are dealing with clause 3 of the Waste Avoidance and Resource Recovery Amendment Bill 2009, which, as I see it, simply announces that it amends another act. Is what the member is putting to the minister relevant to that?

Hon SALLY TALBOT: I will seek your guidance on that, Mr Deputy Chairman. I will quickly articulate the question and then I would be happy to accept your ruling about whether this is the appropriate place to ask it. There is a cross-reference in section 5 of the act to the EP act.

The DEPUTY CHAIRMAN: Section 5 of which act?

Hon SALLY TALBOT: Of the Waste Avoidance and Resource Recovery Act, which is the substantive act. There is a cross-reference to section 4A of the EP act. When we read section 4A of the EP act, we find no similar cross-reference to the substantive act. Will the minister consider, by way of an amendment at some point in this debate, accepting an appropriate cross-reference? The reason I am suggesting this is that we are diverting money collected under the substantive act to programs that presumably fall under the auspices of the Environmental Protection Act. It seems to me that it will be of some comfort to people who are expressing great concerns about the ending of hypothecation if we could at least have the objects of the WARR act cross-referenced in the Environmental Protection Act.

Hon DONNA FARAGHER: In effect, it already is cross-referenced because the Environmental Protection Act refers to "The principle of waste minimisation" at paragraph 5 of section 4A of the act.

Point of Order

Hon HELEN MORTON: I understand that this debate is about seeking leave to amend the substantive act, not the bill that is in front of us. Therefore, from previous discussions, I believe that that is outside of the scope of the consideration of this clause.

The DEPUTY CHAIRMAN: If that is so, I accept that point of order and I invite members to confine themselves to dealing with the effect of the clauses in the bill before the house.

Committee Resumed

Hon SALLY TALBOT: I have one final point. I thank the minister for answering that. I was aware of that section of the EP act. I still cannot see how the amendments that we are considering tonight to the WARR act do not fundamentally contravene the principles of both the WARR act and paragraph 5 of section 4A of the EP act.

Hon DONNA FARAGHER: It is consistent with both acts. I invite the member to look at section 80.

Clause put and passed.

Clause 4: Section 36 amended —

Hon SALLY TALBOT: There is an amendment to clause 4 standing in my name. I will address that amendment by asking a number of questions. The intent of the government's clause is far from clear. Before I move my amendment, I want to check that I have not misunderstood what is happening here. Has the minister received advice to the effect that had this clause already been in the WARR act, it would have solved some of the stand-off that has become very public between the Department of Environment and Conservation and the

Waste Authority? I invite honourable members to look at section 16 of the Waste Avoidance and Resource Recovery Act, to which this clause is cross-referenced. It seems clear enough to me. I cannot see why we need this additional paragraph inserted into section 36.

Hon DONNA FARAGHER: I responded in my summing-up that the matters that the member refers to with respect to the Waste Authority have been addressed. The purpose of this clause is to, in effect, legislate the current administrative practice of the Waste Authority, which includes the cost of all services provided by DEC, including staff of the waste management branch and the proposed staff of the Waste Authority in its annual work plan. This clause will legislate this practice. To be honest, it actually provides greater transparency. It has been the practice for a number of years that the funding has been utilised for the services that are provided through the waste management branch, not only last year when this new act came into being when Hon David Templeman was the then minister, but also previously under the Waste Management Board. It has been a longstanding practice. This clause creates some transparency with that.

Hon SALLY TALBOT: My suspicion is that this is a trick.

THE DEPUTY CHAIRMAN: Hon Sally Talbot, we are dealing with your amendment to clause 4. I may be wrong, but I do not think you have addressed that amendment yet.

Hon SALLY TALBOT: I seek your guidance, Mr Deputy Chairman. I thought I made it clear in my introductory remarks on this clause that before I moved my amendment, I wanted to check my understanding of what the minister is proposing in this clause. Am I able to do that in the context of this debate?

THE DEPUTY CHAIRMAN: Yes, if that is what you are doing. Now I understand what you are doing.

Hon SALLY TALBOT: I am worried that this is a trick. It looks innocent enough to get the Waste Authority to list the services and facilities that are reasonably necessary to be provided or used under section 16 for the next financial year in order to enable the Waste Authority to perform its functions. Section 16(1) clearly states —

The Minister must ensure that the Waste Authority is provided with such services and facilities as are reasonably necessary to enable it to perform its functions.

What I am suggesting is, so far so good—no problems. But when we look at clause 8 of the Waste Avoidance and Resource Recovery Amendment Bill 2009, being the amendments to section 80 of the Waste Avoidance and Resource Recovery Act 2007, we find that proposed section 80(1)(d) shifts those costs back to the Waste Authority. I am suggesting that although it is all very well and it looks innocent enough—indeed it looks quite a productive thing to list those services and facilities in connection with section 16—to then, further on in the bill, slip in the clause that the costs are going to be shifted back to the Waste Authority is a trick.

Hon DONNA FARAGHER: I do not understand this notion of trickery and whatever else. I have made it really clear that this amendment legislates for the current administrative practice. As indicated in my previous answer, the Waste Authority—previously the Waste Management Board—has always paid the costs for services provided by the Department of Environment and Conservation, including staff, and, in this case now, the proposed office. We are not changing anything: it has always been the case. If I had it with me, I would actually provide the member with a copy of a letter signed by the previous minister, and, as I say, it is a practice that goes back as far as the Waste Management Board. We are not changing the current practice.

Hon SALLY TALBOT: In that case, sadly, I have understood what the minister is attempting to do, so I move —

Page 3, line 9 — To insert after “facilities” —

to be funded from the Department’s consolidated revenue

This amendment will make clause 4 read —

the services and facilities to be funded from the Department’s consolidated revenue that are reasonably necessary to be provided or used under section 16 for the next financial year in order to enable the Waste Authority to perform its functions; and

I move the amendment for this reason: we are putting in place a series of amendments that will, effectively, strip from the waste account the money that had been specifically designated for projects to do with waste avoidance and resource recovery. At the same time, in another clause, we are legislating to make the Waste Authority responsible for the cost of the services and facilities listed under section 16.

The Waste Authority will be in a very difficult position. I have already drawn honourable members’ attention to the fact that the kinds of projects that could have reasonably been expected to be funded out of the waste account are very, very expensive. Honourable members know, if they have listened to some of the representations that have been made in opposition to this bill not just from us in this place, but from the major stakeholders and the community, that the government has a key role to play in at least co-funding—if not solely funding—some of these very expensive projects.

When we get to the next couple of clauses, 75 per cent of the levy that would have been expected to go into the waste account will be taken away, and at the same time we are asking the Waste Authority to bear these extra costs and we are legislating to make that the case. That is simply unrealistic; it just will not work. The least we can do at this stage—we will attempt to rectify other huge deficiencies of the bill as we move through—is to make the Department of Environment and Conservation responsible for paying for the services and facilities that are reasonably necessary to be provided for the things that are listed in section 16.

Hon DONNA FARAGHER: The government will oppose this amendment. Clearly, Hon Sally Talbot is not listening to me. I indicated that all this clause does is to put in place from a legislative point of view what is the current practice. I must say that the amendment that Hon Sally Talbot moved actually goes against the practice that was under her government. The member can shake her head, but the fact is that I have not veered from the arrangements that have been in place for many years.

Hon Sally Talbot interjected.

The DEPUTY CHAIRMAN (Hon Michael Mischin): The member does not have the call.

Hon KEN TRAVERS: I want to come at this from a slightly different position. I note the minister's comments that this is what is currently occurring. I am trying to understand this clause a bit better and to understand where the current head of power is within the act. Can the minister identify for me where the power is in the current act? If there is a power in the current act, I wonder whether that would be a better place to put this amendment.

The DEPUTY CHAIRMAN: Order! Hon Ken Travers should be addressing the amendment rather than the substantive clause at this time.

Hon KEN TRAVERS: Mr Deputy Chairman, I am addressing the amendment. I am trying to understand how it fits within the legislation. The minister says that this amendment would simply apply what currently occurs. I am asking where is the head of power in the act to allow the minister to do what currently occurs, which is the basis for having this amendment.

Hon DONNA FARAGHER: In the current legislation the minister approves the work plan or business plan where this is actually stipulated. That is the current practice. Therefore, the Waste Authority will provide the minister with a list of things that it would like to do in the current year, and something that will be listed will be matters surrounding, say, staff. The act, though, is currently silent on the extent of services and the like. There is a memorandum of understanding between the Department of Environment and Conservation and the Waste Authority about staffing, so that is already in place. Therefore, all this clause seeks to do is legislate that current practice and in effect make it more transparent than is currently the case.

Hon KEN TRAVERS: I thank the minister for those comments. I thought it might be the case that there is currently no head of power for doing that. Section 16(1) of the Waste Avoidance and Resource Recovery Act states —

The Minister must ensure that the Waste Authority is provided with such services and facilities as are reasonably necessary to enable it to perform its functions.

“The Minister” would mean the Crown on this occasion and therefore the department probably should provide those services. Although I do not doubt the minister's comments that the current practice is that this is taken from the waste levy—I think the minister basically confirmed that for me—there is currently no formal head of power in the act to allow it to do so. Therefore, clause 4 of the bill will actually effectively for the first time include in the WARR act a head of power for the administrative costs of the Waste Authority to perform its functions. I am not necessarily opposed to that; I just want to ensure that we are clear about what we are doing.

Hon DONNA FARAGHER: Section 16(2) refers to what gives effect to the MOU, which is the current arrangement between the Waste Authority and the department.

The DEPUTY CHAIRMAN (Hon Michael Mischin): Hon Ken Travers, are you addressing the amendment moved by Hon Sally Talbot? That is the question before the chamber.

Hon KEN TRAVERS: I am discussing it in the context of the clause. Obviously, whether we need the amendment goes to the purpose of the whole clause. With all due respect, this is an amendment whereby we need to talk about the total package.

The DEPUTY CHAIRMAN: Proceed.

Hon KEN TRAVERS: I think section 16(2) is about the arrangements the minister has with the department to provide those services. It still does not provide for them to be funded from the WARR account. The overall objective of this bill is to give money to the department. To some degree, what we are talking about here is that the WARR amendment bill could contain the percentage of how much goes to the authority at one level, and

how much goes to the department. If the funds are put into the department, the percentage might go the other way. It is a good thing that we are formally including a head of power, if there is not one there, to say that the waste management account should pay for the day-to-day operations of waste management. When we get further on into the bill and start dealing with clauses 7 and 8, the only question will be: what is the appropriate percentage to give to the department and what is the appropriate percentage to give to the Waste Authority?

Hon ROBIN CHAPPLE: This seems to us to be a clawback from consolidated revenue to effectively provide benefit to the WARR account. I was hoping Hon Sally Talbot, who moved the amendment, would be in the chamber so that I could have tested that with her. On the basis of what the Greens understand the amendment to mean, we will support the amendment.

Hon KEN TRAVERS: If this amendment were to pass, would it substantially change the way in which the whole process is intended to operate or, as I said earlier about the percentages shared between the two bodies, will it then be a matter of them being funded?

Hon Donna Faragher: It would change where the funding comes from.

Hon KEN TRAVERS: It is not really that big an issue. Is that right? Do we have an idea of how much we are talking about here? What is the annual cost of these functions?

Hon DONNA FARAGHER: It is about \$3 million.

Amendment put and negatived.

Clause put and passed.

Clause 5: Section 73 amended —

Hon ROBIN CHAPPLE: The amendment standing in my name on the supplementary notice paper is to delete the words “an operating account of the Department established under the *Financial Management Act 2006* section 16(1)(a)” and insert “the WARR Account” at lines 18 to 20 on page 3 of the bill. It might seem a very straightforward amendment; in fact, all it will do is ensure that the act is consistent with the original purpose of the landfill levy. An express understanding of Parliament when the original WARR bill was debated was that a new operating account would be created to primarily be used for purposes unrelated to waste management. We therefore seek to delete the reference to the proposed new operating account and replace it with reference to the WARR account; thereby the funds raised from the waste avoidance and resource recovery levy will be returned to the instrument that was established to deal with this, not into consolidated revenue. It is a very fundamental amendment, and I hope that I get the support of the chamber for this clause so that we can all go home.

The DEPUTY CHAIRMAN (Hon Michael Mischin): Has the member formally moved the amendment?

