Legislative Council

Wednesday, 7 March 2012

THE PRESIDENT (Hon Barry House) took the chair at 2.00 pm, and read prayers.

KWINANA INDUSTRY AIR BUFFER ZONE

Petition

HON LYNN MacLAREN (South Metropolitan) [2.02 pm]: I present a petition containing 153 signatures couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned residents of Western Australia are opposed to the extension of the Kwinana Air Buffer Zone in the Munster area beyond the eastern edge of Lake Coogee.
>
> The proposed extension of the buffer zone in the Munster area:
>
> - Is based on a report prepared for the Water Corporation that uses outdated and inaccurate data;
> - Has been developed without consultation with the local community;
> - Is unnecessary because no odour is experienced in the area affected by the proposed buffer;
> - Is likely to be treated by the operators of the Woodman Point Waste Water Treatment Plant as leeway to increase odour pollution within the buffer, thereby adversely affecting the amenity of clean air currently enjoyed by existing residents in the area;
> - Will prevent the land within the proposed buffer from being rezoned "urban" consistent with the zoning of surrounding areas; and
> - Will significantly reduce the value of the properties in the area.
>
> Your petitioners therefore respectfully request the Legislative Council to call on the Government to consult with the residents before a final decision is made on the buffer zone, and if a decision is made to extend the buffer zone, to fully compensate affected residents for the loss of the full market value of their properties.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 4297.]

INTERNATIONAL WOMEN'S DAY 2012

Statement by Minister for Women's Interests

HON ROBYN McSWEENEY (South West — Minister for Women's Interests) [2.03 pm]: I take this opportunity, on the eve of our 101st International Women's Day, to encourage members to get involved in their local celebrations acknowledging the extraordinary achievements of women in our communities, our state and our nation. For over a century across the globe, International Women's Day has been observed on 8 March, providing an important opportunity to honour the achievements of inspiring women, and raise awareness about the ongoing inequities and challenges women continue to face in many aspects of society.

Celebrations for International Women's Day 2012 will be centred on the theme of "Women Changing the World". Hundreds of events will be held across Western Australia this week, and, as the Minister for Women's Interests, I am excited to be playing a key role in marking the occasion. That includes hosting an International Women's Day Discussion Lounge this evening, at which special guests will talk about the ways in which women are increasingly leading as innovators in the non-traditional spheres of science, technology, engineering and mining; presenting the Women in Resources Champion Award to recognise the efforts of individuals who encourage, promote and advocate for the attraction, selection, promotion and retention of women in the resources sector; launching a Women's Honour Roll to recognise the enduring legacy of the significant contributions made by Western Australian women who are no longer with us; presenting a cheque for $15 000 to UN Women's Perth chapter to undertake a research project that will map the work of women's organisations in Western Australia; speaking at Worldly Women 2012, a key International Women's Day event acknowledging the talents and capabilities of some of Australia's most inspirational women, aimed at inspiring young women and girls to participate and take on roles as leaders and innovators; and opening UN Women's International Women's Day Breakfast, the largest International Women's Day fundraising event. This year that event will

benefit the Partners Improving Markets project, aimed at improving the safety and conditions of women who are market vendors in the Asia–Pacific region by empowering them through education and advocacy training.

As the Minister for Women's Interests, I believe that the issues of great importance to women in Western Australia today are leadership; safety and justice; economic independence; health and wellbeing; and, of course, family. As such, my Department for Communities women's interests division will be focusing on these priority areas in the coming years, with the objective of raising the profile of women in the community, highlighting the unique challenges confronting women, identifying the ongoing inequities faced by women, and providing opportunities for women's development and advancement.

I encourage all members to join with me in recognising women's achievements and progressing women's issues not only tomorrow on International Women's Day 2012, but also well into the future.

PAPERS TABLED

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

WATER RESTRICTIONS

Withdrawal of Notice

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [2.08 pm]: On behalf of Hon Jon Ford, I withdraw notice of motion 1, "Water Restrictions", from the notice paper.

OCCUPATIONAL SAFETY AND HEALTH REGULATIONS 1996

Motion

HON ALISON XAMON (East Metropolitan) [2.08 pm]: I move —

> That, pursuant to section 42(4)(a) of the Interpretation Act 1984, the Occupational Safety and Health Regulations 1996 are amended by inserting the following after regulation 3.62(b)(ii) —
>
> (iii) if the person holds a certificate of competency in the use of a portable appliance tester—the person's certificate of competency number.
>
> and, if so resolved, the Legislative Assembly be requested to pass a similar resolution.

I suspect that much of the substance of what I will be covering today will be revisiting much of the debate that we had 16 months ago when I brought in a disallowance motion for the Occupational Safety and Health Amendment Regulations (No. 5) 2010. When we had that debate, I alluded to this motion, which had been put on notice. This disallowance was negatived at the time, but I note that the Leader of the House indicated in his response that he had some sympathy with the position I put and the concerns I raised. The Leader of the House encouraged the matter to be brought up for resolution through particular channels, specifically the Commission for Occupational Safety and Health. I agree with the Leader of the House that it would have been a really good opportunity if this issue had been able to be resolved through that particular committee.

During the debate I alluded to the fact that this motion would sit on the notice paper. I indicated that I was really keen to see resolution of the matter and that at some point in the future I hoped that this motion would be unnecessary and withdrawn because the issue had been resolved. It is disappointing that the issue has still not been resolved and the need for the motion remains. I effectively have to use this mechanism to keep the issue on the agenda.

As I said in the disallowance motion debate, this issue is about the tagging of electrical equipment and how the competency of those who undertake the tagging is able to be tracked. The Leader of the House at the time of the disallowance debate identified that this issue was of particular concern to the Electrical Trades Union; he is absolutely correct. I have made no secret of my history with the ETU or, more accurately, the Communications Electrical Plumbing Union where I worked as a lawyer before I took my seat in this place. The CEPU is an ALP-affiliated union and has never played a role in my election to Parliament. Nevertheless, I am very proud of the work I was doing in the union. An important part of my role was to assess the impact of various regulatory regimes on the electrical trade and other trades. When I found out about the anomalies that the changes to these regulations had raised—I believe they are quite serious anomalies that emerged—I felt compelled to take this up as an issue because it was an area that I had been working on prior to taking my seat.

Apart from my professional background in this area, I have a couple of personal reasons why I have been unwilling to let this one go and why I keep trying to raise this issue to achieve, hopefully, an amicable resolution. They are both quite personal reasons. The first is an experience that I had dealing with the wife of an electrician who had been killed on the job. She had young children who were around the same age that I was when I lost my father. I found that dealing with their grief and trying to support them was really difficult, particularly as we knew that the circumstances of this father and husband's death had been completely avoidable. It really had a

profound impact on me and I found it very distressing. That particular incident became quite a defining one for me. They are by no means the only family members I have had to deal with who have lost loved ones on the job, but the point is that working with electricity is potentially quite dangerous work; it is really important that we do not become complacent about that. It is easy for us to forget how difficult it can be, because we have had a very good electricity safety regime in this state, which means ordinarily we can live with electricity quite safely. Those experiences have seriously informed my desire for stronger penalties and regulatory regimes surrounding occupational safety and health. That is one of the reasons I introduced the Occupational Safety and Health Amendment Bill 2010 to create the offence of industrial manslaughter, and why I have been pushing for stronger penalties.

The second reason I cannot quite let this go is even closer to home. My daughter's dad is a qualified sparky and he specialises in working on large-scale construction projects in Perth. He works closely with non-electricians who have obtained the portable appliance tester competencies. He has personally expressed concern to me about the quality of the work of a couple of them—not all of them, but a couple. If people are incompetent—I am not delusional about this; I recognise that we can get people who are not fully competent in any industry—we need to ensure that those people can be easily identified and have their incompetence addressed. At the end of the day, we are talking about an area that is potentially quite dangerous. My daughter's dad needs to come home alive. His life is important, and I do not want anything to happen to him.

During the disallowance motion debate, the Leader of the House encouraged the Electrical Trades Union in particular, with whom I share this concern, to continue to pursue this issue through the tripartite Commission for Occupational Safety and Health. As I mentioned, this was a reasonable suggestion. I reported that back to the ETU and it advised me that it did just that. It has attempted to continue to have this issue raised through that particular commission, but it has reported that although there seems to be a shared understanding that the existing situation is a problem, unfortunately—perhaps it is because there has been a change of membership of that particular group—the issue still has not managed to be progressed. I want to make it clear that it is not as though it has been through a process and knocked on the head. People want this to be resolved, but it just does not seem to be getting anywhere. Therefore, here I am again trying to progress it.

For those members who have no idea what this motion is about or did not follow the previous debate, I will quickly summarise. OSH regulations require electrical equipment on construction sites to be tested and then tagged by the individual who tested it. However, testing and tagging of portable electrical equipment on construction sites no longer needs to be done by a licensed electrician. The requirement is now for it to be done by a competent person, which is a defined position. I want to be absolutely crystal clear: this motion does not seek to revisit the debate that occurred in the tripartite commission about the wisdom of enabling competency-based training as opposed to the comprehensive training ordinarily undertaken in a trades apprenticeship. Inherent potential risks for such an approach were well outlined by Hon Jon Ford in the disallowance debate when he described, for example, the capacity for a competency-trained individual to test equipment but fail to recognise more complex underlying safety hazards. I acknowledge that the unions lost that debate, so this does not attempt to revisit that. This attempts to ensure that the new competency framework that we now have still engages in the best occupational safety and health practices that it can. Working within that framework, two problems need to be addressed. Firstly, competent persons do not have to record identifying numbers on tags. This problem is addressed directly by this motion. The second one is that competent persons are not usually given ID numbers to identify themselves on construction sites. I acknowledge that this motion will not address that. If this motion were to get up, that second issue would still need to be resolved.

In his reply to the disallowance motion, the Leader of the House asserted that part of the problem preventing resolution was that the Australian Qualifications Framework does not require registered training organisations to put such numbers on their statements of attainment of competency. Certainly, it is correct to say that if the AQF were to require that, it would be one step towards being able to pretty easily resolve the situation. However, I would argue that despite the limitations of the AQF, there are still ways to introduce a fairly simple regime to ensure that competent persons are able to be identified and, therefore, that the tagging process can be followed through. The risks in failing to address this issue are the potential to create a lack of accountability and to enable individual workers to deny personal responsibility. It also removes the ability to make adequate checks of the workers and of the electrical equipment brought onto a construction site. Obviously, this is unacceptable and needs to be addressed. I do not think this was ever intended to be the effect of the change.

This motion touches on a small proportion of the workforce—that is, electrical workers on construction sites. It is a small workforce but one that has huge responsibilities because of the massive implications of accidents involving electricity. In 2009–10, there were 1 060 reported electrical shocks, 14 serious electrical accidents and two fatalities. We all agree that safety around the electricity regime is absolutely paramount. Electrical safety is really important for all construction workers on a site. In 2011, the construction industry made up 11 per cent of WA's workforce. During 2009–10, the construction industry recorded 1 292 injuries and diseases resulting in time off work—the most recorded of all industries. This industry also recorded the highest number of severe

injuries and diseases resulting in time off work during that same period. I would argue that a significant number of workers are potentially put at risk by the possibility of inaccurate testing, and that underqualified electrical workers present a particular risk.

Occupational safety and health regulations require electrical equipment on construction sites to be regularly tested. Testing ensures that the electrical equipment used at construction sites is safe so that construction industry workers are not exposed to dangerous electrical hazards. WorkSafe recognises that the testing of electrical equipment requires specific expertise and therefore can be carried out only by appropriately qualified or trained people who are able to recognise electrical hazards or potentially unsafe conditions.

Two types of testing are distinguished, requiring different levels of expertise: firstly, when a licensed electrician with electrical qualifications uses electrical test instruments to test circuits, insulation and equipment; secondly, when a person tests portable electrical equipment and certain other devices used on site by construction workers. This type of testing uses a device known as a portable appliance tester—a PAT—which is what we are talking about today. In the latter case, testing no longer needs to be done by a licensed electrician. The requirement now is for it to be done by a competent person. A "competent person" is defined as someone who has completed the relevant unit with a training provider. This includes qualified electricians as well as other people who have completed a single training unit with a training provider. As at the end of 2010, there were at least 204 persons deemed competent but who were not trained electricians.

Hon Kate Doust: Sorry, what was that number?

Hon ALISON XAMON: It is 204, Hon Kate Doust. This was provided in tabled paper 3624 in answer to a question I asked. I reiterate that was by the end of 2010. These were trained by state training providers. There are another six private training providers in WA, and seven private training providers in other states that can also certify someone's competency. Importantly, the number of persons deemed competent by these providers is unknown, but there are obviously more than 204 people trained in these competencies. That was an agreement with industry made at a national level when the Australian and New Zealand standard was rewritten. Again, I do not intend to contest that for the purposes of this motion. As I said, that battle has been lost and we are moving on. However, I want to consider the implications that flow on from that decision that have still not been resolved.

Once any equipment is tested on a construction site it must be tagged by the person who tested it. In the industry, this process is known as tagging. The process of tagging does two things: keeps an up-to-date record of the testing that has been carried out so that construction workers can be assured that the equipment is safe to use; and tells us who carried out the test so that each person working on site is responsible for their actions, and any faults can be traced back to the individual worker responsible. The problem is we have a double standard for tagging. When a qualified electrician tags, they are required to write down their name and licence or permit number on the tag so that they can personally be held responsible. We can always identify who is the person responsible for that tagging when they are testing and tagging complicated electrical systems or the portable electrical equipment that a competent person can test.

When a competent person who is not an electrician tags, they must write down their name, but there is no requirement for that person to write down any number uniquely identifying them or even their employer. We have two standards at the moment: one for electricians, which is a higher standard; and another for competent persons. The amendment proposes that a certificate of competency number be recorded on the electrical tag. That is a fairly simply request. It aligns the practices of competent persons with those of qualified electricians. We do not want the government to resolve this inconsistency by reducing the standards for electricians, who also do not record an identity number on the electrical tag.

Hon Simon O'Brien: That had not occurred to me until you just mentioned it!

Hon ALISON XAMON: Oh, God! Do not horrify me!

Clearly, we should not be aiming for the lowest common denominator. We have a good regime currently in place for qualified electricians. As I mentioned, there are really good reasons tagging is done in a particular way so that we can identify the individual. I believe that not only maintaining that standard but also raising the standard of a "competent person" is absolutely necessary.

There is an additional problem that makes this motion more complicated; that is, persons who complete the required qualification and are deemed competent are not being given an identifying number that they can record. This is one of the issues that the Leader of the House alluded to in his response to the previous disallowance motion. Until September 2011, WorkSafe advised that the main contractor on a site should be able to check that the so-called competent person had been issued with a statement of attainment or certificate from a registered training organisation and that they had an identifying number unique to the holder. That was in the WorkSafe "Guide to testing and tagging portable electrical equipment and residual current devices at workplaces" dated November 2008. But there is no requirement to issue an identifying number and no database of those numbers, if they existed. When I pointed this out to the minister, WorkSafe promptly removed the references from the guide.

I became aware of that through an answer to a question on notice, which is actually really frustrating because the original intent of having an identifying number and the capacity for employers to check it was a sound one. It was originally in the guide because it was recognised as important, and it was not a solution to the problem for WorkSafe to remove the references. The offending sentence is not in the guidelines anymore, and this has removed one of the important safety frameworks that had been recognised as needing to occur.

I understand that during discussions in the tripartite committee, the occupational safety and health regulations were amended on the understanding that competent persons would be identifiable. Now we realise there is no identity number and, rather than fix that problem, the reference to needing one has been removed because that was deemed easier; however, the original decision to allow unlicensed competent persons to test and tag electrical equipment has not been reassessed. That decision stands on an incorrect understanding of the responsibility and accountability of these competent persons.

I would like to give members a potential scenario, which is not an uncommon one, and I have certainly dealt with this. An individual, supposedly an electrician from Ireland, could come to Australia under the supplementary labour scheme. That person holds no electrician's licence in Australia, but rather than get Australian accredited training or testing, they decide to obtain a certificate of competency and become a competent person. Let us say this person's name is Michael. On site, Michael attaches two plugs to the same lead, one on either end. Someone plugs in one end, not realising the other end is now live and exposed, and a third person grabs hold of the plug and gets an electric shock to the hand. Michael has tagged his equipment but he has since left the building site and is not traceable solely on the basis of his name, because Michael is a very common name and not everyone has a surname like Xamon. For all we know, Michael could still be working in Western Australia.

This scenario, which could easily happen, highlights three issues, the first of which is traceability. Because the regulations ask for a name, this assumes that competent persons will be traceable by their name, but I would argue that that is not the case. It is not sufficient to rely just on the name of a person on a construction site that has potentially hundreds of employees. How many J. Smiths might there be on a building site the size of the huge BHP Billiton Ltd tower that was just completed on St Georges Terrace? Once an individual leaves the worksite it becomes almost impossible to look for J. Smith all over Perth or even further afield. The second issue is responsibility. Responsibility is the reason we need to be able to trace an individual. Frankly, if something does go wrong, action needs to be taken against that individual. They could be threatened with losing their licence and means of livelihood if they perform their work inadequately. I think that is a pretty strong incentive for people to do the right thing and for workers to make sure that they are being thorough and diligent. If we locate an individual, we also need to check that person's skills and ability before they are allowed to continue to work. It would also be a good way to identify whether there appears to be a systemic problem with particular registered training organisations or even TAFEs. The third issue is competency. The need to check someone's competency arises when people are hired so that we know they definitely are competent to perform those tasks. We also need to know that the electrical equipment that is brought onto a construction site has been previously tested and tagged offsite and we can check that the test was conducted by a competent person. I sent a letter to the Minister for Commerce, Hon Simon O'Brien, who responded by saying that he believed the responsibility to ensure that equipment has been properly tested lies with the employer, main contractor or self-employed person at the construction or demolition site where the equipment is to be used. I believe that it is also the responsibility of individual employees. We need to know who is personally responsible for ensuring that each person working on a site is competent in practice and that all the electrical equipment used on the site is safe. I think that the new regime actually makes it harder for quality employers—there are plenty of them—to also make sure that their employees are competent. Importantly, the Minister for Commerce also assures me that a record of the testing data for all equipment on site is given to the main contractor when the equipment is brought on site. The Minister for Commerce has stated that this is so the contractor can satisfy himself of the duty to ensure that all electrical equipment is safe to operate. All these checks and inquiries are important, but in the circumstance I have described, what exactly can the contractor check? The names on the records are not the people who are on site and therefore cannot be checked against the list of employees. Unlike the registered numbers of qualified electricians, these cannot be checked against the registration numbers or identification numbers on a central record, so the tags are essentially anonymous. Also, no guarantee can be given that either the names on those tags are the names of people who have been deemed competent or that the equipment has been properly tested and that any faults or incompetency can be traced back to the person who is actually responsible.

Western Australia's Training Accreditation Council keeps a permanent register—the Client Qualifications Register—which records information on the qualifications issued by registered training organisations. Hon Simon O'Brien said in his letter that employers can access this information to verify a person's qualification. However, access to information on this register is available only with the approval of the person concerned. Therefore, it is not available to the contractor who checks the tagging record for the equipment that is brought on site. In addition, this is a cumbersome and restrictive process and I am not convinced that it is fair on employers. By comparison, electrical contractors and restricted electrical workers can be searched online through

EnergySafety's licensing information system, although that is not the case for competent persons who are less qualified.

The regulators have not been unaware of this issue; this motion has been on the notice paper since 24 November 2010. The Minister for Commerce and the Minister for Training and Workforce Development have corresponded with me and have had an opportunity to rectify this small, but I think potentially quite dangerous, gap in the occupational safety and health framework, but here I am still asking for it to be rectified. All workers have the right to be protected from work-related dangers, including those created by their less-qualified fellow workers, and governments have a clear responsibility to appropriately regulate industries, particularly dangerous industries, to ensure the protection of workers. There are gaping holes in the regulatory regime and I am concerned that they are holes through which workers' safety might be able to fall. I do not want to wait until a horrible accident occurs or hear about another family suffering as a result of this, because this is avoidable. We can see that this is a potential danger and do something about it now. Every 30 minutes, one worker in Western Australia is injured seriously enough to take one or more days off work. On average, a person is killed every 18 days as a result of a traumatic work-related accident. In 2010–11, 21 traumatic work-related fatalities were recorded in Western Australia. That is 17.1 work-related fatalities per million workers, which is a sharp increase from the 7.7 fatalities per million workers that was recorded in 2008–09.

Our system of OSH laws, licensing requirements and regulations are designed to protect workers in their workplaces and stop, or as far as possible prevent, these accidents from occurring. However, this particular regulatory regime is flawed and inadequate. I am again asking for WorkSafe WA and EnergySafety to get together and to please sort out this issue. I am asking for it to be put back on the agenda. There can be all sorts of creative solutions to this problem. I do not think it has to be about trying to change the Australian Qualifications Framework. Maybe the Minister for Commerce could reclassify portable appliance testing as requiring a high-risk work licence, which means that it would require an identifier. As I said, perhaps that is a way to get around the AQF. Another solution may also include the Minister for Training and Workforce Development ensuring that those who achieve a certificate of attainment also have an identifier, which was always the original intention. I recognise that we now have a cohort of people with these competencies and that it would be very difficult to retrospectively apply that provision. However, if the minister were able to do something along those lines, even it were just a matter of dealing with the regime from here on in, either the Western Australian Office of Energy or the Department of Commerce could administer it. I do not think that is complicated or difficult. Plenty of regimes require a person to get a qualification and a licence. Since the integration of high-risk work in vocational education and training, people can do units of competency in whatever the high-risk work area is and then apply for high-risk work licences. If the regulators are happy with the training and assessment provide by the TAFEs and the RTOs, an assessment would not be required to give people a unique identifier upon receiving a statement of attainment; they would need to do only the administrative work. It is not too hard and does not have to involve the AQF.

This issue can be resolved administratively and I am calling on the minister to see whether there is a way in which this can be progressed fairly quickly. Certainly, it would be good to bring this matter back to the tripartite committee as a matter of urgency and ask its members to put their heads together and figure out how best to do it. I do not want to understate the potential for serious accidents to occur as a result of this. We need to make sure that those who are trained as competent go through the same type of regime as our electricians. We deserve to know that that will happen and I think the families of the workers who work with them also deserve to know that that will happen. Time is marching on and I am asking for this matter to please be resolved.

HON SIMON O'BRIEN (South Metropolitan — Minister for Commerce) [2.39 pm]: I note that a previous debate about this matter in the form of a disallowance motion was had in this place on 25 November 2010. This motion was placed on the notice paper on 24 November 2010, so, in fact, since the motion appeared on the notice paper, it has already been debated once. Now here we are doing it again. I agree with the mover of the motion that we need to deal with this matter once and for all.

On the previous occasion, the honourable member put forward some propositions that are identical in intent to what she has put forward today. If members wish to refer to that debate, they will see it contained on pages 9628–9630 of the Council *Hansard* of 25 November 2010. I have had the benefit of perusing that brief debate and examining some of the claims made by the honourable member in that debate, and that helps inform me about the information that the house needs to consider on this matter. I want to briefly bring members up to date on what this debate is about and provide a brief version of the history surrounding it, because it is a very narrow matter, and my advice on how the house needs to respond to this motion.

The motion proposes to amend regulation 3.62(b)(ii) of the Occupational Safety and Health Regulations 1996 by adding the following —

> (iii) if the person holds a certificate of competency in the use of a portable appliance tester—the person's certificate of competency number.

It is as simple as that. An existing regulation requires, in effect, that when someone carries out a test on electrical equipment as provided for by the regulations, they have to, amongst other things, put a tag on the equipment that confirms that the test has been done, that the equipment in question is compliant with the required standards and, indeed, that the competent person affixing the tag and attesting thereto is identified. Regulation 3.62 requires that in the case of a test that is required to be carried out under an electrical worker's licence or permit, the particular licensed electrical worker has to put their name and their licence or permit number as identifying marks on the tag. Regulation 3.62(b) provides that in the case of a test that need not be carried out under an electrical worker's licence or permit—in other words, a lesser standard of test and one that does not require the same level of technical expertise—the person doing that test, who still must be a competent person, as defined, so it might well be a licensed sparky, but at the very least a competent person, has to put their name on the tag. Why? It is to identify themselves. Let us face it; our primary identification is our name. If the person holds an electrical worker's licence or permit because they are a licensed sparky, they have to put that licence or permit number.

The honourable member is proposing in the case of the second category, which is those forms of equipment that do not need as high a standard of technical examination as in subregulation (a), that a competent person performing that test should, if they hold a certificate of competency—that is, the person is a competent person but not a licensed electrician—also record their certificate of competency number on the tag. It is as simple as that. I think I am fairly representing what the mover is proposing in substance; that is, at the moment, if a person who is a licensed electrician puts a tag on equipment that they have tested, that person will put down their name and their number. If the person has a certificate of competency, that person is required to put down their name. The honourable member is saying that the second category should also have some sort of unique number to go with it. So it is as simple and as narrow a prospect as that.

Having spent some time and energy, including emotional energy, on this, I want to acknowledge the honourable member by informing the house about how it has come to this point now in trying to determine where we want to go next. In November 2008 some amendments were made to this regulation to remove the requirement that only licensed electricians may test and tag low-voltage portable electrical equipment and low-voltage portable residual current devices—RCDs—used on construction and demolition sites. That change took effect on 1 January 2009 and was in line with similar changes that had been made to the Electricity (Licensing) Regulations 1991—the electricity regulations—in July 2008. To go back to the Minister for Commerce who approved these regulations, we have to go back to the former government. Whoever that former minister was, I do not take issue with them so approving those changes. So there is no argument there. I think the member said in her remarks that she did not want, as part of this debate, to revisit that decision. That is one that was discussed, and perhaps some people might have had some misgivings about it at the time. I was not involved; I am looking at it from the point of view of history. But we are not talking about that today. However, for the benefit of members here who are not familiar with it, that is what happened.

I go back to the amendments to OSH regulation 3.62. They were developed and endorsed by the tripartite Commission for Occupational Safety and Health that we have in this state, and they had the strong support of the Master Builders Association. I understand that the Electrical Trades Union was opposed to the changes then, and continues to be so.

Following its scrutiny of the November 2008 amendments, the Joint Standing Committee on Delegated Legislation raised its concerns about a perceived conflict between regulation 3.62 and the electricity regulations. The joint standing committee sought, and subsequently received, an undertaking from the then Minister for Commerce that regulation 3.62 would be amended to remove that conflict. Those amendments were made, and they were contained in the Occupational Safety and Health Amendment Regulations (No. 5) 2010 that were tabled in this place on 21 September 2010. On 12 October 2010, Hon Alison Xamon gave notice that she intended to move that the amendment regulations be disallowed. That debate was duly had and decided on 25 November 2010—the day after she gave notice of this motion that we are currently dealing with.

Hon Alison Xamon: Minister, by interjection, can I explain that the reason I put the motion in was actually on advice from parliamentary counsel. I have the correspondence here. They had advised that that was a way in which I could deal with that, considering that I did not want to disallow the entire regulatory regime; I really wanted to deal with only a very small element within the regulations that had been proposed. So I thought I should clarify for the house that that was the reason that was undertaken. It was because of the advice that I received.

Hon SIMON O'BRIEN: My point is that this narrow debate that we are having today was previously had on 25 November 2010. Hon Alison Xamon put today's motion on the notice paper the day before that, so we are re-visiting it. I think I am characterising it fairly when I say that the intended effect of the proposed amendment is to ensure that there is parity between the information requirements for licensed electricians and those for other, albeit unlicensed, competent people by requiring that the unlicensed person also records their certificate number on the tag. It is as simple as that. That is what it boils down to.

Before I get on to the relative merits of that amendment, I want to note a couple of points about comments that arose during the previous disallowance debate in November 2010 that might help clarify some matters. The first relates to the honourable member's words when she said, as reported on page 9628 of *Hansard* —

> When this regime was put in place, there was an understanding that the competent person would be issued with a statement of attainment or certificate from the registered training organisation. There was an understanding that people would then be issued with an identifying number that would be unique to the holder and indicate the registration number of the registered training organisation.

It is not clear whose understanding we are talking about.

Hon Kate Doust: I have been given some advice and I understand that Nina Lyhne, who was at WorkSafe, gave that undertaking to the ETU.

Hon SIMON O'BRIEN: In trying to establish this, I am advised that while the first statement regarding the issuing of a statement of attainment or certificate of competence is correct, the WorkSafe policy officers involved in the development of the amendment regulations have no recollection of any discussion on the issuing of a unique identifying number to people holding such statements. I am advised that there is no reference to that particular matter in the minutes of the commission or its two advisory committees involved in the approval process. People have obviously gone back to the records to check. Again, we are talking about a series of potential understandings. I do not know what makes it so difficult for such a number to be issued. I do not know what makes it so hard, but they are the facts as recorded to me.

The second item relates to the information requirements on tags, as we have already identified and discussed. I am advised that when the commission's legislation advisory committee endorsed the proposed approach for drafting the 2008 amendments to regulation 3.62, it did so on the basis that the tag would bear only the name of the person who had performed the test, regardless of whether it was a licensed electrician or an unlicensed competent person. That was in line with the relevant Australian standard, AS/NZS 3012:2010, "Electrical installations—construction and demolition sites". Parliamentary Counsel's first draft of the amendments to that regulation was consistent with that approach and proposed that regulation 3.62 be amended to read —

> A competent person who conducts a test … must ensure that …the tag bears the person's name.

That would have complied with the Australian and New Zealand standard and would have applied in any situation. It would just have the person's name because that identifies them. However, I am advised that when reviewing that draft, the employee parties on the legislation advisory committee requested a change in the wording to make it clear that this type of testing work could be done either by a licensed electrician or a competent person. This was supported by the Construction Forestry Mining Energy Union representative on the commission's construction industry safety advisory committee, who was of the view that it was not clear from the draft that a licensed person would always be considered a "competent person". The CFMEU therefore requested that Parliamentary Counsel amend the draft to read —

> A competent person or a licensed electrician who conducts a test … must ensure that the tag bears the person's name.

Anyone following this debate closely can probably see the potential hazard there. Parliamentary Counsel certainly picked it up, and so did WorkSafe. They advised against that change on the grounds that making a distinction between a competent person and a licensed electrician in this way would imply that a licensed electrician was not otherwise a competent person and that special provision needed to be made to ensure they could carry out the testing. Parliamentary Counsel felt that the term "competent person", as defined in regulation 1.3, was sufficiently broad to include a licensed electrician and therefore saw no legislative need to draft the changes requested. However, the legislation advisory committee was not persuaded by those arguments and so, in an effort to resolve matters, Parliamentary Counsel suggested that a solution might be to amend regulation 3.62 to provide that if the tester is a licensed electrician, the tag should include the person's licence number as well as their name. That is about where we have ended up. That alternative drafting approach was supported by the legislative advisory committee and subsequently endorsed by the commission at its July 2008 meeting. The minutes for that meeting record that UnionsWA commented that the issues that it had raised with regard to numbers on tags had been addressed.

These matters were canvassed in this place on 25 November 2010. There has been a lot of talk about a very narrowly focused matter. We have gone away and researched what actually happened that led us to this space. What did we find out? We found out that we had parity when we started. When a competent person, whether that person is licensed or certified or both, tests equipment, they put a tag on it to identify that the equipment has been tested and put their name on it along with their reputation. I might add that other regulations then require certain things to happen when the equipment is brought on site. Contractors have to take note that equipment has been tested and duly tagged. That is what we could have had. We could have had the parity that the honourable member used as part of her argument. That is where we started from until well-meaning people wanted to say,

"Hang on, let's do something different; let's change it around. Let's throw something else into the mix." Ultimately, the compromises that I have outlined saw us arrive at the position that we are at today. Who has been involved in all this? Successive governments have been involved in it. The tripartite Commission on Occupational Safety and Health has been involved in it, together with its advisory committees. A number of suggestions have been canvassed and solutions reached. The Joint Standing Committee on Delegated Legislation considered this matter and sought amendments to our regulations, and the government provided those amendments. It was moved that those amendments be disallowed in a debate back in November 2010, a motion that this house did not carry. Now we are back again debating a proposal to insert a couple of lines into a regulation in the terms of the motion before us. I think that fairly describes the journey we have been on and what has brought us to where we are today.

In summary, members can see that the history I have outlined demonstrates that the events that have brought us to this place have not happened just by accident or by simple oversight. A couple of different levels of requirement have been considered and deliberate decisions have been made on the types of equipment that require examination and testing by a licensed electrician because of the technical requirements, and on perhaps the lesser type of testing for certain low-voltage appliances that do not require a licensed electrician but do require the attentions at least of a competent person. A competent person, of course, has to be properly trained.

It is ironic—I have already drawn attention to this fact—that if the changes that were made in the course of the history that I have described had not been made, the problem that in part drives the mover of this amendment would not have arisen in the first place, because there would be parity and there would be the same details on both types of tags, and there would be a name, because a name is an established thing that identifies somebody.

Turning now to the amendment before us, I want to provide the house with one further piece of information, which I think was brought to the house's attention back on 25 November 2010. To be able to carry out the type of testing work that is contemplated by occupation safety and health regulation 3.62, an unlicensed person must as a minimum have successfully completed the unit of competency UEENEEP008 from the electrotechnology training package. This training must be done through a registered training organisation accredited to deliver the training under the vocational education and training system. Under the Australian Qualifications Framework, RTOs must issue a statement of attainment—this is a national standard—to each person who successfully completes a unit of competency from a training package. Section 6 of the Australian Qualifications Framework sets out the form that all statements of attainment must take. Notably, there is currently no requirement for a statement of attainment to have its own identifying number. That is a key point, because this little amendment is seeking detail to be shown on electrical safety tags that does not exist. If we adopt this amendment, therefore, and it works itself successfully through the other house and what have you, we will have ourselves amended regulation 3.62, which requires something that basically does not exist, because a person's certificate of competency or certificate of attainment—it is called certificate of competency in the proposed amendment—need not carry this number, unique or otherwise. That is the Australian standard that applies under the Australian Qualifications Framework, which we cannot just unilaterally decide to change.

To finish then—hopefully on a conciliatory note and one that members of other parties in the house might be able to associate themselves with—the most appropriate vehicle for having this issue considered further is the Commission for Occupational Safety and Health Western Australia. That is something that Hon Alison Xamon said herself just now, and I was pleased to hear her say it. That is the appropriate forum for dealing with this matter, rather than proposing an amendment—given how long it has been on the notice paper, I hesitate to call it an amendment on the run—that in all good faith we may propose as a way of addressing any problem we perceive but that we might find does not do that and might complicate things a bit more. Again, we have seen examples, as I have just recited, of how that might happen when all the well-meaning stakeholders become the many cooks attending to the broth. That is probably the point where we need to finish up; that is, a reference to the Commission for Occupational Safety and Health might be a way forward for this matter. I say with the greatest respect that I do not think we should agree to this amendment. Accepting the amendment would be very premature, and I have explained in some detail why. I also note that we have pursued this avenue a couple of times now, and each time it seems to come straight back to the Commission for Occupational Safety and Health.

With that in mind, I respectfully advise the house that we should not agree to the proposed amendment, but in good faith I can undertake—if that be the will of the house and without the need for any further resolution—to again refer this matter to the Commission for Occupational Safety and Health together with the debate and see what progress we make thereby.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [3.07 pm]: I rise to say some words in support of the motion moved by Hon Alison Xamon. I note, and I agree with the minister, that this is an extremely narrow debate on a very small aspect of a regulation, and I agree with him in his earlier statement that he does not understand why a number could not have been applied to a certificate of competency. There seems to have been quite an extended and convoluted debate within WorkSafe Western Australia on the pros and cons of why a number should not be applied to a certificate of competency. The minister jokingly said

that he picked up on Hon Alison Xamon's comment about lowering the standards required for electricians. I know he was jesting, but perhaps we need to consider tightening up the standards for electricians and for who can perform that work. That is why raising these issues is important, albeit the debate may have been had in WorkSafe back in 2008 and was resurrected here in 2010. It is useful sometimes to go back and reflect upon these aspects, because the labour market in WA is changing, and we note the influx of workers from overseas and the differing requirements for the qualifications of those working in this area. Whilst workers from overseas may have recognition of prior learning for their previous work experience, that recognition may not necessarily be up to the same standards required of electricians in Western Australia to perform certain tasks. Picking up on the comment that the minister made, it would be very useful to refer this matter back to WorkSafe and for it to reconsider this component of the regulations. It is not good enough to have just a name for identifying materials. Names are not necessarily unique. Numbers are unique. Names and numbers probably work better together.

I note that a series of electricians have been passing through my home in recent months doing quite significant work. Also, Western Power took a power pole down opposite my house last week. Unfortunately, they have not put the wire back properly, so I will be speaking to the relevant minister and seeking his advice and assistance about that.

Hon Simon O'Brien: He'll be around at six o'clock this evening; don't you worry about that.

Hon KATE DOUST: Thank you very much; I am quite concerned about the quality of work. I note that the electrician who came onto my property could not speak English when I put some questions to him. I note also that the electricians who have been in my house have raised with me their concern about the standard of people performing work and that they are not completing the required paperwork for work done and the necessary follow-up is not being done. I know we are focussing on construction today, but across industry there are some concerns about the follow-up requirement. I think the amendment proposed by Hon Alison Xamon is about accountability and follow-up, so that if something is not done correctly, the relevant individual can be tracked down to ascertain whether they were working according to the required standards we expect of people in that industry in Western Australia. I think it is quite significant.

I pick up on the number of people who have been injured and the number of fatalities that Hon Alison Xamon quoted. It is a high-risk industry. It is different from working in the white collar sector or in plumbing or even brickmaking. There is a different risk factor, if we like, that we all acknowledge, and the potential for harm is greater. We need to try to make sure we reduce that risk as much as possible. If that is about tightening the requirements around the competencies and skill levels required to make sure people are appropriately trained and being checked, I think that is essential.

From my experience through WorkSafe as a health and safety trainer and health and safety officer for an extended period, I know that WorkSafe does an excellent job checking and ensuring that courses are accredited appropriately. I sat for a couple of years on WorkSafe's accreditation board for its safety training course. I know how diligent WorkSafe is in going through that. But I would hate to think that, in light of this influx of workers, and the fact that we are relying only on names, standards may decline. I agree with the minister. I do not understand why we cannot attach a number. I take on board the minister's comments about having to deal with national standards. I know it is complicated but maybe we in WA like to set our bar higher. If there is some way that WorkSafe can reconsider this issue, that would be good.

Hon Simon O'Brien: I don't know how many certificates of attainment there are out there. There are probably quite a few in a whole range of disciplines that aren't primarily electricians. They are the ones, presumably, who have been properly trained, so we wouldn't want to cut them off, as it were, without a number.

Hon KATE DOUST: I think, minister, there are a range of specialist organisations. I am sure the National Electrical and Communications Association, which has an office in Osborne Park, would be quite happy to provide information. NECA also has a concern about the level of competency or the standards being met in the industry. It is probably a good exercise for WorkSafe. Every once in a while it is probably a good thing to ascertain what sort of certificates are out there, whether they have been reviewed and updated or whether they meet the appropriate standards. If people are given a number, it will allow WorkSafe to follow up with individuals to make sure that they have been required to do follow-up training or are performing their tasks to the required standard.

Hon Simon O'Brien: Are we not talking here about the low-level worker on machinery? We are not talking about the higher-level technical tests; we are talking about fairly simple appliances.

Hon KATE DOUST: We may be but we are still dealing with electricity. I do not know whether Hon Simon O'Brien has ever stuck his fingers in the light socket but, having done that, I know that it damn well hurts. I do not know whether it is a matter of the difference between low or high level; I think people still need to be appropriately trained according to whatever the standard is. If mechanisms need to be put in place to allow full accountability and follow-up, that should be done. I do not understand why we are relying only on a name.

Hon Simon O'Brien: People are either trained or they are not, you know.

Hon KATE DOUST: Yes; but that is a separate issue. I do not want to debate that today because there are times when we have concerns about the standards and types of training provided in some of these areas, and that is a whole separate issue.

I want to come back and comment on the discussion the minister raised about WorkSafe checking its records, and about commitments being given or not being given. The minister said that WorkSafe says it has no record of any commitments being made about numbers being provided. I received an email today from the assistant secretary of the Electrical Trades Union, Jim Murie, who has had extensive engagement in the industry; he sits on a range of boards. I think he is on one of the EnergySafety committees or boards. I know he has had extensive engagement with WorkSafe over the years in response to his members' issues. In this email he has provided to me he says —

> When the legislation was changed to remove portable appliance/tool testing for being licensed work and enabling the work to be performed by a competent person, the union was assured by Nina Lyne from Worksafe —

I think at that time she was in a very senior position at WorkSafe.