Hon ROBIN CHAPPLE: Sorry; I formally move —

Page 3, lines 18 to 20 — To delete “an operating account of the Department established under the *Financial Management Act 2006* section 16(1)(a)” and insert —

the WARR Account

Hon SALLY TALBOT: Honourable members will undoubtedly have noticed that there is a very similar amendment on the supplementary notice paper in my name. I want to negotiate with Hon Robin Chapple. How do I do that?

I am sorry about that, Mr Deputy Chairman; thank you for your indulgence. I would be happy to not move my amendment and speak in favour of the amendment moved by Hon Robin Chapple. It seemed to me that it was as well to do a belt and braces job, given that we are dealing with a government which shifts definitions around and which is clearly looking for ways to duck and weave through the legislation with which it has to deal. It seems to me to be sensible to, as I say, use a belt and braces approach when talking about the fact that the waste avoidance and resource recovery account was established by the relevant act. I am also persuaded that reverting to the WARR account would reflect the way that the legislation was drafted originally. On that basis I am happy to not move the amendment in my name and to indicate the support of the Labor opposition for the amendment moved by Hon Robin Chapple.

Hon DONNA FARAGHER: The government will oppose this amendment. It would actually change the entire purpose of the bill.

Hon Kate Doust: That’s why it’s been moved.

Hon DONNA FARAGHER: I appreciate that, and that is why we oppose it. The issues have been well canvassed and were well canvassed during the second reading debate.

Amendment put and a division taken with the following result —

Ayes (11)

Hon Matt Benson-Lidholm
Hon Robin Chapple
Hon Kate Doust

Hon Jock Ferguson
Hon Jon Ford
Hon Lynn MacLaren

Hon Ljiljana Ravlich
Hon Sally Talbot
Hon Ken Travers

Hon Giz Watson
Hon Ed Dermer (*Teller*)

Noes (16)

Hon Liz Behjat
Hon Jim Chown
Hon Peter Collier
Hon Mia Davies

Hon Phil Edman
Hon Donna Faragher
Hon Philip Gardiner
Hon Nick Goiran

Hon Alyssa Hayden
Hon Col Holt
Hon Michael Mischin
Hon Norman Moore

Hon Helen Morton
Hon Simon O'Brien
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Pairs

Hon Adele Farina
Hon Alison Xamon
Hon Sue Ellery
Hon Helen Bullock

Hon Brian Ellis
Hon Robyn McSweeney
Hon Nigel Hallett
Hon Wendy Duncan

Amendment thus negatived.

Hon KEN TRAVERS: I was just noticing that there are some more amendments on the notice paper. I wonder whether the member still intends to move those amendments to clause 5. I am certainly interested to get his explanation of what they are.

Hon ROBIN CHAPPLE: I move —

Page 3, after line 20 — To insert —

- (5) Subject to subsections (6), (7) and (8), the Minister may grant a full or partial exemption to the levy imposed under this section for residual waste from either a —
- (a) specified Resource Recovery Facility or Materials Recovery Facility; or
 - (b) specified class of Resource Recovery Facility or Materials Recovery Facility,
- provided in all cases that the specified facility or class of facility has demonstrated either an ability or a credible commitment to further reduce the amount of residual waste sent to landfill from that specified facility or class of facility.
- (6) The Minister may grant a partial exemption under subsection (5) using any methodology, including by exempting a specified Resource Recovery Facility or Materials Recovery Facility, or specified class of Resource Recovery Facility, by reference to the percentage of waste diverted from landfill by that facility or class of facility.
- (7) The Minister may only grant an exemption under subsection (5) if that exemption includes as conditions the requirements that —
- (a) an operator of a waste facility the subject of the exemption pays an amount, equal to the levy that would otherwise have been payable on the exempted residual waste, into an account specifically created for that purpose by that operator;
 - (b) an account referred to in paragraph (a) must be named “Landfill Levy Exemption Waste Research and Infrastructure Investment Account”;
 - (c) an operator of a waste facility the subject of the exemption must only spend the money in the account referred to in paragraph (a) on research and infrastructure designed to reduce the amount of residual waste sent to landfill from that particular facility.
- (8) The Minister may revoke, in whole or in part, any exemption granted under subsection (5) for any reason including —
- (a) a specified facility or class of facility is no longer demonstrating an ability or a credible commitment to further reduce the amount of residual waste sent to landfill from that specified facility or class of facility; or

- (b) an operator of a waste facility the subject of an exemption fails to comply or fails to provide evidence demonstrating compliance with any of the standard conditions applied to that facility under subsection (7).

A government member interjected.

The DEPUTY CHAIRMAN: Hon Robin Chapple.

Hon SALLY TALBOT: Mr Deputy Chair, can I move that the honourable member's words be taken down? There is a standing order to that effect.

The DEPUTY CHAIRMAN: I did not hear what the words were. I heard something being said, and I repeated the call to Hon Robin Chapple.

Hon Ken Travers: If he wants to repeat it, it can be taken down.

THE DEPUTY CHAIRMAN: I did not hear it. Proceed, Hon Robin Chapple.

Hon ROBIN CHAPPLE: I think we will let that go through to the keeper, Mr Deputy Chair.

I will go through the rationale for this amendment. The proposed new subsection (6) that I seek to insert will provide a power to create full or partial exemptions from the waste levy. These proposed new subsections are inspired by those forwarded to all Council members for their consideration by the Forum of Regional Councils in an email from FORC chairman, Doug Thompson, dated Wednesday, 21 October 2009. The email noted that FORC is not opposed to an increase in the landfill levy per se—and of course neither are we. FORC is simply seeking—its view is consistent with, as far as we are aware, the entire local government sector of Western Australia—to ensure that the landfill levy does, indeed, provide the driver for further investment in waste management research and infrastructure. Specifically, these new subsections target resource recovery facilities or material recovery facilities. It is important to note that these are empowering provisions, and the minister is not obliged to abide by them if they are accepted by this house. But the minister effectively will be empowered to provide real and direct financial incentives for resource recovery facilities and material recovery facilities to drive down the residual waste component; provide those incentives only to resource recovery facilities and material recovery facilities that can, and will, with that assistance, so reduce their residual waste; ensure that any savings from the resource recovery facilities and material recovery facilities that result from the full or partial exemption are ploughed directly back into waste reduction research and infrastructure; and revoke or reduce those concessions if particular resource recovery facilities and material recovery facilities fail to use the benefit of those concessions appropriately.

Whereas the previous amendment sought to return this bill to its original intent, these amendments specifically give the minister an empowering provision. I am interested to know whether the minister has properly considered this amendment, and her rationale for supporting, or not supporting, this amendment.

Hon DONNA FARAGHER: The government will be opposing this amendment. I understand the reasoning that has been given by FORC, which is the main body that has proposed this. I recognise that FORC does a great deal of work in resource recovery and the like. However, there are a number of issues with this proposed amendment. The first is that the amendment uses the words “resource recovery facility”, “materials recovery facility” and “residual waste”. Those terms are currently not defined in the act. It could be argued that as a majority of landfill operations also include, albeit at different levels, some recycling, any landfill operation could fall within the definition of “resource recovery facility” or “materials recovery facility”. I appreciate what the member is saying. However, because the terms he referred to are not defined, a loophole could be created in that regard. Also, the term “residual waste” is very broad and could potentially refer to any waste received and deposited at landfill sites that is not recycled.

Furthermore, it could actually lead to the opposite effect that the member is seeking to achieve and what the government is seeking to achieve. The government wants to increase recycling as much as possible. We want to create those incentives. By actually giving them an exemption, they will be exempted from paying the landfill levy. The landfill levy is, Hon Robin Chapple would agree, a disincentive. By actually giving them an exemption the member is taking from them the incentive to continue at every opportunity to increase the amount of waste that is recycled. There is a practical point of view in that some of the terms specified in the member's amendment are not currently in the act and that could potentially lead to a loophole.

Also, the member's amendment has the potential to have the opposite effect to what the member and I are seeking to achieve with recycling. I understand that this issue has been raised on a number of occasions and has been considered by both the Waste Authority and the Waste Management Board, when it was in operation. I understand they came to the same conclusion that I have; that is, it would actually have the opposite effect of what we are trying to achieve. For those reasons we will not support the amendment

Hon SALLY TALBOT: I indicate that Labor will support the amendment moved by Hon Robin Chapple. Hon Robin Chapple and I spent a considerable amount of time talking to members of the Forum of Regional Councils, as indeed have several other Labor members on this side of the house. It really came down to the question of who was to move this amendment—Hon Robin Chapple or me.

Although I started my contribution to the second reading debate by indicating that Labor thinks that this is such a stinking dead cat of a bill that we would not support it in any way, shape or form, Hon Robin Chapple beat me to submitting an amendment to the supplementary notice paper. Because Labor is the party of resource recovery and recycling we are not going to take waste to landfill; we will try to retreat it to re-use it and reshape it so that we can get on with it. That is why Labor is happy to support Hon Robin Chapple's amendment.

Honourable members would have noticed that there is a fallback amendment on the supplementary notice paper in my name, which I look forward to speaking to, assuming that we get there and Hon Robin Chapple is not successful in having the government accept this amendment.

I heard the minister explain her reservations about supporting this amendment. I do not think she has referred to anything that has not been considered by the members of the Forum of Regional Councils. Clearly they have come to a different conclusion than that reached by the minister. I would back their judgement over hers in this particular case. I say that for a couple of reasons that I will now enumerate. The main reason is that these people have been dealing with activities in this field for a considerable time and their collective experience must add up to centuries. That is the first thing. They are acknowledged experts in their field. They contribute at an international level to the debate about resource recovery, recycling and waste avoidance. On that basis, it would behove the government very well to be shown to have listened to some of that expert advice. I cannot comment on whether that expert advice is in conflict with some of the expert advice the minister is receiving from her department, but when we get to a simple yes-no argument, that is the uniquely powerful position that the minister is in—that she can make up her own mind on these things. I hope she does not hear this as being patronising. I do not mean it to sound that way.

Hon Donna Faragher: You do very well in that regard, I must admit.

Hon SALLY TALBOT: I know there are occasions when the minister wants to think the worst of me.

Hon Donna Faragher: No, never!

Hon Kate Doust: I am sure the minister will send you a Christmas card this year!

Hon SALLY TALBOT: I hope so. I would treasure it were she to do so. I suppose in some senses it is easier for the minister to see these attacks as “personal” attacks —

Hon Donna Faragher: I do not see it as that. They are just wrong!

Hon SALLY TALBOT: — rather than accept the fact that she is just trying to take through a dead, stinking cat of a bill.

Hon Donna Faragher: That is a bit boring. That is what David Templeman called it!

Hon SALLY TALBOT: The minister has made some good decisions and she has shown that she can resist some of the advice that has been given to her by the people closest to her. An example I have given before is the way that she has intervened in the war between the Department of Environment and Conservation and the Waste Authority to quarantine those five positions. I ask the minister to consider the arguments that have been put forward, that are encapsulated in this amendment moved by Hon Robin Chapple, to take it at face value and have the fortitude to stand up and say what, to me, is glaringly obvious—that they are well-thought through amendments that would in fact be more than workable. I suggest that this advice has been provided by people who are experts in the field. Advice has also been delivered by people who are delivering for Western Australia. The Forum of Regional Councils provides services to more than 1.5 million people in Western Australia. I think Geraldton is part of one of these regional alliances. On the whole we are only talking about metropolitan councils coming together in these alliances. One and a half million people is a pretty sizeable proportion of the state of Western Australia.

The reason this amendment is so important to the future of waste recovery in Western Australia is that these resource recovery facilities go to the heart of the cultural change we are trying to bring about in Western Australia. As I have said before, and I say again, these are very, very expensive facilities to provide. FORC's plans over the next five years would increase its capacity by something like 430 000 tonnes a year. The estimated cost of doing that is about \$450 million. That makes the figures that we are looking at, even in terms of the total amount collected from the waste levy—which is projected to be about \$52 million—look like peanuts. I do not want to talk too much about food because I realise that some members are finding their blood sugar levels a bit low! That is peanuts compared with the amount that an organisation like FORC is looking to expend over the next five years—\$450 million!

It would be a small but significant token of our confidence in these regional councils to exempt them from the landfill levy. I proposed this in my original discussions about this bill. Why would we not want to reward efforts to recycle and reuse with an exemption from the levy? That would have been my first proposition. I believe also that was FORC's original position. However, I am persuaded by the argument that it came back to me with: that it would be appropriate to have a carrot buried—more food!—in this arrangement. The carrot is that the more people manage to recycle, the less landfill levy they would pay. We are proposing to develop that type of sliding scale. If a company recycled 70 per cent of a product, it would get a 70 per cent reduction on the landfill levy, and a company that recycled 80 per cent of its waste would get an 80 per cent reduction. The more people recycled, the less they would pay for landfill. On top of that, what impressed me about this amendment is that the money is quarantined in an account that is to be used for essential research and development and, eventually, the construction costs towards some of these very expensive projects.

Several members interjected.

Hon SALLY TALBOT: Do we want to call some sort of order here, or not?

The DEPUTY CHAIRMAN: It seems that what is going on is disturbing the honourable member. I call members to order. Please proceed.

Hon SALLY TALBOT: Thank you, Mr Deputy Chairman, I appreciate your assistance. These are complicated arguments and we have a long amendment in front of us. Members were not disturbing me —

Hon Donna Faragher: I was listening intently.

Hon SALLY TALBOT: I know that the minister was listening intently, and that is what matters to me. I thought it would be good to call order for the benefit of other members so that they can concentrate.

Companies are relieved to find that the money will be set aside and quarantined for those purposes. That takes us a small step towards some of the primary objectives of the WARR act—that is, before this bill was up for discussion. I absolutely wholeheartedly support this amendment.

The other point I make goes to the element of ministerial discretion and the use of the word “may” in the first line of Hon Robin Chapple's amendment, which states —

(5) ... the Minister may grant a full or partial exemption ...

The minister has discretion about not only whether he or she will grant the exemption, but also whether it is a full or partial exemption. I believe that is at the minister's discretion. I asked members of the Forum of Regional Councils whether we would not want more certainty in the provisions. The people in the field have told me that it is better to put it this way because at least the executive arm of government would examine exactly where these exemptions would be given. Within this excellent amendment, we find a system whereby we will grant full or partial exemptions, but they will not be granted for backyard operations. There is no way that a minister will approve a full or partial exemption for someone who just bought a large truck, drove it around the suburbs picking up rubbish and then into a shed to throw out a few bits and pieces before putting the rest in landfill. That will not happen because the minister will retain control of the application of the full or partial exemptions. This is an excellent amendment and Labor supports it wholeheartedly.

Progress reported and leave granted to sit again, on motion by Hon Donna Faragher (Minister for Environment).

ADJOURNMENT OF THE HOUSE

Special

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [9.46 pm] — without notice: I move —

That the house adjourn until 11.00 am Tuesday, 1 December 2009 for the purposes of completing the remaining stages of the Waste Avoidance and Resource Recovery Amendment Bill 2009 and for the taking of questions without notice at 2.00 pm.

I will explain the purpose of this motion. It was the government's intention that this bill be completed today and it was my view that there was sufficient time for that to occur. I have been proved wrong in that assumption. As a consequence of being advised by staff at Parliament House that this late sitting is causing some significant difficulties for staff, particularly Hansard, I do not feel that it is appropriate to continue sitting any longer tonight.

I have spoken to the Leader of the Opposition about completing the bill. We have agreed that the house will adjourn now and resume at 11.00 am on Tuesday, 1 December for the purpose of completing the bill. The Leader

of the Opposition has given me a guarantee that debate on all stages of the bill will be completed by 10.00 pm Tuesday, and Hon Robin Chapple has given me a similar assurance on behalf of the Greens (WA).

The proposal is that we will meet at 11.00 am and that the only business to be conducted on Tuesday will be this bill and a question time at 2.00 pm. Notices of questions to be asked during questions without notice should be submitted by 10 o'clock Tuesday morning.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [9.48 pm]: The opposition agrees with the motion. The matters outlined by the Leader of the House reflect the agreement that we have reached. For the information of members, there were some discussions behind the Chair about the impact that tonight's sitting was having on staff, particularly Hansard. I want to make it perfectly clear that I made it clear to the manager of the Parliamentary Services department that I respected his right to ensure the health and safety of his staff and if he needed to send Hansard staff home, we would be understanding of that and the consequences of what that might mean for the normal services we expect from Hansard.

I reiterate that we have given a commitment, and we will honour that commitment, to complete the Waste Avoidance and Resource Recovery Amendment Bill by 10.00 pm Tuesday. I look forward to doing that.

HON ROBIN CHAPPLE (Mining and Pastoral) [9.49 pm]: We concur with what the Leader of the Opposition has said. We will stand by our commitment to the Leader of the House. We also proffer any sympathy we can to the staff, both within this chamber and elsewhere, for having kept them back late.

Question put and passed.

LEGISLATIVE COUNCIL CHAMBER — REFURBISHMENT

Statement by President

THE PRESIDENT (Hon Barry House): I wish to indicate that because of the circumstances surrounding the refurbishment of this chamber, the Legislative Council will convene in the Legislative Assembly chamber next Tuesday.

ADJOURNMENT OF THE HOUSE

Ordinary

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [9.49 pm]: I move —

That the house do now adjourn.

Legislative Council Chamber — Adjournment Debate

HON MICHAEL MISCHIN (North Metropolitan — Parliamentary Secretary) [9.49 pm]: I will not delay members for very long, but it seems fitting to me that before we rise on the last day that we—or anyone—will sit in this chamber in its current configuration, we recognise that it is, in its own small way, a historic event. It has been the workplace for me, and the newer members, for a relatively short time; and, for other members, a very long time. It is easy to take it for granted and not realise the significance of its passing.

Once we leave this place this evening, all that will remain of its original configuration will be our memories of it and some photographs. I respectfully invite members to take a moment to reflect on the significance of that before we proceed to our other business, as, if nothing else, a sign of respect to those who designed it, those who built it, and those who have worked in this chamber for the past century, and to consider the good, the bad and the drama that emerged from it over those decades. I will be sorry to see it go in many respects, although I can understand the need for modernisation.

Hon Jon Ford: If only chairs could talk!

Legislative Council Chamber — Statement by President

THE PRESIDENT (Hon Barry House): Just before we decide the question, can I just add a little further to those comments and say that I have taken steps, together with the Clerk and the management of Parliament House, to preserve some aspect of this chamber for the members and for the history of this place, where it will be illustrated in the Parliament and elsewhere. That will include parts of the carpet, which I wish to be made available to the existing 36 members of this chamber, and some of the furniture. The chairs, in particular, will be relocated to the back of the chamber so that there will be some aspect of the old chamber in the new, refurbished chamber to remind you of bygone days.

Question put and passed.

House adjourned at 9.50 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

FREMANTLE HARBOUR — DREDGING IMPACTS

1282. Hon Giz Watson to the Minister for Environment

With regards to the likely impacts of the dredging of Fremantle Harbour and channel deepening, I ask —

- (1) Is existing stockpiled material at Rous Head to be mixed with the material from the Fremantle Harbour in the reclamation operation at Rous Head?
- (2) If yes to (1), —
 - (a) what is the nature of this material;
 - (b) does it contain toxins; and
 - (c) if yes to (2) (b), what are these toxins?
- (3) Will the Minister table the Preliminary Site Investigation (PSI) report for lot 1 on Plan 23900, produced in January 2008?
- (4) If no to (1), what will be done with this stockpiled material?
- (5) What is the estimated length of time that the geotextile material lining the containment wall for the reclamation area at Rous Head will remain impervious?
- (6) The surface sediment samples from the Entrance Chanel shows toxin levels well above National Ocean Disposal Guidelines for Dredged Material (NODGDM), how can the Minister be sure that none of that material will enter the environment in the future?
- (7) In the assessment of the suitability of Rous Head as a dumping ground, has any consideration been given to rising sea levels and or increased storm damage as a result of climate change?
- (8) What volume and concentration of toxic material is likely to reach Leighton, Cottesloe or Swanbourne beaches from the reclamation operations?
- (9) What volume and concentration of toxic material is likely to reach Leighton, Cottesloe or Swanbourne beaches from the off-shore dumping of dredging spoil?
- (10) What are the potential health risks on local beach/water users, for both adults and children, for each of the following contaminants, —
 - (a) TBTs (Tributyl tin);
 - (b) Arsenic;
 - (c) Mercury;
 - (d) Copper;
 - (e) Zinc;
 - (f) nickel;
 - (g) lead;
 - (h) chromium;
 - (i) cadmium;
 - (j) PAH (Polycyclic aromatic hydrocarbons);
 - (k) pesticides;
 - (l) organochlorides; and
 - (m) asbestos?
- (11) What are the World Health Organisation's (WHO) safe limits for each of the above?
- (12) What are the modeled worst case pollution scenario's for Leighton Beach and Cottesloe Beach from the Inner Harbour channel deepening dredging operations?
- (13) What beach/beaches are at risk of closure this summer along the west coast if pollutant levels exceed World Health Organisation standards and/or if sediment concentration reaches unacceptable levels?
- (14) How will the Minister ensure that the beaches are monitored and implement any beach closures?
- (15) What risk assessment has been made of the likely elevated risk to swimmers and other beach users of shark attacks in the circumstance of a visible plume?

- (16) Who made this assessment?
- (17) Who was consulted in the assessment process?
- (18) What strategies will the Minister implement to address any increased risk of shark attacks?
- (19) What contingency plan is in place if aerial shark patrols are ineffective in spotting sharks due to poor water visibility?
- (20) A report was produced by URS in 2007 entitled, 'Detailed Site Investigation Rous Head Reclamation Area'. This report was not made available by the Fremantle Port Authority during the EPA's PER assessment process, —
 - (a) will the Minister table the report; and
 - (b) if no to (20) (a) why not?
- (21) The statutory public consultation process carried out by the Fremantle Port Authority as part of the PER only involved a small number of stakeholders, what agencies were consulted during the preparation of the PER?
- (22) Were the following agencies or organisations consulted, —
 - (a) Town of Mosman Park;
 - (b) City of Nedlands;
 - (c) Shire of Peppermint Grove;
 - (d) Multiplex Living 'The Leighton' beachside apartment developer;
 - (e) Save Freo Beaches;
 - (f) Leighton Coastal Coalition; and
 - (g) Cottesloe Coastcare Swanbourne Coastal Alliance?
- (23) If yes to (22), please summarise their response?
- (24) If no to any agency mentioned in (22), why not?
- (25) In the PER, the proponent does not specify key aspects of the project such a detailed operational plan for the reclamation of the Rous Head site, —
 - (a) what is the material to be used in the construction of the seawall;
 - (b) will the stockpiled waste materials be dumped into the water after the completion of the seawall;
 - (c) what measures will be taken to stop toxic pollutants leaching out from under the geotextile barrier placed inside the seawall and through the bottom of the reclamation area into the ocean; and
 - (d) what contingency plan is in place in case any material used in the seawall is dislodged or damaged by waves and/or currents?
- (26) Did the Fremantle Port Authority provide a detailed plan on how these operations will take place including a time schedule?
- (27) Will the Minister table this plan?
- (28) Has the EPA in its assessment taken into consideration cumulative effects of other projects that will or likely to be taking place in Cockburn Sound, such dredging operations for the new James Point private port which is likely to add another sediment plume to the already heavy plume from the FPA operations?
- (29) What is potential effect of the sediment plume on the following species of sea mammals, —
 - (a) bottlenose dolphins in the Swan River; and
 - (b) Australian sea lion at Carnac Island?
- (30) Why does the extent of the plume obtained from the modelling in the PER prepared by SKM appears to skirt around Carnac Island?
- (31) Has the 173 000 cu m of contaminated waste at Rous Head that is to be used in the reclamation operations been listed as a contaminated site under the *Contaminated Sites Act*?
- (32) If no to (31), why not?
- (33) If yes to (31), has the FPA legal authority to move and dump into the ocean a large amount of contaminated material?