Hon Simon O'Brien: Nina Lyhne.

Hon KATE DOUST: Lyhne, sorry. I always pronounce her surname incorrectly, unfortunately.

Hon Simon O'Brien: So do I.

Hon KATE DOUST: Jim Murie continues —

> that a competent person would need to have completed compulsory training of about 80 hours for 240 volt work, on successful completion would then be issued with a unique personal number which would be the number as recorded on their certificate of competence, this never happened.
>
> Numbers of people are performing the work in workplaces without any certificate of competence, there is no regulation or discipline that determines how the status of "competent person" is obtained.
>
> Controllers of premises are not keeping record of identification, the electrical regulations cannot compel the employers of these people to record and keep details as an electrical employer is bound to do because it is no longer electrical work. There is no equivalent regulation in the Worksafe act or regulations.
>
> The union wants Worksafe to make good their original proposition that persons who test and deem portable electrical appliances/tools to be safe shall be compelled to undergo structured training delivered by an RTO and be certified competent and that certificate be allocated a unique number that need be recorded as does an electricians license number on any tool tag declaring the equipment tested and safe.

I am happy to provide the minister with that part of the email if he likes, but at some point in time the ETU was given a commitment by the Commissioner of WorkSafe that these things would happen—a number would be issued and people would be compelled to provide that number. I do not understand whether that was a verbal commitment from the commissioner and never recorded or, for some reason, WorkSafe does not have a record of it. I do not know. All I am saying to the minister is that, as of today; that is the information I have been provided by the assistant secretary of the ETU. I have no reason to doubt it. This is a particular hobby horse; an issue the union has been pursuing for a period, and I wanted to share that information with the minister so that he can take that back.

Hon Simon O'Brien: As you can see by the history I have outlined, by the time it got to Nina Lyhne, the tripartite commission, which includes UnionsWA representation, it had clearly moved on from that. These matters were considered but not proceeded with. It is not necessarily that we are covering up history or anything like that. It was obviously considered but, for good reason presumably, not pursued.

Hon KATE DOUST: I think it is useful to have that on the record; as I said, these things evolve over time. I think it is a significant issue, albeit very narrow, and we all know that safety regulations are sometimes a difficult beast to work through or interpret. I have my own particular favourite safety regulations that have been burnt into my brain over time; I will perhaps raise them on another occasion. Although the minister may feel that this is repeating an earlier debate, it is a healthy debate to have. It is always useful to review it. I think that if there is still concern about the quality of work, the accountability, or a potential follow-up to make sure that people are meeting standards, this is a useful debate. The minister has given a commitment to take the issue back to WorkSafe, and I thank him for that. I think it will be very useful to take it back, so that that tripartite organisation can perhaps review this matter. I think Hon Alison Xamon is indicating that she is satisfied with that.

The Australian Labor Party supports, in principle, Hon Alison Xamon's motion. I hope that when the minister takes the matter back to WorkSafe, it is able to review it in a fairly expeditious manner so that we are not going through the same debate in 12 months' time.

Hon Simon O'Brien: I don't think we need to do this all over again.

Hon KATE DOUST: No.

In due course I look forward to hearing feedback from the minister on how WorkSafe has actually reviewed this issue. I am sure that the Electrical Trades Union, in particular, and organisations like the National Electrical and Communications Association would be interested in hearing how the process has worked. It is always better to have the best standards possible for workers in that type of environment, rather than them being watered down.

HON ALISON XAMON (East Metropolitan) [3.22 pm] — in reply: In summary, I thank the opposition for its support, but I also want to thank the Minister for Commerce for the suggestion that this issue go back to the Commission for Occupational Safety and Health for further discussion.

As my motion indicated, I was not suggesting that the proposed amendment would resolve the entire issue. During my contribution I flagged that I recognised that even if the amendment was passed, related issues would still have to be resolved. I think that the undertaking that this will go back to the commission is a very positive step forward, and I was very pleased to hear that, particularly because it seems that there are no shared understandings of the history and how we got to this point. The advice I have is that the ETU has never felt that this issue has actually been resolved—even in the negative—and it is very strongly of the view that it has simply fallen off the agenda somehow. The ETU also feels that when this was revisited by the commission after the disallowance motion, which was the undertaking also given by the government at that time, again it did not get resolved; it just fell off. I hope this will be the final time it needs to be revisited by the commission; hopefully it can be resolved.

I think it was useful for the minister to put the understood history, certainly from the department's perspective, on the record because that means that the other parties, if they have a different understanding—I understand that some do—know exactly what they are dealing with. I think that is very useful.

I reiterate that I want to see parity, but, again, not in terms of the lowest common denominator. I absolutely agree with the opposition that we should be looking to tighten up standards, particularly around electricity, not lessening them. It is my understanding that some issues have arisen, particularly in Victoria, as a result of the new national regime. It is certainly my fervent hope that we do not replicate the mistakes that are starting to emerge there.

I do not agree that the name is a primary identifier. As I said in my contribution—Hon Kate Doust agreed—I think the only unique identifier will be a number, which is why it is very important that we try to come up with a regime. As I said in my contribution, I accept and agree with what the minister said in that the Australian Qualifications Framework cannot be unilaterally changed. It would have been good if some regime had been put in place at the time that the statement of attainment regime was, but that did not happen. That is why I was suggesting that there may be other ways to resolve this issue so that there can at least be an identifying number for people who have achieved these competencies.

As I say, I appreciate there is a difference in the shared understanding of how we got to this point. It had been my intention to withdraw this motion. I was expecting that this would have been resolved in the preceding 16 months; it has not been, and that is why it has continued. But I remain hopeful, given the minister's undertaking that this will be revisited, that there will be a positive resolution to this issue so that we can make sure that the safety regime in this state is the best of all states.

Question put and negatived.

LOCAL GOVERNMENT COUNCIL REFORM

Motion

HON LJILJANNA RAVLICH (East Metropolitan) [3.28 pm]: I move —

> That this house calls on the Minister for Local Government to explain why he has not been able to achieve local government council reform and to provide details on how much has been spent to date on this failed government policy.

I put on the public record my disappointment, and that of many communities and local governments that have been mucked around by the Barnett government and the Minister for Local Government, in how Minister Castrilli has gone about his local government reforms. I see Hon Nigel Hallett over there wanting me to speak up because he wants to hear what I have to say about local government reform; he has taken a very, very keen interest in local government reform.

One of the issues that is brought to my attention when I meet with local governments is the fact that the reform program has not delivered anything except for a waste of resources at a local government level; it has also delivered uncertainty. Most local governments I have met with have indicated to me that they feel that they are captives of this reform program, and, in fact, are very much directionless. They do not know how they can move forward. They simply cannot move forward in some cases and they cannot move backwards. This motion calls on the Minister for Local Government to explain why he has not been able to achieve local government council reform, given that he argued so strongly about, one, the need for it and, two, his intent to deliver it. It also calls on the minister to provide details on how much has been spent to date on this failed government policy.

I have not seen a tally of how much these reforms cost. One only has to go back to the budget papers to get some sense of the amounts of money that we are talking about. Some general comments were made in the 2009–10 budget papers about the government's intent to move to a reform program, part of which was to aim to make local governments more sustainable—that is, fewer and larger councils—relying on the economies of scale argument, which was the basic underpinning principle of this reform. The 2009–10 budget basically gave an indication of some of the processes that local councils would be involved in, such as the review of all local government boundaries, representation and regional structures. The government then decided that it would provide assistance to local governments for new infrastructure and aimed to assist local governments through the country local government fund to do some of the preliminary planning work that was required as the basis for local government reform. However, the language had started to change quite dramatically by 2010–11. What we have here is a clear line item for the 2010–11 financial year for an allocation of $7.168 million for local government reform. In 2011–12, there is a further allocation of $3.107 million. Therefore, well over $10 million was allocated over two financial years specifically for that local government reform. To the best of my knowledge, I have never seen any breakdown of how that money was spent, where that money went and, indeed, what that money achieved. We certainly know that it did not achieve structural reform and it did not achieve the amalgamation of councils, which was the aim of the current government and the current minister.

In the 2011–12 annual report, there is also a line item for an additional $1.5 million for local government reform. In 2012–13 there is also an additional $1.5 million. At a minimum, this reform has cost some $13 million; it is more likely in the order of $20 million, but it is hard to guesstimate because we also know that royalties for regions funding has gone into some parts of the reform program and so on.

From my point of view, it is extremely disappointing for local governments that so little has been delivered in respect of this reform. It started off in something of a great flurry when the minister and the Premier made the announcement that this was going to be a key reform program. Local governments certainly were divided on it right from the start. First of all, it was to be a voluntary reform program that would give councils the opportunity, if you like, to make the decisions about who they would amalgamate with, how they would go about it and so on and so forth. The government was so clear that it wanted reform that it went out of its way and provided some structural reform guidelines in February 2009. There was a clear time frame for reform. In other words, the local government authorities had to have a clear plan about how they were going to progress their reform agenda. That plan was then to go back to the Minister for Local Government. The reform program was originally scheduled for completion in large part by the end of 2009; this was because the time frame for reform, as per the Local Government Reform Steering Committee's guidelines as at February 2009, made it quite clear that local governments were to have forwarded a reform submission to the Minister for Local Government by no later than 31 August 2009. The process that they had engaged in was to have commenced in March or April 2009. Local governments were to have completed a checklist and to have determined suitable partners with whom they wanted to amalgamate as a part of that process, they also had to give consideration to the reduction in the number of elected members and so forth. By April and May 2009, they were to engage in the second stage of this process, which meant that a project team had to be established. That project team was to meet the required determinants for the preferred amalgamation structure and to consider the local government and regional grouping, amongst other things, and then they went on to the next stage.

Quite clearly, if we look at the history of this reform program—I do not know why Hon Robyn McSweeney is laughing —

Hon Robyn McSweeney: I was thinking about your history as Minister for Local Government.

Hon LJILJANNA RAVLICH: My history in local government is that we made it quite clear we were not going to force amalgamations, and we did not force amalgamations. Geraldton and Greenough decided that they wanted to voluntarily amalgamate because that is what they wanted to do. As I understand it, they have disaggregated since then. Amalgamation is sometimes seen to be much easier in theory than it is in practice. Therefore, I am not surprised that many local governments have decided to move very cautiously when it comes to local government amalgamations. Most of them are very, very uncertain about the merits of amalgamation in any event. We are seeing disaggregation of councils in other states where amalgamations have occurred, such as in Queensland and in Victoria. Western Australian local government authorities or councils are having a look across at what has happened in other states, and they are saying to themselves, "Why bother? Why put ourselves

through all this pain when at the end of the day the experience over there is that it does not work. Not only does it not work, but it is a painful process, it is a costly process, and, at the end of the day, will we be better off?" I do not think that they are any better off and the net savings to ratepayers are virtually nil. I would be very surprised if indeed there are any net reductions in rates. I think many of the bases for the argument for the amalgamation of local governments are ill founded and if the foundations of a particular program or plan are poor, we can bet that the rest of it will not work either.

One of the complicating factors about the reform, and I think everyone would be aware of this, is that local government authorities vary in size, as do the populations they are responsible for; they vary in terms of their rate base and the capacity to vary that rate base. There is no doubt that the 139 local government authorities in Western Australia are not uniform; they are in fact varied. The complicating factor in this reform program has, and continues to be, the 40-odd councils in the wheatbelt. They are the smallest of the councils and they are probably the most vulnerable of the councils, but they have a very strong protector. In large part, the Liberal Party, given that it is now in a coalition arrangement with the National Party, finds itself at odds with the National Party when it comes to those wheatbelt councils. There is no doubt that there is a divergence of opinions and views about the future of those small wheatbelt councils. There is no doubt that if Mr Castrilli had his way, those councils would be absorbed or taken over by larger neighbouring councils. They would be substantially reduced in number and the Minister for Local Government could achieve some progress in his local reform agenda. However, that is not the case because, as members would be aware, the Minister for Regional Development, Hon Brendon Grylls, holds a different view. He has made it quite clear, and I think he made it clear as part of his promise at the last election, that he does not support forced amalgamation. I do not think he supports it as a principle and, in particular, I do not think he supports it for the future of wheatbelt councils. This has probably made it much more complex for the government to achieve its policy direction in this area. These things happen. I am not a supporter of the abolition of the wheatbelt councils because I think they have a very important place. We need to measure the effectiveness of local government authorities other than by economic measures alone. We need to take into consideration factors such as social and environmental sustainability together with economic sustainability. When I was Minister for Local Government I made the point time and again that it is a very narrow scope or measure to look at something this complex—be it for rural or metropolitan communities—by one measure alone, that being economic sustainability. Each one of those wheatbelt councils, and indeed some of the metropolitan councils, have a strong, rich history in terms of the foundations of those communities, the histories of the local families, the achievements—sporting or cultural—of those communities, and those things have to be factors. I have also put on the public record before, the fact that we do not hear many complaints from people in local communities about their local government authorities.

Hon Robyn McSweeney: That's why they have ratepayers associations!

Hon LJILJANNA RAVLICH: They do, but I say to Hon Robyn McSweeney that when I was Minister for Local Government, I did not get a lot of complaints about people having to pay their rates. I certainly did not get a lot of complaints from people who lived in regional and rural areas. I think most people hold the view that they like their local governments. To be honest, they probably like their local governments more than they like their state government, because at the end of the day, that is where it happens for those people.

Hon Helen Morton: Even more than they like the federal government?

Hon LJILJANNA RAVLICH: Maybe, I do not know. My sense is that anyone who would want to destroy local government would have a pretty fierce fight on their hands.

Hon Robyn McSweeney: No-one wants to destroy anything.

Hon LJILJANNA RAVLICH: If someone takes away identity, amenity and the sense of community, of course they are involved in a destructive process. These things are very important considerations that need to be taken into account. There is no doubt that the divergent views between the National Party and the Liberal Party on this particular issue were, and are, an ongoing problem.

It is also fair to say that the Premier's own views about amalgamations have not helped the situation. We have a Premier who thinks all councils should amalgamate or be involved in an amalgamation process apart from the Peppermint Grove council. It seems highly hypocritical that a Premier would adopt such a position. I do not think that that has helped matters either. There is no doubt that this is a complex issue. The position we are at now in relation to local government reform is that it has not happened; that is the one thing we can all agree on. The intent was good and the money has been spent, but the position we are in now is that nothing substantial has happened. It has been three and a bit years and no progress has been made. It is also fair to say that after more than three years of this government not only has nothing happened, but it has cost millions of dollars to achieve that nothing. At the very least it has cost anywhere between $15 million and $20 million. It would be good to have a breakdown of all the costs.

Hon Robyn McSweeney: Sit down and I'll give them to you.

Hon LJILJANNA RAVLICH: If Hon Robyn McSweeney wants to give that to me that would be great because I think a lot of people will be interested in the direct cost of grants, subsidies or incentives to local government authorities. I will tell the minister what the biggest cost really is. When we speak to local governments they tell us that we have no idea how many resources, ratepayers' money, they have had to put in to do all the paperwork, planning and analysis to hand over to government as part of this process. For what good reason? Absolutely none! Local governments say to me, "You've got no idea what we have had to provide to the minister's office to assist them with their planning requirements." Therefore, it really is the opportunity cost at the local government level—that is, that money could have been used to fund sports groups, improve community amenity and provide more jobs at the local council. Instead of the money being spent there, it has been spent hiring consultants, doing reports and wasting council staff's time in preparing documentation and reports to the minister or his department so as to better inform the local government structural reform program. Therefore, when we take into consideration the actual cost plus the opportunity cost incurred by local governments, which I would consider to be even greater than the direct cost to the government, we are probably now looking at a reform that has cost $50 million and has delivered nothing. In fact, we might argue that it has been detrimental to local governments because it has taken up so much of their time and resources. I have to say that most local governments that I have spoken to feel that it is a waste of time; it should never have been forced onto them, they did not want it in the first place and they are no better off as a result of it—in fact, they are worse off. That is something else that we can be certain about.

I also have to say that it was a pretty brave policy decision by the government to go down this path because, from my recollection, local governments made it quite clear to the Barnett government and Minister Castrilli that they were not keen for a structural reform program. The minister did not listen; he refused to take that on board. The situation was made worse by the fact that although it started out as a voluntary structural reform initiative with the minister saying, "Look, we're not going to force you to do this", once the councils said they were not particularly interested in amalgamating, the minister got fairly heavy and decided that he would make them. The next thing we found was that, in fact, we no longer had a voluntary program but a forced amalgamation program. It is fair to say that many councils jacked up about that. I think it is fair to say that over half the councils do not want a bar of it at all. They cannot understand why the state government is creating a problem for them as it currently is.

As I have already said, the cracks that started to emerge certainly got bigger when the Premier himself took the position that Peppermint Grove should be excluded. It was the height of hypocrisy. Everybody saw it as the height of hypocrisy; it was "do as I say and not as I do". Whilst the Premier was busy putting pressure on his local government minister to make these amalgamations happen elsewhere around the state, he was quarantining his own little area of paradise in Peppy Grove. I will quickly quote from an article in the *Subiaco Post* on 21 March 2009.

Hon Robyn McSweeney: He doesn't live far from where you live!

Hon LJILJANNA RAVLICH: Yes—that is right.

The article "Barnett's merger" was written by George Williams and it states —

> **Cottesloe should merge with Mosman Park, Claremont with Nedlands, and Peppermint Grove should remain separate and unique, says Premier Colin Barnett.**
>
> Mr Barnett, who is the MP for Cottesloe, lives in Claremont. He has also lived in North Fremantle, Mosman Park and Nedlands.
>
> "This would satisfy Local Government Minister John Castrilli and myself," he said.
>
> Mr Barnett said he would not favour having one big council for the whole of the western suburbs.
>
> "As a citizen, I believe we'd need two councils," he said.

How convenient! All of a sudden he wants two councils. The article continues —

> "Nedlands surrounds Claremont; there is an obvious synergy there. They have even talked about a combined Freshwater council.
>
> "Cottesloe and Mosman Park straddle the Leighton Peninsula between the river and the ocean. I would think that would be good modernisation.
>
> "It would keep the identity and make savings.
>
> "Peppermint Grove very much wants to stay its own area. It's like the Monaco of WA."
>
> He emphasised that his government would not force councils in the western suburbs to merge.

Here we have a situation in which the Premier says that he will not force councils in the western suburbs to merge but, at the end of the day, he will force all the other councils in the metropolitan area to merge and he will

merge local government authorities or councils throughout regional and rural Western Australia. I have to say that I think that is the height of hypocrisy. Mr Barnett, the Premier, is a person who seems to, when he does not get his way, get very, very stroppy. He has a bit of an attitude when he says, "This has been talked about for 20 years and now I'm going to do it." That seems to be an attitude that is emerging, which has been shown time and again. The article also states —

> The issue had been argued about for at least 20 years and the time had come for action, he said.
>
> "In my electorate of Cottesloe, I take in parts of Fremantle, all of Mosman Park, Peppermint Grove and Cottesloe, some of Claremont and Nedlands and possibly a little of Cambridge," he said.
>
> Asked if ratepayers should be able to keep a small council if they were prepared to pay for one, he said: "I'm not sure that ratepayers say that any more.
>
> "What is happening in WA is that we have 139 local authorities with 79 of them serving fewer than 2000 people.
>
> "They have grown out of a different era—from the old roads boards.
>
> "John Castrilli is saying: 'This has been talked about for 20 years. The WA Local Government Association has spent four years on a report, which said many were not financially sustainable. I want you to come back with your proposals. You've got six months to tell us'."

That is what the Premier said to them. The article continues —

> Asked if the government would force councils to merge, he said; "No. The minister hasn't said that. Mergers will be voluntary.
>
> "But nobody can argue that all these councils are sustainable.