Hon DONNA FARAGHER replied:

- (1) Yes.
- (2) (a) The stockpiled material at the Rous Head reclamation area (the northern portion of Lot 467 on Plan 218636) was sourced from a variety of locations and activities across the Fremantle Ports Inner Harbour Area between 1995 and 2005.
- (b) The stockpiled material contains copper, zinc and the organochlorine pesticide dieldrin above soil Ecological Investigation Levels but below Health-based Investigation Levels for all land uses.
- (c) See the answer to (b).
- (3) (a)-(b) This question should be directed to the Minister for Transport.
- (4) Not applicable.
- (5) The geotextile liner is made from polypropylene, which is a very durable polymer that has excellent chemical and biological resistance. Its function is to act as an impervious liner to fine particles in order to prevent their escape whilst the seawall and reclamation area settles and stabilizes. It is not required to serve any significant purpose after stabilisation occurs. However, I am advised it is estimated to remain intact for decades.
- (6) Concentrations of several contaminants in sediments were found above the NODGDM screening levels. Exceedance of the screening levels triggers further investigation to determine whether the contaminants are likely to dissociate from the sediment and be released into the surrounding water. If further investigations show the concentrations of contaminants are estimated to exceed the relevant water quality guidelines, then ecotoxicity tests are generally undertaken to determine whether actual effects on marine biota are likely and at what concentrations.

All contaminants that exceeded NODGDM screening levels in the sediments were found to be strongly bound to the sediment particles and did not result in exceedance of the water quality guidelines. All Entrance Channel sediments will be disposed at Rous Head behind a geotextile lined seawall to prevent the sediments from washing into coastal waters. I am advised that it is therefore considered that the levels of contaminants do not pose a health or environmental risk.
- (7) The design of the protective seawall and the level of reclamation has taken into account predictions on climate change and sea level rise by the Intergovernmental Panel on Climate Change.
- (8) All sediments from the Entrance Channel will be disposed at Rous Head behind a geotextile lined seawall to prevent the sediments from washing into coastal waters. Studies undertaken by the Fremantle Port Authority (FPA) show that any dissolved contaminants in the return water will meet a high level of ecological protection and health related guidelines for recreational waters at the edge of the moderate ecological protection zone immediately surrounding the Rous Head return water discharge point. The conditions in Ministerial Statement No. 801 require the FPA to manage the dredging and reclamation program within the context of an environmental quality management framework that will protect the quality of the surrounding environment.

Condition 6-3 of Ministerial Statement 801 requires the proponent to demonstrate that the environmental quality 'trigger' levels for a high level of ecological protection are met. If they are not met the proponent is required to immediately report to the Chief Executive Officer of the Department of Environment and Conservation with the relevant remedial and/or preventative actions to be implemented.
- (9) As described in EPA Report 1330, the nature of the material to be dredged in the deep water channel is mainly crushed limestone rock approximately 10-100mm in size. Sediment samples from the proposed deep water Channel dredging area did not exceed NODGDM screening levels and are considered suitable for offshore disposal. I am advised that the levels of contaminants in the dredged sediment to be placed offshore are therefore considered not to pose a health or environmental risk. The size of the crushed material to be placed at the offshore disposal site and the investigations undertaken by the proponent show that the spoil ground will be stable.
- (10)-(11) These questions should be referred to the Minister for Health.
- (12) Sediment plume modelling was undertaken to determine the maximum potential extent of visible suspended sediment plumes from the dredging program. The results indicate that the visible plume could occasionally extend to areas beyond Leighton and Cottesloe beaches.
- (13)-(14) These questions should be referred to the Minister for Health.
- (15)-(19) These questions should be referred to the Minister for Fisheries.

- (20) (a)-(b) This question should be referred to the Minister for Transport.
- (21) Copies of the proponent's Public Environmental Review document were provided to the following State and local government agencies, organisations and libraries:

State and local government agencies

Department of Environment and Conservation
 Department for Planning and Infrastructure
 Department of Fisheries
 Department of Treasury and Finance
 Main Roads Western Australia
 Department for State Development
 Department of Indigenous Affairs
 Swan River Trust
 City of Fremantle
 Town of East Fremantle
 The South West Group
 Town of Cottesloe

Environmental Groups

Conservation Council of Western Australia
 Recfishwest

Industry Groups

Chamber of Commerce and Industry WA
 Fremantle Chamber of Commerce
 WA Port Operations Task Force
 Shipping Australia
 Planning and Transport Research Centre, Curtin University
 WA Fishing Industry Council

Port Service Providers

Fremantle and Kwinana Pilots
 Patrick Terminals
 DP World (Fremantle) Ltd
 Svitzer Australia

Libraries

J S Battye Library
 City of Fremantle Library
 Spearwood Public Library
 Kwinana Public Library

- (22) (a)-(g) These organisations were not formally consulted as part of the PER process, however questions relating to broader consultation by the Fremantle Port Authority should be directed to the Minister for Transport.
- (23) Not applicable.
- (24) The proponent's PER document was made available for a public review period of six weeks from 19 January 2009 to 2 March 2009. The invitation for public submissions was advertised by the proponent in The West Australian on 17 January and 7 February 2009. During this time, any persons or organisations were able to make submissions to the EPA. The PER was available at a number of local libraries and for download from the Fremantle Ports website. While the agencies and organisations listed in question 22 were not provided with a copy of the PER document, they were able to obtain a copy of the PER from the proponent's website and make a submission to the EPA.
- (25) (a) The material to be used in the construction of the seawall is quarried limestone and granite rock.
- (b) The stockpiled materials will be placed and compacted in layers behind the geotextile lined seawall.
- (c) Materials in the existing stockpile have been comprehensively sampled and tested and are suitable for use in reclamation. Laboratory elutriates testing and a sea water trial were conducted on the concrete from demolition present in the stockpile to demonstrate that the

material would not adversely impact the marine environment. In addition ongoing monitoring will occur to ensure that marine water quality is maintained.

- (d) Rock armour is being placed progressively along the seawall to protect it from wave and storm damage.
- (26) No, however Section 2.4.5 of the PER describes the manner in which the seawall at Rous Head will be constructed.
- (27) Not applicable.
- (28) No.
- (29) (a) The EPA in Report 1330 did not identify the potential impacts of the proposal on dolphins as a key environmental factor requiring detailed evaluation during its assessment. The EPA has advised me that the proposal is unlikely to have a significant effect on dolphins in the Swan River.
- (b) Carnac Island is located approximately 8 kilometres from the entrance channel of the Fremantle Inner Harbour. The EPA in Report 1330 did not identify the potential impacts of the proposal on the Australian sea lions at Carnac Island as a key environmental factor requiring detailed evaluation during its assessment. The EPA has advised me that the proposal is unlikely to have a significant effect on the Australian sea lions at Carnac Island.
- (30) I am advised that the question is referring to figures which show contours for the furthest extent of the predicted visible plume at 2mg/l above background. It is a cumulative plot of all modelled occurrences where more than 2mg/l of sediment was predicted for greater than 3 hours. Modelling was during daylight hours, for events of greater than 3 hours duration and for the duration of dredging.
- I am advised that the reason that the predicted visible plume contour 'skirts around' Carnac Island is because the model predicts stronger currents close to the shore which disperse any sediments, and although there may have been a modelled value of total suspended solids above background, it did not reach 2mg/l above background for more than 3 hours.
- (31) Yes.
- (32) Not applicable.
- (33) The FPA has environmental approval to undertake reclamation at Rous Head subject to the conditions in Ministerial Statements 801 and 383. .

GOVERNMENT EMPLOYEES SUPERANNUATION BOARD —
REMUNERATION TO EXECUTIVES AND BOARD MEMBERS

1315. Hon Giz Watson to the Parliamentary Secretary representing the Treasurer

Referring to additional information provided on 17 October 2009 to my question on notice No. 731, I ask —

- (1) What is the current dollar value of the remuneration package for the CEO and for each of the individual members of the executive?
- (2) How much of this expense is being paid by GESB members?
- (3) What difference is there between the key performance indicators of the GESB management and key performance indicators of other public servants, who manage Government controlled enterprises?
- (4) What factors justified the 28 percent salary increase in 2007-2008 as reported in the amended answers?
- (5) How does the GESB management remuneration value compare with the broader Western Australian public sector and with SuperSA, RBF Tas, and QSuper public sector funds which provide similar services to members as GESB, but do not operate in a choice of fund environment?
- (6) Has the remuneration of the GESB Chairman and other Board directors increased in the past three years?
- (7) If yes to (6), what was the percentage increase by year?
- (8) Why have GESB's administration costs doubled over the past five years?
- (9) How much in total did GESB spend on consultants in 2008-09?
- (10) Please identify the consultants and the amounts paid to each of them?
- (11) How much in total did GESB staff and Board spend on interstate and overseas travel (including travel expenses) in 2008-09?

- (12) Please explain why in June 2009, GESB was unaware of the percentile increase in remuneration paid to its Management in 2007-2008, and two years prior?

Hon HELEN MORTON replied:

GESB's answers —

- (1) As at 1 November 2009 —

Chief Executive Officer	\$521, 076
Chief Investments Officer	\$295, 097
Chief Financial Officer	\$284, 672
GM, Marketing and Strategy	\$258, 793
GM, Services and Technology	\$256, 400
GM, Distribution (Acting)	\$251, 505
GM, Risk and Governance	\$249, 706

These amounts include salary, superannuation and other benefits such as parking.

- (2) Approximately 50% of these costs are paid for by members in 2009/10.
- (3) GESB's key performance indicators are specific to its primary role of being a superannuation provider and arise as a result of its statutory functions under the State Superannuation Act 2000. Unlike other Government agencies GESB provides superannuation and wealth management services to current and former public sector employees and their partners, rather than all Western Australians and as such its performance indicators are not comparable to other government controlled enterprises.

The performance indicators of the management team focus on performance in the best interests of members and include:

- Sustainability
 - Funds under Management
 - Net Funds Flow
 - Member Satisfaction
- Cost Management
 - Budget costs
 - Cost to income ratio
 - Cost to Asset ratio
 - Capital expenditure
- Risk Management
 - Level of risk reserve
- People Management
 - Full time equivalents
 - Staff engagement

- (4) This salary increase occurred during the term of the previous Labor Government, and as such, it is not for the Treasurer to justify this pay increase.

- (5) Data on WA public sector salaries is published in agency annual reports.

GESB advised the Treasurer that specific information on remuneration arrangements for other public sector superannuation funds is not available to it.

- (6) Yes.

Not all of GESB's Board Directors are paid.

- (7) The Chairman's fee increased from \$64,600pa (paid since 27 June 2005) to \$106,400pa on 8 July 2008. This represents a fee increase of 64.70%.

A Director's fee increased from \$25,900pa (paid since 27 June 2005) to \$53,200pa on 8 July 2008. This represents a fee increase of 105.40%.

The Chair of GESB's Audit and Risk Committee fee decreased to \$5,000pa (since 8 July 2008). This fee was previously \$13,000pa representing a 61.5% decrease.

Superannuation of 9% is paid in addition to the above Board fees.

- (8) GESB's Total Scheme Administration costs have increased from \$29.69 million in 2003/2004 to \$49.37 million in 2008/09. This represents an increase of 66% over 5 years. The increase in administration costs for the 5 year period is a direct result of the introduction of new products and services for members, enhancing existing products and services and revenue. Examples include:

- GESB's Financial Advice Service
- member and employer retirement seminars
- introduction of phased retirement for public sector employees
- increased web based services — 24/7 access; member on-line, webinars
- new taxed accumulation scheme
- retirement schemes
- an expanded regional WA program.

GESB has also responded to significant industry changes and as a result the complexity of superannuation has increased. Changes in the regulation of the superannuation industry include:

- Corporate Governance and Regulatory changes — 2004
- Super and Family law changes 2004-2006
- Better super reforms — 2006/7
- Tax reforms — ongoing

Costs have also increased as a result of:

- An increase in the number of members over the 5 year period (2003/04) — 254,000 members to over 310,000 in 2009 and an increase in FuM from \$4b to \$9.5b (2008/09)
- Increase in communications to members as complexity of superannuation increases
- six-monthly statement reporting to members
- Implementation of additional risk management and compliance processes and systems
- Capital expenditure and efficiency improvements for members
- Financial systems upgrade
- Introduction of daily forward unit pricing
- Providing support to Government during a significant period of reform in GESB —2006/7 — present.

- (9) \$916,649; In accordance with Premier's Circular No 2005/08 this figure represents the expense on consultants who are considered to be any person engaged on a fee-for-service basis to provide strategic advice for Government to act on. These six-monthly summaries are tabled in Parliament under the title 'Report on consultants engaged by Government'.

Expenditure on consultants is reported to be \$3,294,235 in GESB's 2008/09 Annual Report. However this includes expenditure on services such as actuaries, which are specifically excluded from the definition of consultants in Premier's Circular No 2005/08.

- | | | |
|------|----------------------------|-----------|
| (10) | Pottinger and Associates | \$471,092 |
| | Mercer Investment Services | \$286,052 |
| | Hay Group | \$147,130 |
| | GEM Consulting | \$10,098 |
| | Barrington Consulting | \$2,277 |

- (11) \$269,510.40; In accordance with Premier's Circular No 2009/04, quarterly travel returns are submitted to the responsible Minister's Office prior to forwarding to the Director General of the Department of the Premier and Cabinet who then publish these figures in the 'Report of Interstate and overseas travel Undertaken by Ministers, Members of Parliament and officers on official business.'

It should be noted that this amount includes overseas travel for due diligence on significant international investments GESB makes with overseas fund managers and in many cases as part of continuing professional development aligned with Commonwealth regulatory standards.

- (12) GESB made a transposition error in reporting percentage increases against the relevant financial years. As soon as GESB was made aware of this, the information was corrected and provided to the WA Parliament.

GOVERNMENT DEPARTMENTS AND AGENCIES — THREE PER CENT EFFICIENCY DIVIDEND

1329. Hon Ljiljana Ravlich to the Minister for Environment

For each Department and Agency within the Minister's portfolios, please provide, —

- (a) a description of each of the initiatives to achieve the relevant Agency's 3 percent efficiency dividend;
- (b) a description of how the original services, provided by the initiatives that were cut in (a) above, have been met by other areas of that Agency;
- (c) if services have not been provided to their original level, a description of where the Agency is increasing its level of service to create efficiency; and
- (d) for each new service provided by the Agency, a description of the monetary and non-monetary, costs and benefits, attributable to the new service?

Hon DONNA FARAGHER replied:

Department for Environment and Conservation

- (a) The initiatives to achieve the 3 per cent efficiency dividend across the Department of Environment and Conservation were summarized at page 888 of the 2009/10 Budget Statements, Budget Paper No 2, Volume 3.
- (b)-(c) The savings measures outlined in the answers to part (a) were selected and have been implemented so that there is no or minimal impact on service delivery.
- (d) Not applicable.

Swan River Trust

- (a) The initiative to achieve the 3 per cent efficiency dividend across the Swan River Trust was summarized at page 911 of the 2009/10 Budget Statements, Budget Paper No 2, Volume 3.
- (b)-(c) The historical Swan River Trust approach to salary budgeting has been to load 100% FTE salary and wages for the full financial year. Historically the salary budget delivers modest savings on the basis of vacancies between staff appointments.

To achieve the 3% efficiency dividend the financial buffer or saving that has regularly arisen from staff turnover is no longer available to the Trust. This involves managing the timing and form of appointment of new staff to vacant positions and may involve delays in filling vacancies and appointment to fixed term contracts rather than permanent appointments. As such original services have not been affected.

- (d) Not applicable

Botanical Gardens and Parks Authority

- (a) The initiatives to achieve the 3 per cent efficiency dividend across the Botanic Gardens and Parks Authority were summarized at page 901 of the 2009/10 Budget Statements, Budget Paper No 2, Volume 3.
- (b)
 1. Kings Park Bushland restoration and maintenance programs — original service able to be met, however, planned expansion of program not implemented.
 2. Bold Park Bushland restoration and maintenance programs — original service able to be met, however, planned expansion of program not implemented.
 3. Kings Park Festival — original service met by seeking increased external sponsorship funding and use of volunteers.
 4. Contracted night time security services within Kings Park — original service met by reallocation of remaining resources to align with periods of peak demand.
 5. Science research and operational activities — original service met by seeking additional external fee for service funding.
 6. Visitor maps, brochures and other publications, plant labelling and other interpretive signage — original service met by review of existing publications and reducing level of planned new signage.
 7. Operational vehicles within Kings Park and Botanic Garden — original service met by increased utilisation of remaining vehicle resources.

(c)-(d) Not applicable

Zoological Parks Authority

- (a) The initiatives to achieve the 3 per cent efficiency dividend across the Zoological Parks Authority were summarized at page 921 of the 2009/10 Budget Statements, Budget Paper No 2, Volume 3.
- (b) To achieve the 3% dividend, the Zoological Parks Authority selected initiatives that would not impact on its capacity to deliver primary visitor services or reduce its income earning ability. At the same time, Perth Zoo selected initiatives for which funding might be available from alternative sources, such as external sponsorship or grant funding, or for which a comparable outcome could be achieved via an alternative, cost effective approach.
- (c) The Zoological Parks Authority has continued to deliver its core services at their original level.
- (d) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES — THREE PER CENT EFFICIENCY DIVIDEND

1342. Hon Ljiljana Ravlich to the Parliamentary Secretary representing the Treasurer

For each Department and Agency within the Treasurer's portfolios, please provide, —

- (a) a description of each of the initiatives to achieve the relevant Agency's 3 percent efficiency dividend;
- (b) a description of how the original services, provided by the initiatives that were cut in (a) above, have been met by other areas of that Agency;
- (c) if services have not been provided to their original level, a description of where the Agency is increasing its level of service to create efficiency; and
- (d) for each new service provided by the Agency, a description of the monetary and non-monetary, costs and benefits, attributable to the new service?

Hon HELEN MORTON replied:

Department of Treasury and Finance

- (a) The initiatives to achieve the three per cent efficiency dividend are:
 - (1) Building Management and Works — Delay Filling of Vacant Positions:
Delaying the filling of vacant positions in Building Management and Works to reduce salary expenditure.
 - (2) Building Management and Works — Reduce Consultancy Services:
Reduction of consultancy services expenditure by the Office of Strategic Projects.
 - (3) Building Management and Works — Savings in Corporate Services Achieved as Part of the Transfer from Former Department of Housing and Works to the Department of Treasury and Finance:
Reduction in corporate services in Building Management and Works, following the transfer of the Works function of the Department of Housing and Works to the Department of Treasury and Finance in February 2009.
 - (4) Building Management and Works — Reduce Supplies and Services, Including Human Resources and Consultancy Services:
Some improvements to operational systems to be put on hold, and the use of specialist consultancy services to be limited.
 - (5) Building Management and Works — Postpone Implementation of the Fremantle Prison Heritage Precinct Master Plan to Allow Original Schedule to be Met:
Slowing the implementation of the Fremantle Prison Heritage Precinct Master Plan. As the implementation of the Fremantle Prison Heritage Precinct Master Plan is ahead of schedule, slowing the completion of the remaining recommendations will return the program to its original timeframe.
 - (6) Building Management and Works — Suspension of Work on '5 Star Plus Stage 2' Sustainability Plan, to be Replaced with a New, More Cost-Effective Sustainability Policy Framework:
Suspension of work on the sustainability initiative 5 Star Plus stage 2, including reduced advertising/publicity and removal of the need to run state-wide workshops to introduce the measures to industry.

- (7) CEIID Initiative — Cease Use of Consultants and Graduate Program:
 Immediate cessation of the use of consultants on Centre for Excellence and Innovation in Infrastructure Delivery (CEIID) reform projects as well as cessation of the CEIID graduate program. Consultants were previously used to support project teams and undertake research of best practice. The graduate program was intended to foster greater mobility between CEIID agencies with the potential for better matching resources to projects, and the development of a career path for business graduates.
- (8) Gateway Initiative — Reduction in Reliance on External Resources:
 Reduction in the reliance on external (private sector) resources to conduct Gateway reviews and slow the growth of the Gateway Unit in Government Procurement.
- (9) ICT and Strategic Procurement Sourcing — Reduction in Use of Consultants:
 Reduction in the reliance on the use of private sector consultants in meeting agency specific ICT contracting demands, and reduction in resources working on Common Use Arrangements.
- (10) Procurement — Reduction in Business Development, Reporting and Analysis:
 Reduction in the resources available for procurement business development, reporting and analysis and the management and promotion of Common Use Arrangements.
- (11) Procurement — FTE Savings Achieved through Natural Attrition and Realignment of Duties:
 Includes abolition of the Level 8 Procurement Policy Officer within Government Procurement's Executive. This position was dedicated to policy development and advice.
- (12) Shared Services — Reduction in Use of Consultants:
 Reduction in expenditure on consultants at the Office of Shared Services.
- (13) Shared Services — Rationalisation of Staff while Maintaining Focus on Core Transactional Areas of Accounts and Payroll Processing:
 Reduction in staff numbers at the Office of Shared Services by approximately six Full Time Equivalents (FTEs).
- (14) State Revenue — Rationalisation of Staff to Focus on Areas of Greatest Risk and Revenue Yield:
 Reduction in staff numbers at the Office of State Revenue by approximately 35 Full Time Equivalents (FTEs) across the Compliance, Customer Service and Staff Training, and Debt Recovery areas.
- (b) The Department has implemented the above initiatives and monitors financial and FTE impacts associated with these initiatives to ensure that the efficiencies are realised.
- In several instances, new service approaches are planned, including the implementation of the Works Reform program that is delivering a range of initiatives covering all four of the Building Management and Works service categories.
- These are outlined in the Works Reform Business Solutions Plan that was released in June 2009. The plan has 55 recommendations to reform the planning and project management for the design, construction, maintenance and leasing of Government non-residential buildings.
- The Works Reform Plan aims to deliver \$280 million in savings over the next four years (as outlined in section 12 of the Works Reform Business Solutions Plan).
- In some areas of the Department, service reductions and a reconfiguration of service delivery has occurred including:
- the reduction in procurement reporting and publications analysis. This has been supplemented by working more closely with agencies to streamline their processes;
 - scaling back Common Use Arrangements promotional activities and the discontinuation of the Treasurer's Awards;
 - Common Use Arrangement renewal program has been extended over a longer period of time;
 - Developed a user pays model to cover the costs for conducting Gateway reviews; and
 - Reductions in State Revenue services have had corresponding impacts in customer service levels, a reduction in audit coverage and increasing debt levels. This impact is being mitigated in part by undertaking business in different ways through more flexible deployment of available resources, a

greater focus on self assessment, and revised risk management strategies. Notably, notwithstanding the reductions, customer service levels are still meeting the standards outlined in the Customer Charter.

(c)-(d) Nil

Department of Commerce

(a) The Department has implemented the following savings measures:

Saving measure A — Departmental Overheads:

Reduction in departmental overheads for Office of Director General and Corporate Services, including communications, finance, administration, human resource management, information systems, and corporate information. Planned expanded expenditure on employment has been curtailed.

Saving measure B — Consumer Protection:

Reductions in staffing have occurred across the regulation of associations, finance and valuation, the register of encumbered vehicles, weights and measures, consumer protection community education and in business improvement functions. Additionally, there have been reductions in budget for non-salary costs such as legal services and publications.

Saving measure C — Science, Innovation and Business:

A budget provision originally used to engage management support for indigenous community stores in remote communities, was identified as a saving as it had not operated for over 5 years. Efficiency savings were being achieved from that source without impacting on mainstream operations.

Saving measure D — WorkSafe:

A range of cost savings and efficiency measures have been implemented across WorkSafe division. Inspectorate services have been maintained.

Saving measure E — Labour Relations:

Savings in the Labour Relations Division have been achieved by delaying recruitment to fill selected vacancies by up to three months. There have been reductions in expenditure on stationery, consultants, travel, and training conferences and seminars.

(b) No original services have been cut but delays in recruitment have required support from other services within each division.

(c) See (a) and (b) above.

(d) No new services have been provided by the department.

Department of Housing

(a) Administrative savings through economies of scale are being achieved through the amalgamation of the administration of the multiple shared equity schemes into the Keystart Housing Scheme structure.

Administrative savings through some of the Country Housing functions being delivered through the Keystart structure.

Savings in the reduced use of consultants.

Reductions in travel expenses.

Restructure of management positions to reduce duplication in functions and improve operational efficiencies.

Reduced duplication of program management and administration costs for Community Housing Joint Ventures.

(b) Keystart already provides shared equity schemes for the Department and in the case of Country Housing Authority provides housing loans in regional Western Australia. The transfer of the remaining schemes and functions provides greater economies of scale.

Cost savings achieved through improved efficiencies and reduction in duplication of program management and administration. Only essential use of travel and better use of alternative communication means such as the electronic media. Reduction in consultancy services through the better use of in house expertise.