The fact is that there is incredible pressure on the councils, and the councils know that some of them will be merged. It is going to happen and it is likely to happen prior to the next election. I will just say that it would be very, very wise of the Premier to step back and accept the failure of this reform program. He would be better off doing that than what I fear he will do: he will persist with the move down the path of forced amalgamation, and it will come at a very, very bad time—for him. I do not think it is politically wise for the Premier to continue to insist on the structural reform of local governments, but there is strong evidence to suggest that he will do just that. I understand that the minister has set up a panel of high-powered individuals who are now looking at the whole issue of who should amalgamate with whom. I want to refer to an article from the *Western Suburbs Weekly* dated Tuesday, 15 November 2011; it is a very recent article, which states —

> **Minister has faith in reform panellists**
>
> Local Government Minister John Castrilli has declared the buck stops with him when it comes to … local government reform process.
>
> He said the reform panel had less than eight months to compile a review of WA's local government boundaries.

This reform program has gone on for three and a half years and all of a sudden the minister has a panel to review WA local government boundaries. We are getting down to the pointy end here. This is where we are heading at the moment. The article continues —

> The panel is made up of UWA vice-chancellor Professor Alan Robson, former Notre Dame University vice-chancellor Dr Peter Tannock and Leadership WA chief executive Dr Sue van Leeuwen.
>
> Mr Castrilli described the members of the panel as high-powered, well-respected individuals.
>
> However, in the end it would be he, and in turn the State Cabinet, who had the final say.
>
> "Obviously they'll come up with a plan, but I'm the minister and I'm ultimately responsible for it," he said.
>
> "So I will then look at that those recommendations and make a decision, and then ultimately the Government will make a decision on that whole report and the options they bring to me."
>
> WA has just 10 per cent of the nation's population, but holds more than 25 per cent of Australia's local government authorities, and metropolitan boundaries have largely stayed the same since the … 1900s.

It is quite clear from this article that there will be no dropping of the forced amalgamation, because it goes on to say —

> Mr Castrilli would not say if he would take the whole document to Cabinet or if he would be selective in what recommendations he takes forward, instead saying that depended on the make-up of the final document.

> However, he did say the respect with which the panel was held would ensure they looked at local … boundaries objectively.
>
> "They are a very high-powered group of individuals; they're quite experienced and they are at arm's length from me; they will be driving the reform in the early stages.
>
> "Not only that, but (also) they have the standing in the community that they are totally independent; they are respected by government, local government, industry … – everyone involved in the process,"

From what I can see, this panel will meet to make the final decision on who should amalgamate with whom. I think the government has placed itself in a fairly embarrassing situation. The Minister for Local Government has gone on and on about achieving a structural reform program in local government. He has, together with the Premier, thrown a lot of money at the reform program. Local councils are very upset because they have had to throw a lot of their own money at a reform program; and at the end of the day there is no outcome to a reform program.

I think that the Minister for Local Government will end up with egg all over his face—he already has, but he will end up with more egg on his face. No doubt this panel will make some serious recommendations to the minister and based on those recommendations the minister will take a submission to cabinet and will force amalgamations and the realignment of boundaries, and so on and so forth.

Hon Ken Travers: Will the Nats support that, though?

Hon LJILJANNA RAVLICH: I do not know; we will have to ask the Nats. I have already said that one of the complicating factors is that policy positions of the Liberal Party and the National Party on the issue of local government amalgamation are poles apart. One of the complicating factors has been exactly that.

Hon Max Trenorden: It won't change going into and after the election. The National Party's position won't change.

Hon LJILJANNA RAVLICH: The Liberal Party knew Hon Max Trenorden's position. Before the last election, it was clearly stated that the Nationals did not support forced amalgamation. The government knew it. The minister knew it. The Premier knew it. But they chose to go down this path.

Several members interjected.

Hon LJILJANNA RAVLICH: They chose to go down this path.

Hon Ken Travers: No-one knows what you are doing. That is the problem!

Hon Norman Moore: I do!

Hon LJILJANNA RAVLICH: If the Leader of the House knows, how about he tells the house. The motion is quite clear that we call on the government, or whoever is representing the Minister for Local Government, to explain why he has not so far been able to achieve any local government council reform and also to provide some details on how much money has been spent, or wasted, to date in working towards a reform program that has not actually delivered anything.

Hon Norman Moore interjected.

Hon LJILJANNA RAVLICH: Honourable Leader of the House, these are quite straightforward questions and I would not have thought —

Hon Norman Moore interjected.

Hon LJILJANNA RAVLICH: I would be very grateful if the Leader of the House were to give me an answer.

Hon Robyn McSweeney: You didn't sit down, so I could not give them.

Hon LJILJANNA RAVLICH: If the minister were to stand up to give us some answers to these questions, I am sure that we would all be grateful for that. But quite clearly, what has happened here has been an absolute mess and at the end of the day no-one seems to want to be accountable for it and no-one wants to provide any answers to this house or indeed the other place. I think Western Australian taxpayers have every right —

Hon Robyn McSweeney: We didn't think it was any secret.

Hon LJILJANNA RAVLICH: This government has lots of secrets and therein lies the problem. However, the WA taxpayer has every right to know why so much money has been expended on a program that so far has been an abject failure. That is a very reasonable question, and if the government has nothing to hide it should stump up and provide all the financial information about where the money has gone and what it has been spent on—not only what the government has spent, but what it has cost local governments and local ratepayers to be a part of a reform program that has gone nowhere and delivered nothing. This is an absolute disgrace.

Debate adjourned, pursuant to standing orders.

COMMITTEE REPORTS — CONSIDERATION

Committee

The Chair of Committees (Hon Matt Benson-Lidholm) in the chair.

Standing Committee on Environment and Public Affairs — Twenty-third Report — "Inquiry into the Transportation of Detained Persons: The Implementation of the Coroner's Recommendations in relation to the Death of Mr Ward and Related Matters"

Resumed from 23 November 2011.

The CHAIR: Prior to commencing today, I remind members of the new standing orders. There are only 10 minutes per member per committee report—that is it. There is no sitting down and then asking for the call again. Members have 10 minutes and at the expiration of 10 minutes, I will move that the committee report be noted or I will give the call to someone else.

Motion

Hon BRIAN ELLIS: I move —

> That consideration of this report be adjourned until the next session of the consideration of committee reports.

Obviously, we have not had a government response to this report. I have asked the staff of the Standing Committee on Environment and Public Affairs to contact the relevant minister's office and ask when the report will be available. Hopefully, it will be available before the next session.

Hon NORMAN MOORE: I note that on the notice paper there are a number of reports that have not received a government response. My office has today been in touch with those ministerial offices to remind them of their obligation to report by the set date.

Question put and passed.

Joint Standing Committee on the Corruption and Crime Commission — Seventeenth Report — "Acting Parliamentary Inspector's Inquiry Concerning Examination Procedures by the Corruption and Crime Commission"

Resumed from 1 September 2011.

Motion

Hon NICK GOIRAN: I move —

> That the report be noted.

I wish to make some brief remarks about the seventeenth report of the Joint Standing Committee on the Corruption and Crime Commission. If my memory serves me right—obviously, it has been a while since we have looked at this report, which was tabled on 1 September 2011—there is no requirement for a government response. There is no request, so I think this is one of the reports that we can usefully consider this afternoon.

This particular report originates from a letter dealing with the outcome of an inquiry that was received by the committee at the end of April last year. Its origins are found in the Smiths Beach investigation from 2006 and allegations of misconduct by Corruption and Crime Commission investigators. This inquiry was carried out by the then acting parliamentary inspector, Chris Zelestis, QC, as Hon Chris Steytler, QC, had recused himself due to a potential conflict of interest. The initial terms of reference for the inquiry were concerned with the commission's procedures and practices for interviewing and questioning people and for serving witness summonses on public officers. After a broad and thorough examination of these procedures and practices, the acting parliamentary inspector identified problems with only two aspects of the CCC's examination procedure.

The first area of concern was the power of the CCC under section 140 of the Corruption and Crime Commission Act to conduct a public hearing and the requirement for specific criteria to be considered and applied to each prospective witness in the exercise of this power. I might usefully quote section 140(2), which provides —

> The Commission may open an examination to the public if, having weighed the benefits of public exposure and public awareness against the potential for prejudice or privacy infringements, it considers that it is in the public interest to do so.

The reference to "potential for prejudice" alongside "privacy infringements" clearly, in the opinion of the acting parliamentary inspector, extends to prejudice to persons called as witnesses at public hearings, as well as to those about whom evidence may be given.

Committee interrupted, pursuant to standing orders.

[Continued on page 690.]

Sitting suspended from 4.15 to 4.30 pm

QUESTIONS WITHOUT NOTICE

ROAD TRAUMA SUPPORT SERVICES

21. Hon SUE ELLERY to the minister representing the Minister for Road Safety:

Mr President, I draw to your attention that I have been advised that there are not yet any answers to three of the questions I lodged today, so they may come in during the course of the day.

(1) What research has been commissioned on identifying road trauma support services?

(2) Has this research been provided to the minister or his office?

(3) Will the minister table the research; and, if not, why not?

Hon PETER COLLIER replied:

I thank the honourable member for the question; I have a response.

(1) In 2010–11, the Department of Health received a $35 000 grant from the road trauma trust account for a project to investigate service provision, options and accompanying business cases for the provision of professional support services for persons involved in, or affected by, road trauma.

(2) The project report commissioned by the Department of Health was presented to the Road Safety Council in October 2011 and was considered in the formulation of RTTA budget recommendations presented to the Minister for Road Safety and the Ministerial Council on Road Safety for the 2012–13 budget.

(3) Not at this time, as the consideration of road trauma support services is part of government deliberations for the 2012–13 budget.

HARDSHIP UTILITY GRANT SCHEME

22. Hon SUE ELLERY to the minister representing the Minister for Child Protection:

I note that the Minister for Child Protection is not here, but I was advised that there might be an answer.

For all hardship utility grant scheme applicants processed by the Department for Child Protection in February 2011 and February 2012, can the minister please detail how many applicants were from each of the following regions: great southern; south west; goldfields–Esperance; Murchison–Gascoyne; wheatbelt; midwest; east Kimberley; west Kimberley; Pilbara; and Peel?

Hon PETER COLLIER replied:

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

The figures for hardship utility grant scheme applications processed by the Department for Child Protection in February 2011 were: great southern, 30; south west, 66; goldfields–Esperance, 15; Gascoyne, 6; wheatbelt, 24; midwest, 29; Kimberley, east and west, 37; Pilbara, 30; and Peel, 86.

Due to the Department for Child Protection's quality assurance processes for HUGS, data can only be provided one month after the last day of the previous month and therefore the information requested for February 2012 cannot be provided at this time.

BIODISCOVERY LEGISLATION

23. Hon KATE DOUST to the minister representing the Minister for Science and Innovation:

(1) Does the government consider that the current legislation and regulatory framework are able to adequately support biodiscovery and bioprospecting in Western Australia?

(2) If not, for what reason is the government yet to introduce biodiscovery legislation to Parliament?

(3) Can the minister confirm that a report was produced by the Department of Industry and Resources in late 2008 regarding this issue; and, if so, will he table a copy?

(4) Will the minister commit to introducing and prioritising this legislation in 2012; and, if not, why not?

Hon HELEN MORTON replied:

I thank the member for some notice of the question.

(1)–(2), (4) In August 2011, cabinet approved the preparation of drafting instructions for a WA bioprospecting bill. The Department of Commerce is aiming to finalise the drafting instructions by March 2012 for introduction into Parliament this year.

(3) A draft report, "Bioprospecting in Western Australia — A Proposed Framework" was produced by the Department of Industry and Resources. However, this was an internal report designed only for reference.

GREAT COCKY COUNT

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

(1) Is the Department of Environment and Conservation currently recruiting for volunteers to take part in the 2012 Great Cocky Count?

(2) When will the 2012 Great Cocky Count be conducted?

(3) Given that the results of the 2010 Great Cocky Count were made public just four months after the count took place, why have the 2011 results still not been released after 11 months?

(4) Noting the minister's answer to my question about this delay last October, can the minister inform the house exactly what "analysis, interpretation and review" he believes the 2011 results require prior to release?

(5) How do the preliminary results that the minister said he had seen last October differ from the results that are presumably sitting on his desk following the "analysis, interpretation and review"?

(6) When will the minister release the 2011 results?

(7) Is DEC aware of volunteers who are refusing to take part in the 2012 Great Cocky Count because the 2011 results have not been made public?

Hon HELEN MORTON replied:

I thank the member for some notice of this question.

(1) The recruiting of volunteers for the 2012 Great Cocky Count is being coordinated by Birdlife Australia.

(2) Sunday, 15 April.

(3)–(4) The draft 2011 Great Cocky Count report also included results from the 2010 count and interpretation of the changes between 2010 and 2011, as well as additional information on the species. There was therefore a greater need to review and edit the 2011 report compared with the 2010 report.

(5) The results have not changed. The changes to the draft report related primarily to additional analysis carried out of the relationship between feeding habitat and roosting birds, and normal review and editing prior to publication.

(6) The report will be released jointly by Birdlife Australia and the Department of Environment and Conservation, and is imminent.

(7) No.

BUNBURY REGIONAL PRISON — OFFENDER PROGRAMS — EVALUATIONS

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

I refer to paragraph 6.53 on page 53 of the "Report of an Announced Inspection of Bunbury Regional Prison", published by the Office of the Inspector of Custodial Services in December 2011.

(1) Will the evaluations of the effectiveness of offender programs by the offender management and professional development, clinical governance unit, research and evaluation team be made publicly available?

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

(3) Will the evaluations be made available to the Inspector of Custodial Services?

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

Hon SIMON O'BRIEN replied:

I thank the member for some notice of this question.

(1) No.

(2) Due to the technical nature and sensitivity of information contained within evaluation reports, the Department of Corrective Services will consider on a case-by-case basis any request for a copy of an evaluation report.

(3) Yes, if requested by the Inspector of Custodial Services.

(4) Not applicable.

LAND RESUMPTIONS

26. Hon NICK GOIRAN to the parliamentary secretary representing the Minister for Lands:

I refer to the minister's answer to my question without notice 6 of Tuesday, 6 March 2012, regarding the protracted uncertain status of three holdings of land.

(1) If it is not the minister's intention to resume these holdings of land, what is the basis for the minister's discussions with the affected landowners?

(2) Given that the affected landowners are keen to resolve this matter, is it the minister's present intention to draw his discussions with the said landowners to a conclusion in this calendar year?

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

(4) If yes to (2), in which quarter of this calendar year does the minister intend to conclude his discussions with the said landowners?

(5) When was the last time settlement discussions were engaged in?

HON WENDY DUNCAN replied:

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

(1) Discussions have been in relation to compensation for the state acquiring an interest in the land to facilitate the widening of the Dampier to Bunbury natural gas pipeline corridor in the south west.

(2) Yes.

(3) Not applicable.

(4) No date has been given as this is dependent on the outcome of negotiations.

(5) The valuer for the Department of Regional Development and Lands and the valuer for one of the landowners met on 24 November 2011. The other landowner declined to meet at this time, but RDL has since been in communication with its valuer.

PERTH MAJOR SPORTS STADIUM — BURSWOOD TRAIN STATION

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

I refer to the Minister for Transport's recent claim that 35 500 people will be cleared by trains from the proposed Burwood station within an hour.

(1) How many trains will be required to achieve this task?

(2) How many railcar sets will need to be used to achieve this task?

(3) How many trains can travel down a single track on the Perth rail network using the current signalling?

(4) What upgrades to signalling and tracks are required to remove 35 500 people within an hour?

Hon SIMON O'BRIEN replied:

(1)–(4) On behalf of the Minister for Transport, I thank the honourable member for some notice of this question. I ask that the question be put on notice.

Hon Ken Travers: Well done! That is fantastic!

Hon SIMON O'BRIEN: The member's love affair with the Minister for Transport can continue!

MENTAL HEALTH BILL 2011 — STERILISATION PROCEDURES

28. Hon LJILJANNA RAVLICH to the Minister for Mental Health:

I refer to part 12 of the draft mental health bill 2011, which sets out the process for the authorisation and sterilisation procedures and non-psychiatric medical treatment of involuntary patients and mentally impaired accused.

(1) Which individuals or organisations specifically recommended including permanent sterilisation of boys, girls, adolescents and adults as a treatment for mental illness?

(2) When did they make the recommendation to the minister?

(3) Will the minister table all submissions that supported permanent sterilisation as a treatment for mental illness; and, if not, why not?

Hon HELEN MORTON replied:

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

(1)–(3) I was rather hoping that the member would ask this question. I had planned to talk about it at members' statements time, but if people would like me to talk about it now, I am happy to.

Hon Ken Travers: As long as it is relevant and concise.

Hon HELEN MORTON: Absolutely—relevant and concise!

Several members interjected.

The PRESIDENT: Order! Let the minister get on with her answer and then it might have a better chance of being concise.

Hon HELEN MORTON: The work on the mental health bill review started in 2003. That was when the first lot of recommendations about including something to do with sterilisation came into being. That was on the basis that Professor D'Arcy Holman recommended that as part of his recommendations. The cabinet at the time would have approved that drafting instruction, and I believe that Hon Ljiljanna Ravlich was a member of cabinet at that time. The drafting instructions were commenced —

Hon Ljiljanna Ravlich: This is your bill!

Hon HELEN MORTON: I know that it is my bill, so I am very pleased to be looking after it. Nevertheless, when I saw it in the bill, I thought to myself, "This is not a mental health treatment. No-one is suggesting that it is a mental health treatment, so why is it in the mental health bill?" I questioned it and found out that, once again, the instructions were given by the Labor government while Hon Ljiljanna Ravlich was a member of cabinet. The objective was to remove and make absolutely clear that the Chief Psychiatrist would not approve sterilisation for anything—in particular, non-therapeutic sterilisation. Hon Ljiljanna Ravlich had great difficulty understanding that concept yesterday, but non-therapeutic sterilisation means for reasons other than cancer or something like that. When someone makes a conscious decision to become sterile, that is a non-therapeutic sterilisation. Whatever applies to someone who does not have a mental illness applies to someone who has a mental illness if they contemplate having sterilisation. If they are a competent person, they can give their own consent. If they are not a competent person, their guardian, as permitted under the auspices of the State Administrative Tribunal, can give that consent. The issues Hon Ljiljanna Ravlich went on to talk about after that were about how a surgical procedure could accidentally result in infertility. Of course, there are many different reasons why that could happen. For example, if someone had a major car accident that required significant reconstruction of the pelvis, they may have surgical procedures that could accidentally result in infertility. Of course, there are other non-surgical examples such as radiation for cancer treatment.

The issue around children is more complex. There is an issue called "competent minor" that currently applies in common law across all health services. It currently applies in circumstances involving a young person under 18 years of age who fully understands the procedure and its consequences, and can provide informed consent. Again, we believe that it should probably also apply to people in the mental health area. Significant safeguards have been put in place. The Family Court would need to approve that, unless it was a competent minor who was able to provide informed consent themselves. I would ask members, particularly Hon Ljiljanna Ravlich, to perhaps not go around using words like "electroshock" and "psychosurgery", and promulgating inadvertently, I expect, the work of the Church of Scientology. That is the work she is referring to. It is the only document in which I have read the word "electroshock". I think it would do Hon Ljiljanna Ravlich and others a great service if they recognised that that is the work of the Church of Scientology, and that that church has a longstanding disregard for psychiatry and the profession of psychiatry. It does not believe it in any way. It believes that people should be able to rise above mental illness. It believes, for example, just by fixing up a person's nutrition and some of the other physical things that a person has, all their mental illness will go away.

Point of Order

Hon MATT BENSON-LIDHOLM: I note new standing order 105 states, "An answer shall be concise and relevant." A lot of material the minister is introducing is certainly extraneous. It has little relevance when she makes allusions to a member of the opposition. I ask you to seek the minister to return to the answer and to do it expeditiously, please.

The PRESIDENT: In framing new standing order 105, the committee deliberately left it open to some interpretation and discretion on behalf of the Chair. When the member stood to make his point of order, I was about to draw that to the attention of the minister. I believe that the minister herself was about to wind up her answer. Inadvertently, we have probably established some parameters through this answer. Minister, were you about to wind up your answer?

Questions without Notice Resumed

Hon HELEN MORTON: Mr President, I had my very final couple of dot points to make. To finalise: who put the drafting instructions in place? It was Hon Ljiljanna Ravlich and members of the cabinet of the day. Who drafted it? It was the parliamentary drafters, with input from the Department of Health. How can they get

assistance? Will all of the submissions be tabled? I do not have the submissions at this stage from way back in 2004 or 2005, but any submissions that come in —

Hon Ljiljanna Ravlich: I think you're being a bit cute!

The PRESIDENT: Minister, I think that just about exhausts the answer.

Hon HELEN MORTON: Any submissions that come in as a result of this process will be put on the website.

KIMBERLEY GAS PRECINCT — NEGOTIATION WITH TRADITIONAL OWNERS

29. Hon ROBIN CHAPPLE to the Leader of the House representing the Premier:

Has the Premier or his department had any communications with any other company or companies, apart from Woodside, that could be proponents for the Browse LNG precinct at James Price Point; and, if yes, which companies were they?

Hon NORMAN MOORE replied:

I thank the member for some notice of this question. Yes; I refer the honourable member to Legislative Assembly question on notice 4017.

WATER QUALITY — TOTAL DISSOLVED SOLIDS LEVELS

30. Hon MATT BENSON-LIDHOLM to the minister representing the Minister for Water:

I refer to the recently released Water Corporation document titled "Drinking Water Quality Annual Report 2010–11", which revealed that of the 52 midwest sites tested for total dissolved solids levels, only 10 met the minimum requirements as specified by the Australian Drinking Water Guidelines.

(1) What are the minimum TDS requirements for Australian drinking water?

(2) Which 10 sites meet the required levels and what is the TDS level for each?

(3) What action is the government taking to address the unsatisfactory TDS levels in the remaining 42 testing locations?

Hon HELEN MORTON replied:

I thank the member for some notice of this question. I am conscious that this question refers to a website. If this answer is not satisfactory, I am more than happy to get the specific information the member is looking for.

(1) This information is publicly available on the web. Please refer to the Australian Drinking Water Guidelines.

(2) This information is publicly available on the web. Please refer to the Water Corporation's "Drinking Water Quality Annual Report".

(3) Supplying safe drinking water is the Water Corporation's highest priority. In 2010–11, the corporation achieved outstanding results for health-related characteristics and met all health targets for drinking water quality as set by the Department of Health.

WATER PORTFOLIO — ENGINEERING SERVICES CONTRACTS

31. Hon ED DERMER to the minister representing the Minister for Water:

Some notice of the question has been given.

(1) Have any of the following companies been awarded a tender, contract or consultancy to provide engineering services or design information for any agency, utility or department in the minister's portfolio of responsibilities—BG&E, BG Engineering, Sinclair Knight Merz, BG Structural Engineers, and Parsons Brinckerhoff?

(2) If yes, which companies were awarded a tender, contract or consultancy, and for each of them —

  (a) on what date was the tender, contract or consultancy awarded;

  (b) what was the cost of the tender, contract or consultancy;

  (c) how was the tender, contract or consultancy advertised; and

  (d) what was the nature of the service for which the tender, contract or consultancy was awarded?

Hon HELEN MORTON replied:

I am afraid that the answer to this question is somewhat similar to the last one. If the member prefers some better information, please let me know.

(1)–(2) State government tenders for contracts or consultancy services are advertised on the Tenders WA website, which also publishes details of awarded contracts and their value. Further information defining the scope of the question is required for a more comprehensive response.

POULTRY FARMING — STOCKING DENSITIES

32. Hon LYNN MacLAREN to the minister representing the Minister for Agriculture and Food:

(1) Is the minister aware that the fourth edition of the "Model Code of Practice for the Welfare of Animals: Domestic Poultry" recommends a maximum of 1 500 layer hens per hectare?

(2) How many free-range egg farms are there in Western Australia?

(3) What are the current stocking densities of those farms?

(4) Are eggs from farms with stocking densities exceeding 1 500 birds per hectare currently marketed in Western Australia as free range?

(5) Will the minister oppose the move by the Australian Egg Corporation Limited to institute a legally binding definition of "free range" for laying hens to include a maximum stocking density of 20 000 birds per hectare?

Hon PETER COLLIER replied:

On behalf of the minister representing the Minister for Agriculture and Food, I thank the member for some notice of this question.

(1) Yes.

(2)–(3) The government does not keep records of the number of free-range egg farms in Western Australia.

(4) Yes.

(5) No.

MENTAL HEALTH PLAN — INFANTS, CHILDREN AND ADOLESCENTS

33. Hon LINDA SAVAGE to the Minister for Mental Health:

I refer to the Mental Health Commission's "Mental Health 2020: Making it personal and everybody's business" document. Given that the mental health services for infants, children and adolescents are provided through the child and adolescent mental health service of the Department of Health, is there to be an equivalent plan or policy document for infants, children and adolescents in Western Australia?

Hon HELEN MORTON replied:

I thank the member for some notice of the question.

The commission obviously and clearly recognises the importance of supporting infants, children and young people, and the strong relationship between early childhood experiences and future mental health and wellbeing. The commission's work in this area is informed by working partnerships with a range of government, private and community agencies. Each year the Mental Health Commission will publish an action plan. The Mental Health Commission's 2020 action plan 2011–12 is on the commission's website, which includes that section around the importance of child and adolescent mental health services. The Department of Health itself will not be writing a strategic direction around children's mental health services. It is the responsibility of the Mental Health Commission to do that, and that work is in the action plans that are contained within that process.

SKILLED MIGRATION

34. Hon HELEN BULLOCK to the Minister for Training and Workforce Development:

I refer to the current Skilled Migration Western Australia requirement that businesses must advertise a job vacancy for a minimum of three months for certification by a regional certifying body under the regional sponsored migration scheme.

(1) Given the tight labour market in Western Australia, does the minister deem the minimum advertising period acceptable?

(2) Has there been a review by SMWA of the minimum period businesses must advertise a job vacancy; and, if so, when was it completed?

(3) If yes to (2), what were the main recommendations of the review and when will those recommendations be implemented?

(4) If no to (2), does SMWA plan to review the minimum period businesses must advertise a job vacancy; and, if so, when?

Hon PETER COLLIER replied:

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

(1)–(4) When Perth was designated as a region under the regional sponsored migration scheme—RSMS—in mid-2011, the Department of Training and Workforce Development was appointed by the Australian government's Department of Immigration and Citizenship, or DIAC, as the regional certifying body, and put into place criteria to certify applications under the scheme, which includes the requirement to test the labour market through actively advertising a job vacancy for a minimum of three months.

In late 2011, the Chamber of Commerce and Industry of Western Australia—CCIWA—asked the department to review the labour market testing criteria. The department has consulted with a range of stakeholders, including peak industry bodies such as CCIWA, the Chamber of Minerals and Energy of WA and the Australian Hotels Association, which have provided their feedback. In addition, the department has discussed with DIAC its requirements in respect to certifying applications under the RSMS. My department has advised me that it has now taken into account this feedback from stakeholders and DIAC and that the review of the market testing criteria will be submitted to me next week for my consideration.

MINING — SALINITY RISKS

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

I refer to the recommendations to the Mining and Management Program Liaison Group regarding salinity risks of mining in Perth's water supply catchments, as referred to on page 27 of the Department of Water's "Annual Report 2010–2011".

(1) Will the minister please table those recommendations?

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

Hon HELEN MORTON replied:

I thank the member for some notice of the question.

(l) No.

(2) The major mining project liaison group was established through a state agreement and is chaired by the Department of State Development. The Bauxite Hydrology Committee, which is chaired by the Department of Water, is a subcommittee and provides hydrological advice to the major mining project liaison group. I suggest this question be directed to the Minister for State Development.

DEPARTMENT OF THE PREMIER AND CABINET — JAMES LARSSON AND JAKE SMITH

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

I understand that answers have come in to the questions I asked the Premier.

I refer to the recent departure of Mr James Larsson and Mr Jake Smith.

(1) Under what contract were Mr Larsson and Mr Smith employed by the Department of the Premier and Cabinet and at what level was each of them paid?

(2) What are each of the total breakdowns of the final severance packages paid to Mr Larsson and Mr Smith, including the amount paid for leave and any other payment received?

(3) Did either of these staff members receive any non-financial benefit either as part of, or separate from, this severance package that incurred a cost to the government?

(4) If yes, what was the nature of this benefit and what was the financial cost to the government of providing this benefit?

Hon NORMAN MOORE replied:

I thank the member for some notice of this question. I just have two parts to my answer. For some reason, question (2) has two parts to it. I do not know whether there is a typo on the Leader of the Opposition's page. My answer is to (1) and (2), which covers the four parts of the questions asked.

(1)–(2) The information the honourable member requests is considered personal and, as per the Premier's responses to questions without notice in the other place, the government encourages the honourable member to submit a freedom of information application to ensure that the appropriate privacy protections can be pursued.

Opposition members interjected.

The PRESIDENT: Order!

HOMELESSNESS SERVICES — WITHHOLDING OF FUNDING

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

I refer to the decision to withhold payment of the 15 per cent adjustment on contracts with the non-government sector from those WA non-government organisations providing homelessness services subject to a decision of Fair Work Australia and further negotiations between the commonwealth and the state. What negotiations has the WA government initiated with the commonwealth and when will WA homelessness services receive at least 15 per cent of the WA state government proportion of their total funding?

Hon NORMAN MOORE replied:

I thank the member for some notice of this question.

Hon Sue Ellery: That is a disgrace.

Hon NORMAN MOORE: I have been here long enough to have heard that answer given about 10 000 times. We simply do not make that information available. I have seen it often enough to know that that will always happen. The opposition has two sets of rules.

Opposition members interjected.

The PRESIDENT: Order! Let us get to the current question that has been asked and the current answer. That is past history.

Hon NORMAN MOORE: The Premier wrote to the Prime Minister, Hon Julia Gillard, on 23 July 2011 strongly urging the commonwealth government to give consideration to a price adjustment for jointly funded contracts similar to that provided by the state government as part of the 2011–12 state budget to ensure the ongoing viability and sustainability of key services delivered by the not-for-profit sector in Western Australia. Following the Fair Work Australia decision on 1 February 2012, the state government is currently considering how to implement the 15 per cent price adjustment to the state-funded component of specialist homelessness contracts. In addition, the commonwealth Treasury is currently preparing to enter into bilateral discussions with state and territory Treasuries to ascertain how they propose to address the FWA decision and how the commonwealth government intends to allocate the additional funding.

RETIREMENT VILLAGES ACT — AMENDMENT BILL

38. Hon KATE DOUST to the Minister for Commerce:

(1) Why has the government continued to stall the introduction of a Retirement Villages Act amendment bill?

(2) When will this bill be introduced to Parliament?

(3) Will these arrangements seek to introduce a power to remove "non-performing" managers and to appoint an administrator where the wellbeing or financial security of residents are at risk; and, if not, why not?

(4) Will these amendments include provisions to introduce a limit on the time an outgoing non-owner resident can be charged for ongoing operating costs; and, if so, what time period is being proposed?

Hon SIMON O'BRIEN replied:

I thank the honourable member for some notice of the question but I take issue with the premise contained in it.

(1) This government and the staff of my department are committed to supporting retirees and have been working diligently to ensure that the amendments to this act are watertight and do not result in unintended consequences for some of the more potentially vulnerable members of our community. We want this completed as quickly as possible but done right the first time. The proposed amendments to the Retirement Villages Act are complex. The time taken has been to ensure a fair balance between increasing protections to residents and ensuring the continued viability of the retirement villages industry. Much of the time taken has been devoted to solving complex legal issues.

(2) This bill will be introduced to Parliament before the end of the current parliamentary session.

(3) Yes.

(4) Yes. The proposed time period is six months.

PERTH WATERFRONT PROJECT — GRAHAM FARMER FREEWAY TRAFFIC

Question without Notice 18 — Answer Advice

HON SIMON O'BRIEN (South Metropolitan — Minister for Finance) [5.05 pm]: I have an answer for Hon Ken Travers' question without notice 18 asked yesterday, which I seek leave to have incorporated in *Hansard*.

Leave granted. [See paper 4298.]

The following material was incorporated —

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

The Minister for Transport advises:

(1) Six per cent.

(2) $41 million is for works on Mitchell Freeway which includes the cost of constructing an additional slip road from the existing Loftus Street exit back onto Mitchell Freeway.

(3) Yes.

(4) Final details yet to be determined.

COMMITTEE REPORTS — CONSIDERATION

Committee

The Chair of Committees (Hon Matt Benson-Lidholm) in the chair.

Joint Standing Committee on the Corruption and Crime Commission — Seventeenth Report — "Acting Parliamentary Inspector's Inquiry Concerning Examination Procedures by the Corruption and Crime Commission" — Motion

Resumed from an earlier stage of the sitting.

Hon NICK GOIRAN: When we considered this matter earlier today, I drew to the attention of members that there were two aspects of the Corruption and Crime Commission's examination procedure with which the Acting Parliamentary Inspector of the Corruption and Crime Commission had identified problems. I was discussing the first area of concern, which had to do with public hearings. I will conclude that point by noting that the acting parliamentary inspector believed that when making a determination to open a hearing to the public, the Corruption and Crime Commissioner must give full and objective consideration to the criteria I referred to earlier separately for each person called as a witness. Of course you, Mr Chair, would be particularly aware that this issue of public hearings is certainly in the mind of the committee at present because, as is well known, it is inquiring into the use of public examinations by the Corruption and Crime Commission and is due to report to Parliament at the end of this month on that matter.

I turn to the second area of concern identified by the acting parliamentary inspector, which has to do with the CCC as part of the Smiths Beach investigation in that the CCC had made comment on the truthfulness of a witness and evidence that had been given. The commission, by way of section 23 of the Corruption and Crime Commission Act, is expressly prohibited from publishing or reporting a finding or opinion that a particular person has committed a criminal offence. In the words of the acting parliamentary inspector in the committee's report —

> *Accordingly, the Commission is not empowered to publish or report a finding or opinion that someone has given false evidence before the Commission…*

There were two findings that arose from this report. Finding 1 is —

> The CCC does not have the power to publish or report a finding or opinion that a person has knowingly given false evidence before the CCC due to the prohibition expressed by section 23 of the *Corruption and Crime Commission Act 2003*.

The second finding is —

> The CCC has implemented a policy to ensure that witnesses are given reasonable notice of the requirement to attend before CCC examinations. This policy addresses a prior deficiency that was identified by the Acting Parliamentary Inspector.

The CCC has responded positively to the concerns and the findings and I note that the acting commissioner, Mark Herron, confirmed the following —

> The Commission has always been and remains aware of the importance of section 140. Its internal formal processes have evolved to the extent that the Commissioner, having undertaken the weighing of considerations required by section 140(2), formally confirms the determination by signing a document which records the determination that the attendance of each witness at a public examination has been subject to the weighing process required by section 140 and attendance by the witness is in the public interest.

The acting commissioner agreed with finding 1 and stated that there had been only one occurrence of such a statement by counsel assisting in November 2006 and assured us there has been no reoccurrence since then.

With regard to finding 2, the acting commissioner continued to agree. He stated the following —

> … the Commission has routinely changed its private and public examination schedules to fit the availability of witnesses.

It must be stated at this point that it was not the intention of either the parliamentary inspector or the acting parliamentary inspector that this matter be made public. The committee formed the view, however, that certain opinions and findings expressed by the acting parliamentary inspector are in the public interest given their significance and potential lessons for CCC procedures. Furthermore, given that the acting parliamentary inspector's inquiry focuses on the CCC's examination procedures, findings are particularly relevant to the committee's current inquiry, to which I alluded earlier. I also mention that in the public domain when this particular report gets referred to and discussed, it is often mentioned that in some way this committee has withheld the report of the acting parliamentary inspector. However, the truth of the matter is that there was no report. The only documentation that existed was a letter. It was the discovery of that letter by the committee that led it to take on the duty of informing the Parliament about this matter which, as I mentioned earlier, was considered by the committee to be in the public interest. It is factually incorrect to refer to a report of the acting parliamentary inspector. There is no report.

I conclude by noting that after receiving the initial letter from the parliamentary inspector, a closed hearing was conducted. As a result of those deliberations, the committee resolved on 25 May 2011 to report to Parliament on those outcomes of the acting parliamentary inspector's inquiry, which are general in nature and which are considered to be in the public interest. Draft copies of those reports were then made available to the parliamentary inspector and the CCC for comment.

In my view, this report is an example of the system working as it was intended to. A complaint was made about the CCC to the parliamentary inspector. As a result of this an inquiry was carried out and the areas of concern noted and reported back to the CCC. The acting commissioner responded positively and improvements in procedure and practice were made. Although it was not the intent of the acting parliamentary inspector that this report be published, the committee found some of the lessons learnt in this process to be in the public interest. This report helps to facilitate Parliament gaining pertinent and timely information. I commend the report to the house.

Question put and passed.

Standing Committee on Public Administration — Thirteenth Report — "Report in Relation to the Inquiry into Western Australian Strata Managers"

Resumed from 1 September 2011.

Motion

Hon MAX TRENORDEN: I move —

> That consideration of the thirteenth report of the Standing Committee on Public Administration be postponed to the next sitting of the Council.

By way of explanation, I am moving this motion to allow our members a bit of extra time. Members may be aware that government response to this report was tabled in this chamber yesterday. Members of the committee will appreciate having time to examine that report and discuss it in full at a further meeting of this committee.

Question put and passed.

Joint Standing Committee on the Corruption and Crime Commission — Eighteenth Report — "Parliamentary Inspector's Report Concerning the Procedures Adopted by the Corruption and Crime Commission when dealing with Complaints of the Excessive Use of Force by Police"

Resumed from 8 September 2011.

Motion

Hon NICK GOIRAN: I move —

> That the report be noted.

In moving this motion, I guess I envy Hon Max Trenorden with regard to his committee and his report because at least they received a response from the government to their report, albeit yesterday.

Hon Simon O'Brien interjected.

Hon NICK GOIRAN: In this particular case, that is not the situation. I draw Mr Chair's attention to page xv of the report, on which there is a request for a ministerial response. As we do not have that response at present, perhaps I could move that this matter be deferred for consideration at a later time, and that I might be able to continue my comments on that occasion.

Consideration of report adjourned, on motion by Hon Nick Goiran.

Joint Standing Committee on the Corruption and Crime Commission — Nineteenth Report — "Annual Report 2010–2011"

Resumed from 22 September 2011.

Motion

Hon NICK GOIRAN: I move —

That the report be noted.

This is a very hardworking committee. A government response to the committee's 2010–11 annual report is not required, so I am pleased to indicate that I think we are in a good position to consider it in detail this afternoon. I am sure there will be numerous contributions from around the chamber on this important report.

All committees report that they have been busy throughout the year, Mr Chair, but I am sure that you would most certainly agree with me—in fact may even be proud to say—when I say that this committee achieved some significant outcomes during the 2010-11 financial year. Five reports were tabled in Parliament, providing a wealth of information pertaining to a wide range of matters.

I will firstly turn to the reports concerning an expanded role for the Corruption and Crime Commission. Throughout most of 2010, the committee was engaged in an inquiry into how the Corruption and Crime Commission could best work with the Western Australian police force to combat organised crime. In that particular report the committee recommended that the CCC's jurisdiction should not be expanded to allow it to directly investigate organised crime, as any such expansion of its jurisdiction would compromise the authentic independence of the CCC with respect to WA Police, and therefore the CCC's important police oversight role. Among other findings and recommendations, this conclusion was restated by the committee in two further reports tabled in the first half of 2011, being the committee's analysis of recommended reforms to the Corruption and Crime Commission Act 2003, and the committee's report on the corruption risks of controlled operations and informants.

I turn now to the recommendations for reform made by Gail Archer, SC. The first of the subsequent two reports I referred to a moment ago represented the culmination of a sustained effort by the committee to analyse each of the 58 recommendations for reform to the CCC act contained in a report prepared by Ms Gail Archer, SC, and tabled in Parliament in March 2008, following a statutory review of the act. The committee is hopeful that its analysis of the recommendations made by Ms Archer, SC, will prove to be a useful aid to Parliament as the government progresses with its planned amendments to the act.

I turn now to the convention of cooperation between the CCC, the parliamentary inspector and the committee. On 18 November 2010, the committee tabled its twelfth report, entitled "Report of the Parliamentary Inspector Concerning Procedures Adopted by the Corruption and Crime Commission Relating to Surveillance Devices". In accordance with the convention established following the tabling of this committee's second report to Parliament, after receiving a report from the parliamentary inspector, Hon Chris Steytler, QC, on 15 September 2010, the committee convened a closed hearing with the parliamentary inspector on 11 October 2010, during which the report was discussed. At the conclusion of that hearing, members may recall that the committee resolved to table the report in Parliament along with the CCC's response to the report as it had been provided by the parliamentary inspector and the transcript of the committee's hearing with the parliamentary inspector. A hallmark of this committee's operation has been a move towards a cooperative atmosphere between the parliamentary inspector, the CCC and committee members. This involves a process of collaboration wherever possible to iron out areas of dispute or concern before releasing and tabling reports so that the public credibility of all parties is enhanced.