(c)-(d) Not applicable

Chemistry Centre

- (a) There are two initiatives which ChemCentre has budgeted in order to meet the 3% efficiency:
- (i) ChemCentre made savings against rent and received cash from fee for service work above budget. As a consequence Chemcentre had surplus cash above budget for the year ending 30 June 2009. The 3% efficiency saving on appropriations was paid for out this cash surplus.
 - (ii) For the year ending 30 June 2010 and the out years, Chemcentre is looking to replace contract IT with a person employed by ChemCentre on a three year contract. This is expected to save at least the 3% efficiency dividend requested by State Government.
- (b) As the savings against appropriations in 2009 were taken out of unpaid rent and resulting cash surpluses, services were not affected by the 3% efficiency.
- In the out years efficiencies created through better use of resources will not affect services.
- (c) N/A
- (d) There were no new services provided by ChemCentre

Small Business Development Corporation

- (a) The Small Business Development Corporation undertook a review of its services to identify areas where the three (3) per cent efficiency dividend could be achieved. This included not replacing redundant or one off programs, and through the deferral, or not proceeding with existing and/or planned minor programs.
- (b) The programs and activities targeted to achieve the three (3) per cent efficiency dividend were those with the least impact on core services of the Corporation and as such, these services have not been met by other areas of the Corporation.
- (c) The required efficiency has been achieved through a reduction in appropriation with minimal impact on the provision of services.
- (d) The following new services have been provided as a result of the 2009-10 budget process:

Indigenous Small Business Development Program (\$300 000 per annum)

As a result of the government's economic audit, a recurrent amount of \$300 000 has been transferred to the Small Business Development Corporation from the Department of Commerce for the Aboriginal Economic Development Program. The funding will be used for programs in support of Indigenous enterprise throughout Western Australia. Given the early stage of the program, it is not possible to quantify the non monetary costs and benefits of the new service.

BizFit Small Business Resilience Program (\$2m over 2 years)

\$1m has been provided in each of 2009-10 and 2010-11 to deliver a business resilience program for Western Australian small businesses. BIZFit represents a key initiative to address this issue by providing hands on training, support and guidance to build business resilience, regardless of the prevailing economic conditions. The program will run for two years and is expected to impact over 2 500 small businesses located in remote, regional and metropolitan WA. Program partners include the Small Business Centre network; Regional Chambers of Commerce, Local Government Authorities and the Curtin Business School.

WA Industrial Relations Commission

- (a) Reduction in Staffing and Administrative costs
- (b) No impact on service delivery
- (c)-(d) Not applicable

GOVERNMENT DEPARTMENTS AND AGENCIES — THREE PER CENT EFFICIENCY DIVIDEND

1343. Hon Ljiljanna Ravlich to the Parliamentary Secretary representing the Minister for Commerce

For each Department and Agency within the Minister's portfolios, please provide, —

- (a) a description of each of the initiatives to achieve the relevant Agency's 3 percent efficiency dividend;
- (b) a description of how the original services, provided by the initiatives that were cut in (a) above, have been met by other areas of that Agency;
- (c) if services have not been provided to their original level, a description of where the Agency is increasing its level of service to create efficiency; and

- (d) for each new service provided by the Agency, a description of the monetary and non-monetary, costs and benefits, attributable to the new service?

Hon HELEN MORTON replied:

Please refer to Legislative Assembly Question On Notice 1342.

GOVERNMENT DEPARTMENTS AND AGENCIES — THREE PER CENT EFFICIENCY DIVIDEND

1344. Hon Ljiljana Ravlich to the Parliamentary Secretary representing the Minister for Science and Innovation

For each Department and Agency within the Minister's portfolios, please provide, —

- (a) a description of each of the initiatives to achieve the relevant Agency's 3 percent efficiency dividend;
- (b) a description of how the original services, provided by the initiatives that were cut in (a) above, have been met by other areas of that Agency;
- (c) if services have not been provided to their original level, a description of where the Agency is increasing its level of service to create efficiency; and
- (d) for each new service provided by the Agency, a description of the monetary and non-monetary, costs and benefits, attributable to the new service?

Hon HELEN MORTON replied:

Please refer to Legislative Assembly Question On Notice 1342.

GOVERNMENT DEPARTMENTS AND AGENCIES — THREE PER CENT EFFICIENCY DIVIDEND

1345. Hon Ljiljana Ravlich to the Parliamentary Secretary representing the Minister for Housing and Works

For each Department and Agency within the Minister's portfolios, please provide, —

- (a) a description of each of the initiatives to achieve the relevant Agency's 3 percent efficiency dividend;
- (b) a description of how the original services, provided by the initiatives that were cut in (a) above, have been met by other areas of that Agency;
- (c) if services have not been provided to their original level, a description of where the Agency is increasing its level of service to create efficiency; and
- (d) for each new service provided by the Agency, a description of the monetary and non-monetary, costs and benefits, attributable to the new service?

Hon HELEN MORTON replied:

Please refer to Legislative Assembly Question On Notice 1342.

BUS SECURITY OFFICERS — BRIEFING NOTE

1365. Hon Ken Travers to the Minister for Transport

Will the Minister table a copy of a briefing note dated 12 June 2009, prepared by the Public Transport Authority regarding bus security?

Hon SIMON O'BRIEN replied:

No, parts of this briefing note are currently under Cabinet consideration..

BUS SECURITY PERSONNEL — WILSON SECURITY CONTRACT

1370. Hon Ken Travers to the Minister for Transport

- (1) As of the 1 August 2009 —
 - (a) how many Bus Security Personnel were employed by Wilson Security under their contract with the Public Transport Authority (PTA);
 - (b) how many man hours per week was Wilson Security contracted by the PTA to provide under the Bus Security Contract; and
 - (c) how many actual hours did they provide?
- (2) As of the 20 October 2009 —
 - (a) how many Bus Security Personnel were employed by Wilson Security under their contract with the PTA;

- (b) how many man hours per week was Wilson Security contracted by the PTA to provide under the Bus Security Contract; and
- (c) how many actual hours did they provide?
- (3) As of 1 August 2009 —
 - (a) how many PTA buses had security screens fitted to them; and
 - (b) how many buses had duress alarms fitted?
- (4) As of 20 October 2009 —
 - (a) how many PTA buses had security screens fitted to them;
 - (b) how many buses had duress alarms fitted; and
 - (c) do all buses operating after 6pm have a security screen fitted?
- (5) By what date does the Government expect to have all buses fitted with duress alarms?
- (6) Of the buses fitted with duress alarms, are they all monitored and if yes, by whom?
- (7) Does the Government intend to appoint Public Transit Security Officers as auxiliary Police Officers under the Police Act?
- (8) If yes to (7), when does the Government expect to implement the appointment, and will the Public Transit Security Officers require further training?

Hon SIMON O'BRIEN replied:

- (1) (a) 52.
- (b) 1,723 hours. There is also a contracted variable security component that is determined by operational requirements over and above the standard requirement. This is typically approximately 250 — 350 hours per week.
- (c) 1,987.
- (2) (a) 75.
- (b) 2,539 hours. There is also a contracted variable security component that is determined by operational requirements over and above the standard requirement. This is typically approximately 250 — 350 hours per week.
- (c) 2,888.5 hours.
- (3) (a) 495.
- (b) 376.
- (4) (a) 545.
- (b) 1,053.
- (c) The strategy to install security screens applies to Transperth buses only. The Government recently approved a strategy to install additional screens on Transperth buses to enable all buses operating in service after 6.00 pm to have a security screen fitted. This is expected to be complete by 31 March 2010.
- (5) The strategy to install duress alarms applies to Transperth buses only. As at 23 November 2009, alarms had been installed in 99.1% of the Transperth bus fleet. The entire fleet is expected to be complete by 4 December 2009.
- (6) Yes. Alarms are monitored by the respective bus operator (contractor) to whom the bus has been allocated.
- (7) This is a matter for the Commissioner for Police.

GREAT EASTERN HIGHWAY — UPGRADE FUNDING

1371. Hon Ken Travers to the Minister for Transport

I refer to the upgrade of the Great Eastern Highway from Kooyong Road to Tonkin Highway and ask —

- (1) How much funding has been allocated to this project in this current budget and each year of the forward estimates?
- (2) How much of this is State funding and how much of this is Federal funding?

- (3) Is this funding sufficient to complete the upgrade of this road from Kooyong Road to Tonkin Highway?
- (4) If no to (3), what will be the impact of this funding shortfall?
- (5) When does the Government expect to commence construction of the upgrade to the Highway?
- (6) When does the Government expect to complete this upgrade?
- (7) Has there been any change to the indicative timeline for the upgrade of this highway since it was originally discussed with the Commonwealth Government?
- (8) If yes to (7), what are the changes to the timeframe, and why?
- (9) Can construction of the highway upgrade commence immediately?
- (10) If no to (9), why not?
- (11) Has the Government commenced acquiring all of the necessary land for the upgrade?
- (12) When does the Government expect all the necessary land will be acquired?
- (13) Can the Government accelerate the acquisition of the land required, and if so how?
- (14) If no to (13), why not?

Hon SIMON O'BRIEN replied:

- (1) The total funding allocated during the 2009/10 Budget and Forward Estimates period between 2008/09 and 2013/14 is \$225m.
- (2) \$45m is State funds and \$180m is Federal funds.
- (3) No.
- (4) It is likely that the funding provided will only allow the upgrade of Great Eastern Highway from Kooyong Road to Hardey Road.
- (5) Construction is planned to commence in mid 2011.
- (6) The project is expected to be complete by mid 2014.
- (7) No.
- (8) Not applicable
- (9) No.
- (10) Lead time required for all necessary pre-construction and planning activities such as detailed design, land acquisition, services relocation, environmental approval and contracting methodology.
- (11) Yes. Acquisition of land for the section from Kooyong Road to Epsom Avenue has commenced. Acquisition of land for the section from Epsom Avenue to Tonkin Highway will commence by June 2010.
- (12) Land acquisition is expected to take 12 months to finalise.
- (13) No.
- (14) The land acquisition process being followed is the fastest possible under statutory requirements. Landowners have 60 days to lodge objections following issue of a Notice of Intent to Take.

PERTH PARKING MANAGEMENT ACT — PROPOSED CHANGES

1372. Hon Ken Travers to the Minister for Transport

- (1) Is or has the Government or any agency considered any changes to the Perth Parking Management Act regarding the purpose for which funds raised under this Act may be used?
- (2) If yes to (1), what changes have you considered, and do you intend to proceed with any changes?

Hon SIMON O'BRIEN replied:

- (1) I have not considered any changes to the Perth Parking Management Act and am not aware of any considerations by officers within the Transport Portfolio.
- (2) Not applicable.

PERTH-BUNBURY FAST TRAIN SERVICE — FEASIBILITY STUDY

1374. Hon Ken Travers to the Minister for Transport

- (1) Has the feasibility study into the provision of a fast train services between Perth and Bunbury been completed?

- (2) When does the Minister expect it to be made public?

Hon SIMON O'BRIEN replied:

- (1) A study to define a feasible route for a railway from Perth Underground to Bunbury was completed in October 2009. There are unresolved issues with regard to the final section of the route from Eaton to Koombarna Bay which require further attention.
- (2) Although a separate issue, the feasibility study will form part of the deliberations associated with the Public Transport Plan 2031 and no comment will be released prior to the completion of those deliberations. Therefore the Government cannot commit to further action prior to the deliberations which now need to take place.

ESPERANCE PORT — UPGRADE

1375. Hon Ken Travers to the Minister for Transport

I refer to the upgrade of the Esperance Port, announced by the Premier on 3 December 2008, and ask –

- (1) Has stage one been completed and what was the final cost of the redevelopment?
- (2) Has stage two of the upgrade commenced?
- (3) Will stage two be completed by 6 January 2011?
- (4) If no to (3), why not?
- (5) Does the Esperance Port Authority (EPA) intend to seek a variation to its environmental license?
- (6) If yes to (5), what variation to the license will the EPA seek?

Hon SIMON O'BRIEN replied:

- (1) Those elements of Stage 1 concerning prescribed dust emission reduction works as required by the environmental licence were completed before the nominated license deadline of 31 August.

Further ancillary works are continuing to complete the Stage 1 project.

The expenditure committed to date for the Stage 1 upgrade including outstanding works, is \$23 million.