I move now to the distressing matter of the death of a witness. Unfortunately, the work of the committee was marred by tragedy in September 2010 when it came to light that a witness had committed suicide two days before his scheduled appearance before a public hearing of the CCC. As the man had been under covert surveillance by the CCC, the committee responded by calling the then commissioner, Hon Len Roberts-Smith, RFD, QC, and the parliamentary inspector before a hearing of the committee and issuing a formal reference to the parliamentary inspector pursuant to section 195(2)(d) of the CCC act, seeking an urgent investigation into what the CCC knew about the circumstances of this matter prior to the man's suicide. The parliamentary inspector undertook a thorough investigation with the complete cooperation of the CCC, and the committee convened a number of hearings with the parliamentary inspector during the summer recess before providing a report on the matter to Parliament on 24 February 2011.

The committee continues to work on its three current inquiries, which are as follows: first, the use of public examinations by the CCC; second, the way the CCC processes allegations and notifications of police misconduct; and third, whether the CCC ought to have a role in investigating unexplained wealth and recovering

proceeds of crime. In support of the first of these three inquiries, the committee convened an initial series of three public hearings in May and June 2011 with further public hearings taking place in later 2011 and, as members are aware, further ones earlier this year, which have now concluded the gathering of evidence process.

The committee's annual report lists in detail the various activities that we undertook during the 12-month period in question, but in summary they are 41 total meetings; 15 formal evidence hearings, with 33 witnesses appearing; nine briefings, provided by 32 persons; and five reports tabled. As chairman of the committee I would like to take this opportunity to thank all the witnesses who appeared before the committee over the past 12 months as well as my fellow committee members, including you, Mr Chair, and the staff of the committee, whose support and professionalism is very much appreciated. I commend this report to the house.

Question put and passed.

Joint Standing Committee on the Corruption and Crime Commission — Twentieth Report — "Closed Hearing with Gail Archer SC and Further Analysis of Proposed Reforms to the Corruption and Crime Commission Act 2003"

Resumed from 29 September 2011.

Motion

Hon NICK GOIRAN: I move —

That the report be noted.

I note that once again a ministerial response has been requested, as outlined at page xii in the report. On that basis I ask that consideration of this matter be deferred to another occasion and that I be able to continue comments at that time.

Consideration of report adjourned, on motion by Hon Nick Goiran.

Joint Standing Committee on the Commissioner for Children and Young People — Seventh Report — "Annual Report 2010–2011"

Resumed from 29 September 2011.

Motion

Hon LINDA SAVAGE: I move —

That the report be noted.

I am delighted to have another opportunity to speak on the seventh report of the Joint Standing Committee on the Commissioner for Children and Young People. It is a rather brief report. I know that the role of this joint standing committee is to monitor, review and report to Parliament on the role of Commissioner for Children and Young People, Michelle Scott, and I would like to use this opportunity to speak a little about the role of the Commissioner for Children and Young People because, notwithstanding the rather brief nature of that report, as members of that committee and the rest of us know, the work done in the office of the Commissioner for Children and Young People is extremely extensive. In fact, since the appointment of the commissioner in 2007, the information we now have about children and young people in this state means that none of us can claim not to be informed about issues faced. I do not know whether members have had the opportunity to go to the website to use the interactive profile of children and young people in Western Australia, but this website enables users to pick an area—a region—and then go through the steps to find an enormous range of information about children and young people in that area, perhaps a region such as the Pilbara or the Kimberley. Users can find out about the percentage of children in the total population and the issues they face, socioeconomic or educational. This enables us to have a very much clearer picture of the situation of children in the state than was previously the case.

In the short time I have been a member of Parliament, which is still less than two years, the Commissioner for Children and Young People has released a number of reports, including one on the state of mental health of young people in Western Australia called "Speaking out about mental health". A report was also released on young people and alcohol, and a two-part report was released recently entitled "The State of Western Australia's Children and Young People". I know that the joint standing committee would be interested in these reports, and I understand that tomorrow Hon Nick Goiran will raise the possibility of another area that the Commissioner for Children and Young People could look at; I look forward to that.

In the short time I have to speak, I will make a few comments about this most recent report tabled in February this year; that is, "The State of Western Australia's Children and Young People". I start with a little from the executive summary, as that provides us with some insights into not only the positive picture for children in Western Australia, but also some of the concerns. It states —

> There are several areas of wellbeing where WA children and young people compare well against national and international standards.
>
> The rate of smoking during pregnancy in WA declined in the period from 2003 to 2008, falling below the national average … The proportion of mothers who abstain from alcohol entirely during pregnancy has increased in WA …
>
> WA has the lowest rate of infant mortality in Australia, at 3.0 per 1,000 births.
>
> Over 97 per cent of eligible children are enrolled in Kindergarten, and practically 100 per cent in pre-primary education. At the other end of the education spectrum, around 92 per cent of young people over 15 years are engaged in education, employment or training.
>
> Overall, a low number of WA children and young people have contact with the justice system.
>
> The rates of children and young people living in low-income households and in families where parents are jobless are below or similar to national averages.

That part of the picture is quite positive and for which I think a series of governments, as well as, more importantly, parents can take pride. There are, of course, some areas of real concern about services for children in this state. The Commissioner for Children and Young People has again raised them and no doubt raised those exact same concerns with the committee. These concerns are in the area of gaps in early childhood services and include the low rate of immunisation of babies and preschoolers, which is an area of particular concern because we rely on a certain percentage of the population being vaccinated to ensure that these preventable diseases do not come back into the population. I know from the experience of living—quite a few years ago—in California that in 1991 in that state measles was endemic because of the very low rate of immunisation. The death toll of babies and infants from measles—in Western Australia we would consider it horrifying that a child would die of measles—was very significant.

Another issue is the lack of child health nurses. I have spoken about that on many occasions and I notice that the Commissioner for Children and Young People also raises this in her most recent report. That was echoed, I think in the same week, by the most recent report of the Education and Health Standing Committee. Its interim report stated that rather than being 105 child health nurses short, which several government reports since 2009 have stated, as well as Professor Fiona Stanley and others, the number we are now short is 155. One of the reasons, as the commissioner pointed out and no doubt discusses with the committee, is that there has been a 30 per cent rise in births in WA in recent years. We now have a forecast of, I suppose, what we would call a mini population boom. That will, of course, put increasing pressure on these services. Therefore, the work of the Commissioner for Children and Young People, which is overseen by this committee, is extremely important. In fact, based on this state's growing population, I think it will prove to be even more important.

I look forward to continuing to follow the work of this committee that oversees the Commissioner for Children and Young People and to discussing what further roles the commissioner could take. As I recall, a previous report of the committee stated that it is looking at initiating, on its own motion possibly, inquiries into matters that it thought of significance and I also look forward to learning how that has proceeded.

Hon NICK GOIRAN: I did not intend to make a contribution about the Joint Standing Committee on the Commissioner for Children and Young People's "Annual Report 2010–2011" because in my view it is self-explanatory. I know members will be keenly familiar with the report and will have studied it diligently! Be that as it may, I am provoked to make a contribution because my learned friend opposite, Hon Linda Savage, asked a question to which I think she is entitled to a response. If I understood the question correctly, it inquired about the status of the committee's intentions, if I may paraphrase, to fire up its own inquiries on its own motion in relation to matters pertinent to issues affecting children and young people in Western Australia. I regret to advise Hon Linda Savage that there is no progress on that matter, because the committee's jurisdiction is exceptionally narrow. It does not have the right to resolve its own inquiries, which is the substance of a report from this committee to the Parliament. The exact report number escapes me at the moment. Nevertheless, there was a report from this committee to the Parliament. I cannot say that I recall it being within the reporting period in question—that is, 2010–11; it may be a more recent report. In any case, the report basically recommended that Parliament look to give the joint standing committee wider jurisdiction—even if it is not a full-blown inquiry jurisdiction, at least some narrow inquiry jurisdiction.

When we considered the report, I recall the Leader of the Opposition's useful contribution about the history and what Parliament was thinking at the time the Joint Standing Committee on the Commissioner for Children and Young People was enacted. She made it clear that from her perspective it was not the intention for this committee to have an inquiry function. If I recall correctly, some of the rationale for that was that the commissioner herself has the ability to establish inquiries and the logic was that it would then be duplication for the committee to do likewise. The committee's report still suggests there could be some merit in that, but as I understand there is not a great deal of enthusiasm around Parliament for that suggestion.

I do not know that there is a great deal more that I can add about this report other than, in casting my eye over it and refreshing my memory of its contents, note that at the end of the report on page 7 the following comment is made —

> The Committee is also maintaining a watching brief on the statutory review of the *Working with Children (Criminal Record Checking) Act 2004* with respect to how this review may impact upon the operations of the Children's Commissioner.

Since the tabling of that report on 29 September 2011, things have progressed somewhat in that regard. I note that the committee tabled in the Assembly its "Report on the functions of the Commissioner for Children and Young People: Working with children checks" last week on 1 March 2012. I cannot recall whether that report has been tabled in this place as yet. I know that it was certainly intended to be laid on the table; in fact, that may be due to happen tomorrow. However, that report is probably the most recent update about the work of the committee on that issue. I commend the report to the house and recommend that it be noted.

Question put and passed.

Standing Committee on Environment and Public Affairs — Twenty-fourth Report — "Inquiry into Cockburn Cement Limited, Munster"

Resumed from 20 October 2011.

Motion

Hon BRIAN ELLIS: I move —

> That the report be noted.

I will also move that debate be adjourned on the report until the next session of the consideration of committee reports. By way of explanation, I understand that the committee received the government's response only late yesterday and has not had time to consider it.

Consideration of report adjourned, on motion by Hon Brian Ellis.

Joint Standing Committee on Delegated Legislation — Forty-fifth Report — "Shire of Kellerberrin Dogs Local Law"

Resumed from 3 November 2011.

Motion

Hon ALYSSA HAYDEN: I move —

> That the report be noted.

In the absence of the Deputy Chair of the Joint Standing Committee on Delegated Legislation, I do not have all the relevant information with me. But I would like the report to be noted and thank all those on the committee for their work on this report.

Question put and passed.

Standing Committee on Uniform Legislation and Statutes Review — Sixty-eighth Report — "Information Report in relation to the Scrutiny of Treaties"

Resumed from 22 November 2011.

Motion

Hon LIZ BEHJAT: I move —

> That the report be noted.

In rising to speak to the sixty-eighth report of the Standing Committee on Uniform Legislation and Statutes Review, I do not want to open up old wounds.

Hon Norman Moore: Why not, because I'm going to!

Hon Kate Doust: So can we just sit back and enjoy this spectacle? This is going to be fun!

Hon LIZ BEHJAT: Here we go!

As members know, towards the end of last year we had a long debate about changes to the standing orders of this place, and today sees the second day of the operation of those standing orders. The sixty-eighth report of the Standing Committee on Uniform Legislation and Statutes Review came about because some criticism had been levelled at the committee on a number of occasions in the past few years that perhaps it was carrying out only one-third of its functions, which are to inquire into uniform legislation, to review the statute book and to scrutinise treaties that the state enters into. After hearing this on a number of occasions, the committee thought

that it could no longer have this criticism levelled at it and that it needed to sit down and attempt to do what two other committees had done previously—that is, to look at the scrutiny of treaties issue.

The report sets out the background of the issue. Prior to September 1999, no Western Australian parliamentary committee had ever examined treaties, so in August 1999, the Standing Committee on Constitutional Affairs tabled its thirty-eighth report on a seminar hosted by the commonwealth Joint Standing Committee on Treaties, also known as JSCOT. The recommendations in that report reflected what was agreed to at the seminar; that is, there was a need for scrutiny of proposed treaties at the state level, treaties and related information should be tabled in state Parliaments, and state parliamentary committees should be given the role of investigating treaty matters and reporting to state Parliaments on the impact of treaties on the state. And so the report went on. In considering the scrutiny of treaties function, the then Standing Committee on Uniform Legislation and General Purposes highlighted that JSCOT in fact gives a very short period within which comments must be received on proposed treaties. It remarked —

> *One view might be that the consultation by JSCOT with state parliamentary committees is illusory.*

That is certainly something that the committee would also agree with. The Standing Committee on Uniform Legislation and General Purposes also stated —

> *To enable State to play an effective role in the treaty process, the Commonwealth must allow sufficient time for consultation with the States prior to treaty ratification.*

In the nineteenth report, the committee inquired into the administrative practices and procedures and parliamentary processes involving treaties entered into and made a number of findings. Again, those findings were that the time given by JSCOT for Parliaments to comment on treaties was very short, so that they were really commenting on things after the fact. That is really of no benefit.

However, the Standing Committee on Uniform Legislation and Statutes Review decided, once and for all, to put to bed the idea that we were completely ignoring our function of scrutinising treaties. On 31 August 2011 we determined that, pursuant to those terms of reference, we would inquire into the Agreement for the Establishment of the International Anti-Corruption Academy as an International Organization—that was the treaty. We invited the Department of State Development and the Department of the Premier and Cabinet—the lead agencies for the treaty—to a hearing, held on 7 September 2011. To understand the treaty and its implications for parliamentary sovereignty, and any obligation on the state to enact legislation to give effect to the treaty, the committee posed a range of scrutiny and legal questions. Both the Department of the Premier and Cabinet and the Department of State Development informed the committee that they were unable to answer the committee's questions, even though they had answered similar questions in relation to bills, because the advice provided by the state to the commonwealth, and the negotiations between the state and the commonwealth on treaties, is confidential. That was the answer that was given to us in that hearing—that we were not entitled to receive that information. The source of the requirement to maintain confidentiality is the official handbook on treaties produced by the Department of Foreign Affairs and Trade entitled, "Signed, sealed and delivered: treaties and treaty making: an officials' handbook".

The DPC further advised that it does not undertake its own independent analysis and research on treaties; it merely refers the treaties to the relevant government agencies for comment, collates their replies and provides them to the Standing Committee on Treaties. No fundamental changes have taken place in the processes and procedures followed by DPC since the tabling of the nineteenth report in 2007. The DPC also suggested that the committee seek legal advice on treaties from the Attorney General as well as the commonwealth's Office of International Law. We did that, but the advice that came back to us from the Attorney General was —

> *It should be noted that the Solicitor General and solicitors engaged in the State Solicitor's Office are tasked with providing legal advice to the State Government, not Parliament or its committees. And further, such advice, should it be received by the Executive Government, is covered by legal professional privilege.*

As members can see, we were not really able to get a lot of information about this treaty and what its ramifications may be on the sovereignty and law-making powers of Western Australia.

The committee then wrote to the Office of International Law, seeking its assistance in the undertaking of its treaty function, and in particular, to find out whether it could provide the committee with advice about particular articles in treaties. In its response, the Office of International Law gave similar feedback to that provided by the DPC —

> *One of the key functions of this Office is to provide legal advice to the Commonwealth Government on international law, including the domestic implementation of treaties to which Australia is a party, or contemplating becoming a party. To provide advice to your Committee would potentially conflict with our role in providing advice to the Executive Government of the Commonwealth, and consequently, we are not in a position to provide your Committee with the assistance that you seek.*

Again, another door was shut in our face so we could not look at what the ramifications of this treaty may be on the sovereignty of Western Australia, and this Parliament's law-making powers. The advice continued, in part —

> *I note that the Commonwealth provides information on proposed treaty actions to the Standing Committee on Treaties, which is comprised of officers from State and Territory First Ministers Departments …*

It then became apparent to us that it was not going to be very easy to carry out that inquiry. As a result of that, the committee took the view that it was unable to meaningfully carry out its function under term of reference 8.3(c), and would be unable to do so under proposed term of reference 5.3(c) under the new standing orders, due to an inability to obtain advice and feedback from the executive on the articles in treaties it inquires into, due to confidentiality constraints; the insufficient consultation period in which JSCOT accepts submissions on treaties, during which it would not be feasible for the committee to advertise the inquiry, obtain submissions and undertake anything but superficial scrutiny; and, a lack of capacity owing to the significant number of uniform bills taking priority.

There was only one recommendation in that report, and that was that that term of reference be removed from the standing orders. We had that debate at the time the new standing orders were debated, and the house determined that that should remain a term of reference for the committee. So the committee does currently have that term of reference on its books. But my understanding is that a review of the current standing orders will be undertaken at some time in the future, perhaps in six months, and I hope that at that time we can revisit that. It is not that the committee does not want to do the work; the committee is more than happy to do any work that is set before it by this house. But when the committee reaches roadblocks, and when we have doors shut in our face in relation to, "We cannot tell you that; it is privileged; we do not give advice to committees; we only give advice to government", it does make it very difficult.

The Standing Committee on Uniform Legislation and Statutes Review looked at two pieces of legislation that dealt with treaties that may have had an impact on the sovereignty of Western Australia. So it appears that treaties come to this Parliament for scrutiny when they are contained in bills. Therefore, that would seem to be the way to go, rather than giving us this redundant term of reference.

As I said, we will work within those parameters at the moment, and perhaps at a future time we can revisit that and see whether we can have that removed as a term of reference for the committee.

Hon NORMAN MOORE: I do not intend to rake over the coals of last year's debate about this particular matter, but I want to respond to this report in the context of taking note of reports, as opposed to the last time we debated this matter, which was during the debate on the decision to rewrite the standing orders.

I have always had a view that this Parliament is entitled to know about any treaties which are entered into by the commonwealth and which could in some way impact upon the sovereignty of the state of Western Australia. I have used in the past the example of the way in which the foreign affairs powers have been used to deal with particular issues at the state level. That is a different issue, but it is similar in the sense that if the commonwealth enters into an international treaty, it then acquires powers that go with those international treaties, and that may sometimes impact upon the sovereignty of state Parliaments. Although the member has clearly pointed out the difficulties associated with obtaining the information, and often the information is after the event, I still think it is important that this Parliament and all other state Parliaments are at least made aware at some time about the consequences of treaties entered into by the commonwealth if those treaties will have any effect on a state's capacity to manage its own affairs. Just knowing that means that members of Parliament can take whatever political action they might wish to take in relation to that particular decision. Indeed, there have been many arguments in the political arena surrounding treaties and the consequences of treaties, and the way in which they have been used by federal governments to intrude into the affairs of the states. Just simply knowing that is an important political tool that enables members to engage in public debate about the consequences of those treaties.

The second thing I want to say is that, bearing in mind the relatively feisty approach of this particular committee and some of its members in recent times, I am a little surprised that the conclusion of the committee's inquiry is to delete any reference to treaties from its standing orders because it has been unable to find out the information it wants. I would have thought that the report might have said that the committee is horrified to be told by the Attorney General that this information is provided to the government and not to Parliament. Indeed, when I read through this report and look at some of the advice provided to the committee, I think that if I sat on the committee, I would say, "Why are they telling us they have confidential information about treaties that they will not reveal to anybody else, particularly not to Parliament?" Thinking about the nature of the uniform legislation committee, it crossed my mind that that might have been the response; why is it that they have put in place so many obstacles to a parliamentary committee finding out information about treaties? I know that Hon Liz Behjat will take serious exception to me, but the committee took the easy path by saying, "Let's just get rid of that from

our standing orders." That is not an adverse reflection, I might add, on the committee, because I understand why it has come to the conclusion it has.

Hon Liz Behjat: I can assure you it was not for want of trying, but I cannot reveal the deliberations of the committee or what actually took place in some of those hearings.

Hon NORMAN MOORE: Of course the member cannot. One of the reasons the new standing orders have not accepted the recommendation contained in this report is that we need to go back and have a good hard look at this whole issue and see whether anything can be done about the obstacles that have been put in the way of the committee being advised of matters relating to treaties. It may well be that some treaties are confidential and Parliament does not need to know. However, I would have thought that the relationship between the nation of Australia and other nations around the world ought to be public. It is our nation. They are treaties that could affect us as citizens of Australia and could affect this Parliament as a law-making body in Western Australia. I would have thought that we ought to spend a bit of time on looking at the obstacles identified in this report and taking some positive action to see whether we can have those obstacles removed.