- (2)-(6) A comprehensive assessment of the effectiveness of the Stage 1 infrastructure improvements is currently being conducted. This assessment includes the environmental performance of the upgraded system. Air quality monitoring conducted to date shows continual improvement in nickel emissions, with no emissions exceeding the daily guideline for nickel as recommended by the Department of Health and incorporated into the Esperance Port Authority licence.

In addition, there have been significant developments within the West Australian nickel industry since the decision to upgrade the infrastructure was announced, such as a reduction in nickel prices internationally, changes within the WA nickel export industry with consequent impact on current and future tonnages of bulk nickel sulphide exports. Further, there are other priorities for expenditure within government at this time.

For these reasons it is proposed to postpone the decision whether Stage 2 of the upgrade will proceed, until some time after June 2010. The Esperance Port Authority will seek a variation to the environmental licence accordingly.

NORTHERN RAILWAY EXTENSION — PRIORITY

1376. Hon Ken Travers to the Minister for Transport

- (1) Has the State Government finalised the priorities for state infrastructure that the Minister referred to in answer (1) of question No. 374?
- (2) If no to (1), when does the Minister expect the priorities to be determined?
- (3) Is the construction of the northern railway extension to Butler/Brighton one of these priorities?
- (4) If no to (3), why not?
- (5) If yes to (3), when will construction of the northern railway extension commence?
- (6) When will construction be completed?
- (7) What is the estimated cost?
- (8) When will construction of Butler Station commence?
- (9) When will construction be completed?

- (10) What is the estimated cost?
- (11) When will construction of Brighton Station commence?
- (12) When will construction be completed?
- (13) What is the estimated cost?
- (14) What is the total estimated cost of the extension of railway line from Clarkson to Brighton?
- (15) When will the master plan for the extension commence, and when will it be completed?

Hon SIMON O'BRIEN replied:

- (1) No
- (2) After proper consideration
- (3) Yes
- (4) Not Applicable
- (5) 2011
- (6) 2014
- (7) \$240.73m
- (8) The need will be reviewed five years after Brighton is commissioned
- (9) As above (8)
- (10) The cost will be estimated when and if the need for the station is demonstrated
- (11) 2011
- (12) 2014
- (13) The cost is included in the \$240.73m allocation
- (14) \$240.73m
- (15) Master Planning has been completed

PILOT VEHICLE INDUSTRY — REGULATION

1377. Hon Ken Travers to the Minister for Transport

- (1) Is there any regulation of the Pilot Vehicle Industry in Western Australia?
- (2) If yes to (1), what legislation or regulations apply to this industry?
- (3) Are there any minimum rates of payment or charges for the Pilot Vehicle Industry?
- (4) If no to (3), is the Minister concerned at the low rates of payment that currently apply to operators in the Pilot Vehicles Industry?
- (5) Does the Minister consider the current rates of payment are sufficient for the industry to be viable?
- (6) If no to (5), does the Minister intend to take any action to address this issue?

Hon SIMON O'BRIEN replied:

- (1)-(2) There is no regulation of the Pilot industry in Western Australia.

There is regulation in terms of Pilot vehicle requirements (Road Traffic Vehicle Standards Regulations 2002, Schedule 2, Divisions 5, 6, and 7) and minimum training requirements to become an 'Accredited Pilot'.

- (3) No
- (4)-(6) The rates of pay in the industry are subject to market forces like many other commercial activities and it is not an area that the Government is likely to intervene in at this point.

BUS DRIVERS RUNNING RED LIGHTS — INVESTIGATION

1378. Hon Ken Travers to the Minister for Transport

I refer to a report that four spots are prominent for bus drivers running red lights and ask –

- (1) Has the Public Transport Authority (PTA) carried out any enquires to determine why these intersections or prominent spots are areas where bus drivers repeatedly run red lights?

- (2) In light of two of these traffic lights being on the route of the 106, has any investigation been conducted to determine if the congestion on this route or the running time allocated for this route is a contribution to these intersections being prominent?
- (3) If no to (2), will the Minister instruct the PTA to carry out an investigation into these matters?

Hon SIMON O'BRIEN replied:

- (1)-(2) In an overall sense, given the number of buses in service and the number of kilometres travelled, the offence rates are low. The Public Transport Authority (PTA) receives all red light camera infringement notices relating to Transperth buses as well as all multi nova infringements. All offences are entered into a data base in order to monitor trends and offences are passed to the relevant Transperth bus contractor in order to identify the driver and ensure payment of the fine and/or any reduction of demerit points occurs correctly.

There have been several intersections identified with a higher number of red light camera offences than usual. With only a limited number of red light cameras in Perth, Transperth and its bus contractors have investigated those intersections with higher incidents of red light offences and undertaken assessments on running times. It has been found that the incidents are not caused by buses having insufficient running time.

In any event, if a bus was running late, drivers are still expected to observe all road rules. Each of Transperth's three bus contractors have strong processes in place where drivers can report concerns about running times if they exist and Transperth's SmartRider system gives incredibly accurate data on bus running time (start and finish) which is available to the bus companies for their service planning.

- (3) Not applicable

NORTH PORT QUAY PLAN

1379. Hon Ken Travers to the Minister for Transport

- (1) Does the North Port Quay Plan, still have your qualified support?
- (2) If no to (1), why not?
- (3) Do you still agree that this proposal supports the Liberal Party's proposals for North Fremantle?
- (4) If no to (3), why not?

Hon SIMON O'BRIEN replied:

- (1) Only in circumstances where port operations in the Inner Harbour at Fremantle are not impacted, could a proposal for North Quay include residential development as detailed in the North Port Quay Plan.
- (2) Refer to answer (1).
- (3) The North Port Quay Plan is not included in any Liberal Party proposals for North Fremantle.
- (4) While port operations continue in the Inner Harbour at Fremantle, residential encroachment is an important issue that must be managed appropriately.

PERTH URBAN TRANSPORT AND FREIGHT CORRIDOR

1380. Hon Ken Travers to the Minister for Transport

- (1) Can the Minister detail what projects are funded under the \$700 million Perth's Urban Transport and Freight Corridors?
- (2) If no to (1), why not?
- (3) What is the date of commencement for each project listed?
- (4) What does each project involve?
- (5) Who is funding each project?

Hon SIMON O'BRIEN replied:

- (1)-(4) [See paper 1593.]
- (5) The Commonwealth and State Governments are each contributing funding towards the PUTFC suite of projects.

MARGARET RIVER — TOWN CENTRE PERIMETER ROAD

1382. Hon Ken Travers to the Minister for Transport

I refer to the proposed Margaret River town centre Perimeter Road and ask —

- (1) What is the total cost of the project?
- (2) How much funding has been provided by the State Government for this project?
- (3) From which program is this project funded?
- (4) When does the Government expect the construction of this project will commence?
- (5) Does the State Government expect to fully fund this project, and if not, who else will contribute funds?

Hon SIMON O'BRIEN replied:

- (1) The preliminary budget estimate for the project is \$57M.
- (2) \$0.450M for planning and route definition work only.
- (3) The project is not funded at this time.
- (4) To be determined.
- (5) State funding for the project will be considered as part of future budgetary processes following completion of the planning and route definition work.

MINISTERIAL HEAVY VEHICLE ADVISORY PANEL — REMUNERATION

1383. Hon Ken Travers to the Minister for Transport

I refer to question on notice No. 353, and ask —

- (1) Has a remuneration amount for Panel members of the Ministerial Heavy Vehicle Advisory Panel been determined?
- (2) If yes to (1), —
 - (a) what is this amount; and
 - (b) what can members claim for?

Hon SIMON O'BRIEN replied:

- (1) Yes.
- (2) (a) Two members of the Panel are being reimbursed — the hourly rates are as follows:
 - Howard Croxon (Chair) — \$150 per hour; and
 - Ian Tarling (Member) — \$100 per hour.
 (b) The members are reimbursed for providing technical advice to Main Roads on issues relating to heavy vehicle industry reform. Specifically this includes participating in industry forums, developing or reviewing new proposals / initiatives and attending meetings of the Panel.

ROE HIGHWAY STAGE 8 — PROGRESS

1385. Hon Ken Travers to the Minister for Transport

I refer to comments by a Government Minister that completing Roe Highway Stage 8 is 'an initial step to getting large trucks off Leach Highway and South Street', and ask —

- (1) What are the subsequent steps required to get large trucks off these roads?
- (2) Can the Minister table any modelling, that demonstrates the Roe Stage 8 will reduce congestion on surrounding roads?
- (3) Does the Government still intend to implement its policy to close the Fremantle Inner Harbour and move all freight traffic to the Fremantle Outer Harbour?
- (4) What correspondence or discussions has the Barnett Government had with the Federal Government regarding Federal funding for Roe Highway Stage 8?
- (5) At what stage are current negotiations?
- (6) Does the Government intend to proceed with Roe Highway Stage 8 if it is not successful in securing Federal funding?
- (7) Can the Minister outline or table the concept plan on which the estimate total construction for Roe Highway Stage 8 of \$550 million is based?
- (8) When does the Government expect a response from the Federal Government?
- (9) Has the Federal Government given any indication of their views on providing funding for Roe Highway Stage 8?

- (10) Can the Minister indicate which Federal funding program does the Minister expect funding for Roe Highway Stage 8 to come from?

Hon SIMON O'BRIEN replied:

- (1) Prior to the opening of the Roe Highway Extension the State Government will review the available information and determine the benefits and practicality of extending the existing truck restrictions on Leach Highway and South Street.
- (2) Traffic modelling is underway but preliminary indications are that the following reductions in congestion on surrounding roads are predicted in 2031:
 - Leach Highway : up to 5 — 10% reduction
 - South Street : up to 20 — 25% reduction
 - Farrington Road : up to 50% reductions
 - North Lake Road : up to 20 — 25% reductions
 - Beeliar Drive : up to 15 — 20% reduction
- (3) The Inner Harbour of Fremantle will remain a working Port for the foreseeable future. The Government does not have any plans to close the Inner Harbour.
- (4) The State Government did seek to redirect some funding from the Nation Building Program towards the Roe Highway Extension project. This was rejected by the Federal Government.
- (5) There are no current negotiations.
- (6) Yes.
- (7) Current cost estimates are very preliminary and are based on a number of possible design options and associated treatments. The design that is eventually selected will result from an extensive community and stakeholder engagement process and environmental approvals process (which is likely to include very stringent environmental conditions and commitments) and may vary significantly from that used for estimating purposes. The final project estimate may therefore vary significantly from current estimates.

Current cost estimates have been based on the following assumptions:

- a. Four lane dual carriageway
 - b. Full freeway/freeway interchange at Kwinana Freeway
 - c. Interchange at Bibra Drive including southern access to Murdoch Activity Centre/Fiona Stanley Hospital
 - d. Environmentally appropriate roadworks in wetland areas
 - e. Interchange at North Lake Road
 - g. Intersection at Stock Road
 - h. Modifications to intersections affected by the project
 - i. Local road connections and modifications
 - j. Shared paths, noise walls, public art, lighting, ITS, retaining walls and other ancillary works
 - k. Environmental offsets.
- (8) Not applicable
 - (9) Refer to response to question 4.
 - (10) Not applicable

ROE HIGHWAY — EXTENSION TO STOCK ROAD

1386. Hon Ken Travers to the Minister for Transport

- (1) Has the State Government commenced any work to determine the net benefits to the State for an extension of the Roe Highway to Stock Road?
- (2) Will the Minister table any study conducted?
- (3) Will the Minister outline the results of this work?
- (4) Is the Minister or his agencies aware of any studies, conducted by any other organisation into the net benefit to the State of this project?

Hon SIMON O'BRIEN replied:

- (1) A Strategic Planning Review has been completed by an independent consultant which has concluded that there is a strategic case for extending Roe Highway to Stock Road.
- (2) The Strategic Planning Review Report will be released shortly and a copy will be tabled.
- (3) The review concluded that severe congestion and restricted traffic flow would be widespread on the major routes in the south west metropolitan area by 2031 if the Roe Highway is not extended beyond Kwinana Freeway. This would result in higher transport costs for the freight industry, and worse noise and pollution levels for communities. Without the Roe Highway Extension freight traffic would have no option but to travel on the already congested Kwinana Freeway, South Street and Leach Highway.
- (4) Apart from the Strategic Review the extension of Roe Highway to Stock Road is being considered in a number of transport planning studies being undertaken by the Department of Planning. These studies include those associated with the Murdoch Activity Centre (Fiona Stanley Hospital) and the broader review of the Southern Metropolitan and Peel Transport Network.