Hon Max Trenorden: Hear, hear!

Hon NORMAN MOORE: Yes. When I finish being in the executive, I am looking forward to helping the committee achieve that.

Hon Liz Behjat: Leader, thank you for your encouragement and we look forward to it on behalf of the other feisty members of the committee!

Hon NORMAN MOORE: The point I am making is that this Parliament has a responsibility to protect its sovereignty. All sorts of mechanisms are used by federal governments to intrude into the sovereignty of state Parliaments and treaties are but one of them. We ought to be very much aware of what is happening in that respect. We need to give some serious thought to trying to find out some way to overcome the impediments that are clearly in the way. I will have a chat to the Attorney General about his letter, which reads —

> … the State Solicitor's Office are tasked with providing legal advice to the State Government, not Parliament or its committees.

That is understandable in many cases, but if it relates to a commonwealth treaty, I cannot think of any reason why the state Parliament or its committees should not be made aware of the nature of the advice, if not the actual advice.

This report and the previous discussion we had when we determined the new standing orders is a work in progress, in my view. I indicated when we did the new standing orders that I would look again at the standing orders of the Standing Committee on Uniform Legislation and Statutes Review, because of the issues that were raised during that debate about not only treaties, but also uniform legislation and the effect of uniform legislation on our sovereignty, and the view that was put by a member of the committee that that is a very hard thing to ascertain. There has to be some solution to that problem down the track and I am comfortable to have further conversations about that matter.

Question put and passed.

Progress reported, pursuant to standing orders.

Sitting suspended from 6.01 to 7.30 pm

GAS SERVICES INFORMATION BILL 2011

Second Reading

Resumed from 30 November 2011.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [7.31 pm]: Prior to resuming, I was being given driving instructions from the government about whether it wants a long speech or a short speech, but I missed the direction.

Hon Norman Moore: I think a middle-sized speech would be really nice!

Hon KATE DOUST: I can give the short one or the long one—which one would the government like?

Hon Sue Ellery: About 15 minutes would do it.

Hon Ken Travers: As we always do, concise and to the point!

Hon Norman Moore: After yesterday!

Hon KATE DOUST: I made some very valid points in that debate last night.

Hon Norman Moore: I know; it just was not concise and to the point! It was a very good speech.

Hon KATE DOUST: It was concise and it was to the point. I can revisit that, if the Leader of the House likes, and include it in this one.

Hon Ken Travers: A most helpful opposition!

Hon KATE DOUST: I know I am helping them. Anyway, if my colleague will allow me to have the voice —

Hon Peter Collier: I am listening!

Hon KATE DOUST: Thank you.

We will support the Gas Services Information Bill 2011. This is a very important bill. It is one that the opposition has been waiting for the government to introduce for quite some time. I was very pleased to have a detailed briefing provided by the Office of Energy a couple of weeks ago. Some of the background to this bill harks back to a couple of significant issues that occurred in this state; one of which, of course, was the Varanus Island incident. There was another gas incident about 12 months ago. I note the recommendations to establish the gas bulletin board and to have a gas statement of opportunities. Those recommendations arose from the Gas Supply and Emergency Management Committee in 2009, and also as a result of recommendations from the Economics and Industry Standing Committee inquiry into domestic gas prices, contained in its report tabled last year. I will come back and revisit that report in a moment.

There have been a number of issues and quite a deal of interest in establishing the bulletin board and the statement of opportunities—something akin to what is already operating in the electricity market. This legislation will enable the government to establish the gas bulletin board and to allow for an annual release of the statement of opportunities. I ask the minister to clarify whether there will actually be an annual report or whether it will be every 18 months to two years. I was not really too sure about that when I received my briefing from the Office of Energy. These arrangements will be similar to those that already exist with the wholesale electricity market and will hopefully lead to improving the transparency and availability of information for the market as well. Some have regarded the gas industry as being slightly opaque when it comes to extracting information about availability and pricing.

The bill also establishes capacity to set up regulations and to develop rules around the sector. I was pleased to see that the independent market operator has been given the task of establishing and managing the gas bulletin board and also responsibility for the production of the gas statement of opportunities. I think that Allen Dawson and his team at the Independent Market Operator have done a very good job during the more than five years that the IMO has been operating. The minister and I attended the IMO's fifth birthday party at Kings Park late last year. It is appropriate to give the IMO this additional workload. I understand from the briefing on the Gas Services Information Bill—the minister might correct me—that it will cost about $2 million a year to run this program and that most of the software will be similar to that which is currently used by the national gas bulletin board. It makes perfect sense that the IMO does not want to reinvent the wheel but wants to use what is currently being used to get it up and running. I note that there is a degree of urgency to get this bill through.

I am told that the IMO is very keen to get this legislation through so that everything can be up and operating by 1 July, from memory. Is that the correct time frame, minister?

Hon Peter Collier: That would be nice.

Hon KATE DOUST: That is why I was pleased to encourage bringing this bill forward rather than waiting until late March, because the industry is very keen for it to get up and running.

There has been extensive consultation with industry and all the other stakeholders. It is clear in the explanatory memorandum and the bill that the IMO will be the operator of the gas bulletin board and have the ability to compel gas market participants to provide information to the gas bulletin board. For the purposes of this legislation, the participants are deemed to be producers, transmission pipeline operators, storage providers, shippers and major end users. At the very end of last year I attended an Australian Petroleum Production and Exploration Association Ltd function at which Hon Norman Moore spoke. I talked to a woman who represented small pipeline operators from the eastern states and she expressed concern on behalf of her members about what it would cost them to participate in the gas bulletin board. I thought that it might be useful if the minister could explain to the house whether there will be any disadvantages to some pipeline operators, depending on their size. That was an issue that came up at the function and I thought it was worth finding out whether there will be issues of equity and how access and engagement with the process is determined.

The bill seeks to comply or work with aspects of the national gas access law in relation to how information is gathered and protected. As members would expect, the producers and operators in this industry want to hold their own company information very tightly to their chest and would probably claim commercial confidentiality about their operations. I imagine it would be a very interesting task for the IMO to gather that information and make sure that it is protected so that the various business interests are catered to. Under the national gas access law, the bill will ensure immunity to protect the IMO as an operator, and also the participants, when they provide

information, and it enables the IMO to establish rules. I have talked to the IMO in the past about the rules. I am not too sure how this will work for the gas bulletin board, but in the electricity market there seem to be constant changes and updates to the rules and it seems to be a never-ending process that requires a great deal of consultation. I imagine that this bill will also set up a similar process in Western Australia.

I do not have a lot more to say on this. This bill will provide some very important and significant changes to the way in which gas is managed in the Western Australian market. I understand that WA is one of the biggest gas consumers in the country. As we know, we have great opportunities with gas exploration into the future, so it is very important to have this type of mechanism in place, because it not only enables us to have transparency in managing the scheme and gathering information, but also assists with planning and making decisions for future investment in this state, and that will enable companies to decide how they want to manage their business in this state. Hopefully, the long-term product will then flow on as a benefit to consumers in that they will be able to get a fairer and better price for the gas that they can access in this state.

I think that this has been a fairly positive decision on the part of the government. I know that it has taken a couple of years to get there, but this is something that the opposition has always supported, and we have been reasonably public in our views about the need to have a gas bulletin board. We all saw the disastrous outcome in that period when the Varanus Island incident occurred and the negative impact upon businesses in this state. I am sure that no-one would want to see that again. I know that at that time, because of the tightness of access to gas supply, there was some suggestion that there was some price gouging and that some businesses were paying outrageous prices for gas, and I am sure that we do not want to see that happen again. Having this type of facility in place will hopefully alleviate those sorts of problems.

This is probably the short speech. I could have got up and said that we support this legislation in policy and in detail, but I feel that I probably needed to say a bit more than that. For any members who would like to get more information, a very excellent briefing document came out of the Office of Energy. Given that this legislation should be up and going in July, I note that the Independent Market Operator will probably need to seek additional funds over time. The minister might advise us of what those additional funds may be and what sorts of things they will be used for, other than, I imagine, software.

There are some questions around the establishment of the gas bulletin board and the development of the gas statement of opportunities. With the current structure of the IMO, does it involve bringing in new, additional staff with the appropriate expertise in this industry, or will the IMO simply manage this additional workload with the staffing structure it has currently? I think those are important questions because I imagine the work the IMO does with the energy market is substantial as it is, and I know it has some highly qualified people managing that. I think that would be useful information to have. However, as I said earlier, I believe this is a positive step forward and one that we will watch with great interest. It will certainly enable the industry in this state to use the information that is available on a daily basis when companies make decisions about how they will run their businesses.

I note the comment in the briefing note about the possibility of providing a voluntary facility for introducing short-term offers to sell and buy gas—commodity and transport—something akin to that which exists in the electricity market. When I had my briefing I highlighted this because, as I understand it, the government has not yet made a decision about whether it will move forward on that matter. So is the minister in the process of making a decision to enable that short-term market arrangement to be put in place or might that be looked at at a later stage; and, if not now, why not?

The idea that the Independent Market Operator, with its expertise, develops a gas statement of opportunities is very sensible. Over the past couple of years I have had the opportunity to look at the documents it has put forward. It always produces very detailed information and high quality analysis and I am sure that that will be replicated in its work on gas as well.

This bill is a good move on the part of government, it is a good move for the gas industry in Western Australia and hopefully it will also be a good move for gas consumers in the state. The opposition is very pleased to support this bill and we look forward to its swift passage through both houses.

HON ROBIN CHAPPLE (Mining and Pastoral) [7.46 pm]: I would like to thank the Minister for Energy and his department for giving us a very detailed and long briefing on 31 January this year. We were able to range quite widely over what is being proposed and what has caused the issues, and ask some questions about the future of energy in this area in Western Australia. The reasons for this gas bulletin board quite clearly stem from the Varanus Island incident. We have subsequently had gas shortages as a result of cyclone Carlos and before then we also had the North West Shelf shutdown. There was clearly a need to have some process whereby gas suppliers, the government and the pipeline industry could identify where the surpluses were and be able to augment supply quite quickly. Obviously in June 2008 we had the Varanus Island explosion. As a result of that, a temporary bulletin board was established from July to October 2008. There have been some inquiries into what went on.

I would like to touch on one of the issues pertaining to gas development in Western Australia as it relates to engineering design. One of the things that we have done in this state—it is not a government issue; it is an industry issue—is build a number of trains close together. For those who do not understand what a train is, it is the processing structure that occurs when gas is brought ashore and then taken through its processing to either move it into the domestic market or export it. One of the problems that we have had is that gas systems have been built too close to one another. Maybe we would not have had quite the problem with Varanus if the trains and the pipelines that exited those trains had not been quite so close together. One took out two and instead of being able to keep half the plant going, there was a complete shutdown. The design of plants, most probably from an engineering perspective, needs a bit of review into the future. I have always expressed that concern. This will obviously lead to better emergency management of gas supply.

It is very clear that the nature of the market did not allow for the exchange of information that was necessary when we had a crisis. That is what the gas bulletin board will do. Some of the transactions post the Varanus Island incident have been facilitated by this almost voluntary bulletin board that has been operating that put buyers and sellers together to understand where gas is available. This allows for the unders and overs to be traded. There is enough of this to be traded because the demand is very seasonal and it goes up and down daily depending on energy consumption within the state. The unders and overs might be only about 10 per cent of the market but it is still quite significant and it needs to be used profitably by both sellers and buyers. As I said, once the gas comes from the well, it goes through the processing plants and then goes to either LNG or domestic gas production. The purpose of this bill is to ensure that when one well goes down or a train goes down, we have a mechanism under the control of government and the Independent Market Operator to quickly address the issue and open up a trading market to deal with that. The problem with the Varanus issue was that it became very difficult for government to access that commercial information.

This bill looks at the whole issue of the use of the Dampier to Bunbury pipeline. For those who need to understand this process, the Dampier to Bunbury pipeline is not only a transmission line, but also a storage vessel and as such needs to maintain significant pressure all the time to allow for future peak demand. When the pressure gets too low, the jets in the gas turbine do not have the pressure to provide the activity in the turbine that is required. This all fits into that whole process. The IMO is already looking after other forms of electricity, so this brings this whole issue back into the realm of the IMO, and it will operate the gas bulletin board.

We require somewhere in the region of 1 000 terajoules a day of energy from gas. The North West Shelf provides some 700 terajoules of that. As those reserves are depleted, new suppliers need to be brought on to replace that slice of the market before there is any growth. The agreement for domestic gas from Gorgon has recently been signed off. As the gas market expands and one level depletes, we need to be assured of where we will get gas in the future. I am reminded of some comments made to the Standing Committee on Estimates and Financial Operations by Synergy that until the signing of the Gorgon domestic gas agreement, it was having serious concerns for the provision of energy beyond about 2015 from gas reserves. We need to know what we will be doing with energy over the next 20 years and in that regard we need to understand that our gas is relatively finite; we do not have very much on a global level. We now have about 11.3 per cent of the global gas supply. A lot of that goes offshore. It has been argued quite stridently by the DomGas Alliance that we need to be making real investment into the future to make sure that gas is available to us as Western Australians and not just for export. Obviously, above and beyond what we are talking about here, as we have significant reliance on gas, we need to ensure that strategies are in place for energy beyond a reliance on gas.

The briefing went through a number of issues and I will touch on a few of those. This legislation is obviously forming part of the government's strategic energy initiative. I hope—I have mentioned this to the minister before—that we do not put all our eggs in one basket. It was clearly presented to us that should the modelling show that gas is diminishing, we have a significant amount of coal as an energy source that we can go back to. As members can imagine, I am not particularly in favour of having too much more material coming from either gas or coal in terms of climate change and CO_2 emissions. But I am not blind to the fact that we do need a very well-structured gas marketing arrangement. The gas bulletin board's website will have a private access area for the industry to enable it to trade, but other elements of the gas bulletin board will be public. I think that is another good aspect. The public will be informed to a reasonable degree about the availability of energy supply, but it will not be privy to the negotiations between energy suppliers and their consumers in the private access area of the bulletin board.

The regulations have still to be developed, but it is my understanding from the briefings that the regulations are being drafted at the moment and will be ready quite soon. It would be useful if the minister could give me some information pertaining to that. Obviously, the Independent Market Operator regulations will be amended to reflect the broadening of its powers. The regulations will specify the information and processes required for the gas bulletin board, and the gas statement of opportunities will have to be tabled by the minister at some stage. I have been told that the time line is somewhere between April and May, with the IMO operating, hopefully, from 1 July.

As to the funding, we understand that approximately $350 000 will be provided to the IMO to facilitate the development of its role. The IMO will seek a Treasury loan, and the repayments will be made over a three-year period. Most of the costs will be in the development of the associated information technology systems, and purchasing the rights to the systems used by the Australian Energy Market Operator, which is the national model on which this has been based. Ongoing costs will be met by gas marketing participants, and those costs will be, again, spread over three years. It would be useful if the minster could put on the public record a good explanation of how the finances will be worked out. There has been quite wide consultation, and the economic regulator will determine the allowable revenue of the IMO; there are some issues in that area that will develop over time.

Part of the broader discussion we had with the department was around energy supplies in Western Australia. It will be interesting to see how the future of gas plays out. Although, obviously, it is still a major contributor to CO_2 emissions, it has a very important role in providing the balance of energy to wind, solar, geothermal and landfill gas. A value of modern gas turbines is that they can be managed in a very critical sense. They can be turned up and down without the plant being damaged; that cannot be said of coal-fired power stations. The big problem with winding back a coal-fired power station is that inefficient burn is created and the plant can actually be damaged. In the main, coal-fired power stations need to be working at 100 per cent to provide efficiencies of scale. I understand that some of the new Pratt and Whitney gas turbines on the market can be brought from an absolute standstill to full power within 30 seconds and have that power flowing into the grid; gas can be used as an incredible balancing mechanism. As I say, it is a transition to help renewables get into the market. We discussed a number of the other solar initiatives such as the small solar tower that was going in at Perenjori and a few other issues.

This bill has to be seen, certainly from the point of view of gas, as providing surety to the Western Australian community, surety to the energy providers and surety to the energy purchasers. By putting it through the Independent Market Operator, hopefully we will have a really public process in which the public can be assured that we will not experience the past issues associated with gas supply.

With that, the Greens will obviously be supporting the bill, but we would hope that this is not seen as some sort of panacea for the energy markets of the future, because gas is in limited supply, it is finite and there is a great desire internationally to consume our gas. I hope that the domestic market will structure itself to ensure that our gas to a large degree can go on into the future and provide us with energy rather than being sold overseas.

HON MAX TRENORDEN (Agricultural) [8.01 pm]: The National Party also supports the bill. Before I make a few comments on the bill, I would like to thank the minister for graciously receiving several people I have taken to see him over this issue and also for the briefing on the bill that I and my colleagues received from his officers. I have some notes here with me, and I will quickly talk about a few of them. There is no point in repeating everything that has been said before. The point of the bill is to improve the transparency and availability of near-term gas supply and marketing information, as well as providing long-term forecast to encourage private investment in the sector. I am aware that two private companies are now selling this gas in the market, which is a great outcome. As has already been said, this is not a large market; nevertheless, two operators out there in the market will be able to take the oversupply and sell it to people who have a need.

There has been talk about the 2008 disruption, so I will not talk about that. Several committees of this parliament have worked on this issue, and their work should be recognised. Key parts of the bill are the establishment of a framework for regulation and rules that give detailed design of the gas bulletin board; the gas statement of opportunities; and the protections of the gas market participants in relation to information requirements and confidentiality. I will not refer to all of these parts. We have had enough speeches in this place and we need to move on to more important things such as the bill on local government. I can see the minister sitting beside the Minister for Energy chafing to speak on that bill. The point, though, is that there is a mechanism in this bill in which information can be supplied to a bulletin board. People who supply that information can do so with the security of legislation that protects them from being sued, and there are other matters that go to the operation of the bulletin board. I congratulate the minister on the bill. It will be a boon to the people of Western Australia.

HON PETER COLLIER (North Metropolitan — Minister for Energy) [8.04 pm]: in reply — What a great night! We all have warm and fuzzy feelings. We are all agreeing on a bill, which is wonderful. For the first time for a long time we have a good news story on the energy sector, which is fantastic.

Hon Ljiljanna Ravlich: You haven't got any good news on the training sector, that's for sure!

Hon PETER COLLIER: The member was being so good up to now. What happened?

Hon Ljiljanna Ravlich: A thousand apprentices down!

The DEPUTY PRESIDENT (Hon Brian Ellis): Order, members! We were going so well, too.

Hon Ljiljanna Ravlich: I'm sorry, Mr Chair.

Hon PETER COLLIER: Hon Ljiljanna Ravlich, you had your lemons for dinner, didn't you?

The DEPUTY PRESIDENT: The Minister for Energy.

Hon PETER COLLIER: Thank you, Mr Deputy President.

I thank Hon Kate Doust, Hon Robin Chapple and Hon Max Trenorden for their indications of support for this bill. It is a terrific bill. I think we are all in agreement. What we will have as a result of this bill is a much more dynamic, contemporary energy sector. Our vulnerabilities in the energy sector were never more prevalent or more on public view than as a result of the Varanus Island explosion. As I said, it exposed our vulnerabilities in terms of gas supply and long-term gas viability. The gas sector will become much more contemporary and dynamic as a result of this bill. It emanated from the Gas Supply and Emergency Management Committee and that process was supplemented and supported by the recommendations from the Economics and Industry Standing Committee report into domestic gas prices. That report made some recommendations about the establishment of a permanent bulletin board and a statement of opportunities. The Gas Supply and Emergency Management Committee also recommended the establishment of a gas storage facility. The government has been proactive and in a short space of time we will have a gas storage facility at Mondara. Also sought was a much more formal approach towards the management structure of gas outreach, and we have provided that. After tonight when the members of the Legislative Assembly return and the bill moves through the other place, we will have final recommendations about the bulletin board and the statement of opportunities. We are all very cognisant of the fact and I am very much appreciative of the support we got from the house for the way forward with regard to the gas industry in Western Australia.