CANNING VALE RAILWAY STATION — FEASIBILITY STUDY

1387. Hon Ken Travers to the Minister for Transport

- (1) Has the State Government commenced any work to determine the net benefits to the State of a Canning Vale Railway Station?
- (2) Will the Minister table any study conducted?
- (3) Will the Minister outline the results of this work?
- (4) Is the Minister or his agencies aware of any studies, conducted by any other organisation into the net benefit to the State of this project?

Hon SIMON O'BRIEN replied:

- (1) Some clarification is required as to what is the specific location the Honourable Member is referring to. In the original Department of Transport South West Metropolitan Railway Master Plan, Canning Vale referred to that site at the intersection of South Street and the Woodbridge — Kwinana Freight Railway. No recent analysis of benefits has been carried out for that site.
- (2) No.
- (3) Yes. The assessment of the economic case undertaken by the Public Transport Authority (PTA) for a station at Nicholson Road showed that for a number of scenarios investigated, none produced a Benefit Cost Ratio greater than 1. Any benefits do not outweigh the considerable cost to extend the line.
- (4) If the Member refers to a station at Nicholson Road the answer is yes. There was a study undertaken by MacroPlan for the City of Gosnells. For further information I refer the Member to my answer given to Parliamentary Question 1649 where I stated that the PTA does not support Macroplan's assessment and finding which grossly underestimate the cost of this proposal. I added that whereas Macroplan's estimate for extension of the Thornlie line and construction of a station at Nicholson Road was \$23million, the PTA's estimate is \$64 million. That difference alone has a massive effect on the final benefit / cost ratio and therefore the net benefit associated with the project.

PRESCRIBED BURNING PROGRAM — SOUTH WEST

1390. Hon Nigel Hallett to the Minister for Environment

Further to question No. 1213, I ask —

- (1) Will the Minister instruct the Department of Environment and Conservation (DEC) to plan, rather than 'seek', to cover the shortfall in prescribed burning, should the weather conditions remain suitable?
- (2) As the Fire Review Report was obviously correct in its estimates, will DEC add another \$1.5 million to the amount budgeted for prescribed burning?
- (3) As no practical training is given to city based officers of DEC, can the House be assured that officers, who do not have practical fire experience, have no input in the prescribed burning planning process?
- (4) With regards to grazing in south west forests, if there is very little grass fuel under the forest canopy, historically why did many farmers graze their stock in these areas?
- (5) If 45 percent of the fire management budget goes on planning prescribed burning, where is the majority of the budget spent?
- (6) If DEC consults as suggested in question 9, —

- (a) do they train Fire and Emergency Services Authority (FESA) and Local Brigades in prescribed burning; and
 - (b) do they follow local advice and wishes with regard that land to be burnt?
- (7) When an Act states a Conservation and Land Management (CALM) officer, does this also include all officers of the DEC?

Hon DONNA FARAGHER replied:

- (1) The Department of Environment and Conservation (DEC) has planned in excess of 300,000 hectares of prescribed burns for 2009/10 in its south-west forest regions. This provides the necessary flexibility to conduct planned burns under suitable conditions. The capacity to achieve and exceed the 200,000 hectare target is dependent on a large number of factors including availability of suitable weather, fuel moisture conditions, fire danger conditions, smoke management constraints and commitments to wildfire suppression activities elsewhere. I have also relaxed the management guidelines which have the potential to impact the levels of smoke haze over Perth and I did this because we need to do everything we can do to avoid future fire threats.
- (2) DEC has sought and obtained significant increases in budgets for prescribed burning and fire management in recent years. Relative to a 2002/03 base, the cumulative increase in the fire management budget has been as follows: 2003/04 — \$2.986M; 2004/05 — \$3.621M; 2005/06 — \$5.621M; 2006/07 — \$7.551M; 2007/08 — \$7.551M; 2008/09 — \$12.264M.
- (3) DEC does provide training in prescribed burning and fire management functions to city based staff as well as staff throughout the State. DEC receives valuable input into prescribed burn plans from a wide range of staff within DEC and the Forest Products Commission throughout the State and Perth. They include staff involved in fire operations, nature conservation, forest management, parks and visitor services and research who need to use fire to achieve land management outcomes.
- (4) Grazing within State forests and timber reserves has been largely concentrated in areas such as the south coast and eastern woodlands where sufficient grass may exist for grazing, or immediately adjacent to private property where there may be some grass intrusion into forest areas. However, grazing is not an effective means of hazard reduction for the vast majority of forest areas.
- (5) The answer given to question No 1213 was that 20% of the total fire management budget was spent on burn planning and administration, not 45%. The remainder of the fire management budget is allocated to a number of areas including prescribed burning, staff training, fire detection, fire preparedness, fire suppression, aircraft, equipment maintenance, radio communications and information systems, and liaison.
- (6)
 - (a) DEC provides opportunities to local government bushfire brigades and Fire and Emergency Services Authority (FESA) staff to undertake formal training in prescribed burning via the distance learning course developed by DEC in conjunction with FESA. DEC also actively provides opportunities to local bushfire brigades to gain operational experience in prescribed burns undertaken on DEC lands located near private properties.
 - (b) Yes, wherever this is practical to do. In most cases DEC assists in the planning and takes part in burning operations with bushfire brigades, particularly if the area in question is contiguous with DEC-managed land that is to be burnt at the same time.
- (7) All DEC officers who are accredited to undertake identified key roles within the Australasian Interagency Incident Management System are appointed as authorised CALM Act Officers under the Bush Fires Act 1954. The accreditation is provided on the basis of the officer's training, knowledge and experience in those specific fire roles.

URANIUM MINING — WORKER SAFETY

1394. Hon Robin Chapple to the Minister for Mines and Petroleum

Regarding the requirements for uranium worker safety under ARPANSA Radiation Protection Series No. 9, I ask —

- (1) Have any workers at the BHP Yeelirrie uranium exploration site, previously worked on uranium projects in other States or other countries, and for what periods?
- (2) If yes to (1), have any of those workers received the maximum exposure of 100 msv in the last two — five years?
- (3) If the Minister cannot provide an answer, how can he be assured the requirements of RHS No. 9 are being complied with at BHP Yeelirrie?

- (4) Are dose count records from other States and countries taken into account when assessing the ability of a worker to be exposed to further doses, whilst working in Western Australia?
- (5) If explorations workers at Yeelirrie are being exposed to any levels of radiation and those workers have worked at other uranium projects, can the Minister identify if those workers may have reached their dose limit as prescribes in ARPANSA Radiation Protection Series No. 9?
- (6) If no to (5) why not?

Hon NORMAN MOORE replied:

1. Yes. The period of time worked on previous uranium projects would be dependent on the work history of each individual.
2. No
3. Not applicable
4. Yes
5. Workers are required to provide information on previous exposures to ionizing radiation to the principal employer, who is responsible for maintaining records of previous and current occupational exposures.
6. Not applicable

DEPARTMENT OF ENVIRONMENT AND CONSERVATION — FUNDING FROM THIRD PARTIES

1396. Hon Robin Chapple to the Minister for Environment

Regarding Paper 1428 tabled by the Minister on 15 October 2009 listing grants, gifts and environmental offsets received by DEC in 2007-2008 and 2008-2009, I ask —

- (1) Which of the listed items were in-kind payments?
- (2) Which of the listed items were offset payments?

Hon DONNA FARAGHER replied:

See the answer to Parliamentary Question on Notice 1316.

WANNEROO DEVELOPMENT — IMPACT ON CARNABY'S BLACK COCKATOO

1397. Hon Lynn MacLaren to the Minister for Environment

- (1) Can the Minister outline the approach that the Government is taking in the negotiations with the Commonwealth for a Conservation Agreement relating to development proposals affecting Carnaby's Cockatoo habitat?
- (2) Can the Minister clarify the timeline for these negotiations and the development of the Conservation Agreement and subsequent Strategic Impact Assessment, if these are agreed to?
- (3) Will there be any opportunity for expert, stakeholder or public comment on the proposed Conservation Agreement before it is finalised?
- (4) If yes, at what stage of the proceedings will this happen and how will it be advertised?
- (5) What is the progress on the 2004 proposed MRS amendment to establish Special Control Area over Bush Forever sites and reserve a number of BF sites for Parks & Recreation?

The draft East Wanneroo Structure Plan that is currently out for public comment proposes the re-zoning of some Carnaby's habitat from rural to urban. Comparing the current zoning on p20 to the proposed Structure Plan map on p 26, and compare each against the map of estimated Carnaby's Black Cockatoo Habitat in the City of Wanneroo, the habitat under threat is clearly visible, mostly just south of the lake at Jandabup.

The plan points out that 'any clearing over 1 hectare of Carnaby's habitat is likely to require referral to DEWHA' and 'Preservation of habitat areas will be a key requirement for areas subject to urban development and relevant approvals will need to be gained from the Federal Department for Environment, Water, Heritage and the Arts. Clearing of habitat areas may require offsets to be provided for, in consultation with DEWHA'.

- (6) Is the Minister aware that the East Wanneroo Draft Structure Plan (currently open for public comment until 16 December) proposes to re-zone some areas of likely Carnaby's Cockatoo habitat from rural to urban?
- (7) Does the Minister think it is appropriate to create more uncertainty for landowners and developers by zoning land containing habitat for a Matter of National Environmental Significance as urban, in the

knowledge that any development proposal taking place on that land will need to be referred to the *EPBC Act* for assessment?

- (8) How is it appropriate to consider making changes to the current zoning of known Carnaby's habitat, prior to the finalisation of any negotiations with the Commonwealth around a Conservation Agreement and/or a Strategic Impact Assessment?

Hon DONNA FARAGHER replied:

- (1)-(2) The State Government is continuing discussions with the Australian Government on approaches to matters of national environmental significance on the Swan Coastal Plain (including Carnaby's Black Cockatoo) under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). Both Governments agree that an approach that emphasises strategic conservation and planning outcomes and avoids assessment on case-by-case basis is preferred. The Australian Government has proposed an interim conservation agreement under Part 14 and a subsequent strategic assessment under Part 10 of the EPBC Act. Negotiations commenced in June 2009 and are continuing.
- (3) State environment and planning agencies have been providing advice to the State Government. It is expected that any final draft agreement will be provided to key stakeholders as part of consultation.
- (4) Consultation would occur when agreement in principle has been reached on the terms of a draft agreement. The terms of the consultation will be determined at that time.
- (5) This question should be referred to the Minister for Planning.
- (6)-(8) It is necessary that orderly planning continues until any agreement with the Australian Government is reached. I am satisfied that the planning and environmental approvals processes are capable of protecting significant Carnaby's Black Cockatoo habitat and other environmental values. The draft structure plan is a framework for future amendments to the Metropolitan Region Scheme and does not itself rezone land to urban. Any amendments to planning schemes require referral to the Environmental Protection Authority under section 48A of the Environmental Protection Act 1986. In receiving a planning scheme amendment, the Authority considers the significance of the environmental impacts in making a decision on whether or not an environmental review is required. The implementation decision may require that certain conditions be met to protect important environmental values.

PERTH AIR QUALITY MANAGEMENT PLAN — MANAGER POSITION

1402. Hon Lynn MacLaren to the Minister for Environment

- (1) Is the position of Manager of the Perth Air Quality Management Plan currently vacant?
- (2) Does the Government intend to advertise and refill this position?
- (3) If yes to (2), when?
- (4) If no to (2), why not?
- (5) Who is the Executive Officer for the Perth Air Quality Coordinating Committee?
- (6) Is the delay in completing the progress reports for 2006-2007, 2007-2008 and 2008-2009 on the Perth Air Quality Management Plan, a sign that this activity is underfunded by the Department of Environment and Conservation?

Hon DONNA FARAGHER replied:

- (1) Yes.
- (2)-(4) The Air Quality Management Branch of the Department of Environment and Conservation (DEC) is being reorganised to align its resources to functional responsibilities to make more efficient use of its resources for program delivery, including the Perth Air Quality Management Plan. The responsibilities of the Perth Air Quality Management Plan Section Manager and the Air Quality Co-ordinating Committee Executive Officer positions have been reallocated to other officers within the organisational structure.
- (5) The Executive Officer function is performed by the person occupying a Senior Environmental Officer position in the Air Quality Management Branch.
- (6) No.
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