I will go through a couple of questions asked by various members. In answer to Hon Kate Doust's question: yes, it is an annual report from the gas statement of opportunities. We would certainly hope that there would not be disadvantage for pipeline owners from that perspective. We do not have any detailed costings about the individual participants or companies at this stage. The Office of Energy is in contact with the Independent Market Operator and is working with it on further industry engagement on this process. That will be done in unison and in concert with the Gas Advisory Board, which will help with this engagement. The cost is $3 million; that is, current online funding through Treasury, which will be recouped over time through the process from industry participants. We are looking at the short-term spot market. We will monitor the current processing in Western Australia and a similar system on the east coast, and there is a likelihood that it may occur.

Hon Robin Chapple asked about the regulations. They are about 70 per cent complete; they are being completed as we speak and should be ready for tabling in June, which I of course will do.

Having said all of that, I will not take up any more of the house's time. I say once again that I very much appreciate the support I have received from all parties and I look forward to the formal establishment of a gas bulletin board and statement of opportunities that will provide for, as I have said, a more dynamic and transparent gas market in Western Australia. I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Peter Collier (Minister for Energy)**, and transmitted to the Assembly.

LOCAL GOVERNMENT AMENDMENT BILL 2011

Second Reading

Resumed from 29 November 2011.

HON LJILJANNA RAVLICH (East Metropolitan) [8.10 pm]: I rise to support the Local Government Amendment Bill 2011 and to make some comments about it. The bill makes a number of changes to the substantive act. The provisions contained within the Local Government Amendment Bill are aimed at strengthening the ability of local governments to deliver better services to their communities, and addressing significant governance and public administration issues. There are eight key areas of reform or amendment, if we like. I do not really want to go through each of them in great detail; however, I want to touch on a few of them.

The first key reform is the new disqualification provisions for council members so that they cease to hold office when elected to Parliament or convicted of a major crime. I do not know how often this situation has arisen historically. I know that this clause specifically —

Hon Robyn McSweeney: A few times.

Hon LJILJANNA RAVLICH: A few times. I guess in recent history the latest case was that of the current member for Mount Lawley, Mr Michael Sutherland, who once he was elected to Parliament continued to serve on the City of Perth. I know that there was quite a bit of publicity around that. There were media reports and people wrote letters to the editor about Mr Sutherland double dipping and so on and so forth. There were concerns about if not an actual conflict of interest, certainly a perceived conflict of interest. I guess this may be Mr Sutherland's greatest achievement since he came into the Parliament; that is, having the Local Government Act amended to ensure that other people do not do what he did—namely, serve on a local council after being elected as a member of Parliament. I will quickly read a letter that was in *The Perth Voice* on Saturday, 4 October 2008. It was written by Mr Bill Proude, First Ave, Mt Lawley and states —

> I CAN well understand your correspondent Otto Mustard …
>
> What a burden being deputy lord mayor of Perth and new MP for Mount Lawley. A year ago supporters of Michael Sutherland had high hopes of his becoming next lord mayor. Had he been successful in that contest, would he then have campaigned in the recent WA state election?
>
> The new MP is reportedly concerned about the cost of a city by-election if he quits as deputy lord mayor.

I think that was the excuse that he used, "If I leave now, we'll have to have a by-election. That'll cost the ratepayers a fortune, so isn't it better that I basically continue to serve as a local councillor?" The letter went on to ask how much greater would the cost involved have been if Mr Sutherland had decided to quit as Deputy Lord Mayor and so on and so forth.

Clearly, this is a situation that should have been avoided in the past. I am a bit surprised that Hon Robyn McSweeney advises the house that this in fact has occurred on a number of occasions historically.

Hon Robyn McSweeney: I thought you were talking about people who have had criminal behaviour and still been allowed on council. I was referring to that; I certainly wasn't referring to anything else.

Hon LJILJANNA RAVLICH: I was not referring to those who are convicted of a major crime; I was referring to council members who cease to hold office when they are elected to Parliament. Anyway, I think it is good that that is tidied up. Most people would argue that it is probably long overdue and that we want to get rid of any grey areas or uncertainty that might be about these sorts of situations when they arise. That is indeed a positive amendment.

I will spend some time on the second provision contained in the Local Government Amendment Bill. I think this is the one that has been a major sticking point; that is, modifying the current power of the Salaries and Allowances Tribunal to recommend the levels of local government chief executive officer salaries and remuneration and to make a binding determination that must be complied with by local governments. The matter of salary, and who should be paid what, and what is the work value of CEOs is indeed an interesting issue. Having been a Minister for Local Government, I have a very high regard for the work done by local governments and I have a high regard for the work done by CEOs of local governments.

Hon Ken Travers: Hear, hear!

Hon LJILJANNA RAVLICH: Thank you.

By and large, they do a very, very good job indeed and there is no doubt in my mind that it is a job that is becoming increasingly complex. Some would argue it is become increasingly complex because that is what local councils decide should happen. In any event, I know the Premier has a view that local governments involve themselves in all sorts of matters; for example, declaring themselves a nuclear-free or GM-free zone or whatever. The Premier has argued—I have read this in the media, but I do not have a direct reference here—that too often local governments take it upon themselves to undertake these additional responsibilities, which take up their resources. Perhaps local governments should have a more narrow focus; namely, on roads, rates and rubbish, rather than on these new areas such as night security. Many local government authorities within the metropolitan area have security patrols at night. One may argue that that is best left to the police. One may also counter-argue that the diminishing resources and resource restrictions of the police department mean it is unlikely that the police will be able to serve local communities to the extent that they want to be served in terms of law and order. We have heard the arguments about how much local governments should do and how much a ratepayer is prepared to pay for what they do, and so forth and so on. It is good that local governments increase not only the breadth of their responsibility, but also the services they provide to their ratepayers. Provided there is agreement between ratepayers and local councils about what is a fair rate of return or payment for the services delivered, everything is okay. That is the view I hold. It is not a view that everybody holds.

There are challenges for local governments in community expectations and we have seen some local governments, quite sleepy little hollows, experience enormous changes over a very short time. For example, the Shire of Serpentine–Jarrahdale went from being a sleepy little hollow to an absolute growth council because

during the boom in the few years leading up to 2008, and even now, there was a lot of urban development in the area. This little council went from having very few expectations on it and very little demand on its resources to all of a sudden having huge expectations requiring high levels of technical expertise and needing a CEO able to oversee the challenges of a real growth council. This is not an isolated case; these cases are real right throughout the state. Essentially, on the issue of salaries and allowances for CEOs, I think it is probably fair to some extent that the Salaries and Allowances Tribunal should restrict how much can be paid through a band-type model whereby different local government authorities are rated differently depending on the population and certain other criteria. But there is also the counterargument of some of the restrictions that that will impose on councils and communities.

A very interesting and compelling case was put to me recently by representatives of the Western Australian branch of Local Government Managers Australia about some of the challenges that they are facing. In principle, one of their biggest concerns with SAT determining a salary level based on a band model is that they are facing extremely big challenges to keep their CEOs within the local government sphere. In fact, they are facing major challenges from mining companies in particular to keep all sorts of staffing resources within local government. The argument is that during a period of high economic activity—which we have in the north of this state, where, I think, some $260 billion worth of resource projects either have been approved or are under consideration—there is a major demand for skilled workers. Of course, one of the challenges faced by local governments is that the mining sector sources its workers from all over the place. Within local governments there are top administrators, environmental scientists, clerical people and workers with all sorts of skill sets. Of course, the challenge is for local governments to compete with the mining sector on remuneration and the sorts of salary packages that the mining sector can afford to pay to entice not only CEOs, but also other employees out of local government. The argument is that the conditions of not only CEOs, but also those in other occupations within local government need to be protected to some extent to make sure that local governments remain competitive with the mining sector. If local governments do not remain competitive, they will be vulnerable to losing these employees. Of course, it is very hard to, firstly, backfill workers who have left and, secondly, to train workers within local government to a certain standard and sometimes even to train them to fit a certain type of culture or ethos within the organisation. There are some very, very interesting challenges facing the local government sector.

Local Government Managers Australia expressed concern about the Salaries and Allowances Tribunal process; clearly SAT has not been looking at local government CEO salaries for very long, and I suppose, over time, it will continue to refine the process and maybe make it more accurate than it currently is. It had some complaints about the existing provisions for CEO salaries. One of the issues brought to my attention is that these salary bands, as they stand, will be restrictive on some CEOs who are already outside the band. There is uncertainty about whether this will mean that they will have to renegotiate contracts to come back within the band, and uncertainty as to how that issue is going to be dealt with.

Hon Max Trenorden has proposed an amendment to address a number of the issues that were raised in relation to CEO salaries and, as I understand it, it will provide some comfort—indeed, a lot of comfort—to CEOs. There is agreement between Hon Max Trenorden, the government and certainly the Labor Party, so we are in unanimity on that amendment. Given that we are in agreement on that amendment, I do not think that we now have to explore all the arguments that were put to me in respect of the difficulties that some of the provisions currently contained within the Local Government Amendment Bill 2011 would cause to CEOs and individual local government authorities. I do not think there is much point in canvassing the detail of all that, because we now have a solution to those challenges.

It is fair to say, from my discussions with Local Government Managers Australia, that it takes a fairly pragmatic view of things. I do not think it was unreasonable about what it wants to secure. I thought that it was quite reasonable in representing its members and trying to get a flexible remuneration arrangement that would not disadvantage some members at the expense of others, and an arrangement that would be in the long-term interests of local governments generally.

I am quite happy with the first few dot points, but I want to make a point about the fourth dot point in the overview of the bill, which refers to the addition of a new head of power to enable regulations to be made to regulate the types of investments that local governments can make. There is no doubt that local governments collect revenue in the form of rates and from a range of other sources and that the investment of that money needs to be handled with considerable care.

This provision has been born, I suspect, out of the global financial crisis. That became apparent in 2008–09, when it came to light that local governments had been making investments that were problematic. Just as households had been making investments and had suffered substantial losses in many cases, the same applied to local governments. The global financial crisis no doubt had a significant impact on the investments of just about everybody across the board, particularly given that many people had their money tied up in superannuation

funds, and superannuation funds took a huge hit during the global financial crises. Those who had investments in the subprime mortgage market probably took an even greater hit. I therefore think that this provision, which is about limiting the exposure of local governments, or better defining where money can be invested by local governments, is not a bad thing. But, having said that, it would have been a miracle if the local government sector had been able to avoid any impact from the global financial crisis. It is almost as though we are setting a different standard for local governments than we are for everybody else.

Although I recognise the need to protect the interests of ratepayers and to ensure that their money is used in an effective way, there needs to be a balance. We need to make sure that it is not so restrictive that local governments cannot take any risks, because at the end of the day we all know that there is an equation between risk and return, and everybody wants to make a good return on their money. We would not want to limit the capacity of local governments to make a good return on their money, particularly when the economic conditions are such that they would be favourable to making a good return on investment.

I want to refer quickly to a report from the Commonwealth of Australia House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, titled "The Global Financial Crisis and Regional Australia". The report states —

> The Committee received evidence indicating that some councils in Western Australia and NSW had exposure to investments which have declined considerably since the onset of the GFC because the investments were linked to the sub-prime mortgage market in the United States. Investments in CDOs, in particular, have been the main cause of the market-to-market book losses of some councils in these states.

I will not go into what CDOs are. I think that the losses incurred by local governments could have been much, much worse. I think that if we take a realistic picture of what happened during the GFC, local governments did not come out of the GFC too badly.

Hon Max Trenorden: In particular when people like Moody's gave full ratings to companies that vanished days later.

Hon LJILJANNA RAVLICH: Exactly right. I think local governments did limit their liability and their exposure. Although I accept that perhaps there needs to be a bit more tightening of the controls, which is going to be done through this legislation, there were many sectors that were hit harder than the local government sector. That is because local governments are, by and large, fairly conservative by nature. The other part of that is there are so many small local government authorities. For example, the 40-odd local governments in the wheatbelt do not have a lot of money to throw around or invest. So, if a council does not have a lot to invest, apart from anything else, it will not lose as much because it does not invest as much. That is an interesting issue and I see that it is covered here.

The other issue of concern is the sixth dot point. I quickly want to touch on that. The sixth dot point reads —

> the inclusion of a new power to enable the Minister to suspend a council for up to six months and/or require members of council to undertake remedial action where a council has become dysfunctional;

I have some issue with that because from looking at the legislation, it is quite clear to me that there do not seem to be enough checks and balances for that provision. We do not want to see an abuse of power or councils being sacked by a minister without good cause. We also want to ensure that sufficient due process is followed to provide some confidence to councils and to their members that proper procedure and process will not be abused. I would like to put some questions to the minister when we debate the relevant clause. The other thing we do not want to see is the politicisation, if you like, of councils and councils being sacked because of their political make-up. We know that councils are getting increasingly politicised.

Hon Robyn McSweeney: Unfortunately.

Hon LJILJANNA RAVLICH: Yes, unfortunately. They always have been, so let us not pretend.

We do not want to see an abuse of this power and councils sacked for political reasons. Questions remain about inquiries being called into underperforming or dysfunctional councils. Who picks up the cost of the inquiry? Historically, we have seen many occasions when ratepayers are billed for the cost of these inquiries. Sometimes they can run into millions of dollars and the poor old ratepayers are stuck to clean up the mess. We do not want to see that. We want to make sure that there are some protections or provisions within the legislation for that.

They are some of the issues that are of interest to our party and certainly to me. I look forward to the committee stage of the bill to explore some of those issues in a bit more detail. It is fair to say that we have worked through the main sticking point of the bill to a satisfactory resolution, and I want to thank Hon Max Trenorden for the work he did on that. Having said that, we will support the second reading.

HON ROBIN CHAPPLE (Mining and Pastoral) [8.40 pm]: We have had briefings from the Western Australian Local Government Association and Local Government Managers Australia. I would like to thank both organisations for having briefed us on the Local Government Amendment Bill 2011. We also received briefings from the minister's advisers. The Local Government Amendment Bill 2011 is interesting. On a very simplistic look, it is about one thing; that is, the State Administrative Tribunal setting CEO pay rises. There are many components to the bill—all of which do different things. It is a bit of an omnibus bill in the sense that there are different positions taken by WALGA and by the LGMA at various points within the bill. It is important to go through the relevant aspects of the bill. I say first off that the Greens (WA) endorse local government as the most important of the three tiers of government in our system of government. It is actually the system of government that is closest to the people and reflective of people's needs. Indeed, it is the grassroots decision maker of the people by the people. Also, members would be well aware that in the federal arena we are trying to assist with the referendum to have local government acknowledged as a formal tier of government within the constitution. As such, that will throw up some interesting dilemmas for state governments in the future. The proposition is that if the referendum goes in the way it is anticipated, there might not be the need for states, at a large level, to fund the administrative procedures of local government. Local government will therefore become far more independent and a genuine tier of government, and will receive funding directly from the commonwealth.

Some of the provisions contained in this bill concern me because, again, the state is trying to impose its will over that important third tier of government. Members might be surprised to hear that some of the areas of the bill we support are not those areas that we are known to support. We also do not support other areas of the bill. Let us run through the various issues. The bill has six main parts—disqualification of councillors; SAT setting CEO pay rates; SAT setting councillors' pay rates through fees and allowances; councils' power to invest; area rates and service charges; and the suspension of councils. We support the introduction of the process that ensures people cannot sit as a councillor and as a state member of Parliament at the same time. That is a very logical provision. It is an unnecessary concentration of power in one person both at a local and a state government level. It could create some massive conflicts of interest.

As far as SAT setting CEO pay rates, we support the provisions for the key reasons of achieving independence in the setting of CEO pay rates to ensure that CEOs, as principal advisers to councils, can do so without fear or favour. I have a grave concern when councils set the pay rates of CEOs. At some level from time to time that pay rate setting is not necessarily done for proper, altruistic reasons. I have some examples, which I will not go into now. We acknowledge that many shires in various electorates are paying above the SAT-recommended band. It is really interesting to look at the bands set by the State Administrative Tribunal, which range from 1 to 9. I looked in particular at the local governments in my electorate. Whilst it is quite interesting to note the argument put forward by Local Government Managers Australia, not many local governments in my electorate actually pay over the band. The Shire of Esperance is set at SAT band 6 and fits within the band; the City of Kalgoorlie-Boulder is set at SAT band 8 and sits within the band; the Shire of Broome is set at SAT band 7 and sits within the guidelines; the Shire of Derby–West Kimberley is set at SAT band 6—that is one that pays over the SAT band; the Shire of Roebourne is set at band 7; the Shire of Windham–East Kimberley is set at SAT band 6; and the Town of Port Hedland is set at SAT band 7 and also sits within the band. Where I have a problem is that I do not necessarily think SAT is quite cognisant of some of the issues in rural and remote Australia when determining the band levels of local governments. Clearly, those that I have mentioned, such as Port Hedland, are big industrial hubs that SAT has given a high band setting. The Shire of Halls Creek for example, is set at SAT band 4, but it has significant issues to deal with far and above the issues that many other councils have to deal with. Therefore, SAT band 4, in my view, might not be appropriate. The Shire of Sandstone is in my electorate. On some days, people in that municipality are lucky to get fuel, so that a SAT band setting of 1 is probably suitable for that council. Interestingly, the Shire of Sandstone pays only marginally over the SAT band.

It is interesting to note that although there has been quite a lot of talk about the overs and unders of the setting of remuneration, out of the 131 councils we looked at, only 35 actually pay over the SAT band. Members would be surprised to find out which councils they are and the sorts of figures over the SAT band they are paying. The Shire of Chapman Valley is set at SAT band 2 and is paying $197 000 over the SAT band. The Shire of Katanning is set at SAT band 3 and is paying between $47 000 and $82 000 over the SAT band. The other local governments, mainly, are not very much over—by about $5 000—although there are, as I say, a couple of exceptions. The other reasonably big one is the Shire of Wiluna, which pays $57 000 over the SAT band and is set at SAT band 2. I think that one of the key problems with the overs is more to do with the setting of the SAT band associated with the work that those councils do, as opposed to the actual amount paid over the band. I find it interesting that the Shire of Wiluna, which has immense logistic problems and is a community that needs a lot of effort put into it, is set at only SAT band 2. I am not sure what the parameters are for setting some of the SAT bands for the managers. I am a former member of the Country Shire Councils Association and the Western Australian Municipal Association, which was the predecessor to WALGA, and also served for seven years as a councillor in Port Hedland. I sometimes wonder whether we went in the right direction in 1995 when managers

were appointed to local government. We do not have managers here in the Council; we do not have managers in the other place. We have Clerks—people who administer to the decision makers of the Council. One of the things that has worried me over time is the role that local government managers have taken upon themselves in directing councils as opposed to the elected members. In a broader sense, I am hoping that at one stage one might revisit the full interpretation of what a manager can or cannot do in facilitating the work of councillors and mayors, because they are the people the community elects; they are the people who make the real decisions. However, more and more we are seeing councils acquiesce to the decision-making role of a local government manager. That does not have much to do with the legislation we are dealing with, but it is an overall concern of mine.

We support the Salaries and Allowances Tribunal recommendation for setting the CEO pay rates. Not many shires in my electorate are paying over the SAT level, and it is very minimal for those that are. The minister has indicated that SAT will take submissions from the CEOs and councillors about the rate for each particular council. Therefore, in light of what I have just said, I hope that when the councils go to the minister about the setting of the SAT level, some of the peculiarities of certain councils regarding their needs and their administrative provisions will be taken on board by SAT. The fees and allowances for local councillors, mayors and presidents set by SAT quite clearly support these provisions. I am reminded of a council that tried to remove the stipend to a mayor purely and simply because it did not like the mayor. It was a stipend that had been established by the previous mayor prior to a local government election. The election took place, and the very people who set the new pay rate for the mayor then tried to remove it. Luckily, Hon John Castrilli in the other place took it upon himself to take some action in that matter, so I am thankful to him on those issues. We support making SAT the decision maker about councillors' remuneration and mayors' remuneration. It is exactly the same level of support that we give to that that we give to the fact that SAT should set the CEOs' pay rates also.

The power of councils to invest is a really interesting issue, because in many cases they already do. As we saw from the Lehman Brothers collapse, the horse has already bolted. I do not know whether this will resolve the issue. I hold some concerns about the level of discretion this clause may provide to the minister to simply manage this area entirely by regulation. We would strongly prefer that the issues be reflected in legislation rather than regulation. I have long been a believer, as was a former Clerk of this place, that we should try to do everything in legislation and not by regulation.

I also want local government to have the capacity to invest in social enterprises and transformative industry, such as investment in a low-carbon economy in which there are many localised opportunities, particularly in regional WA. It may be very appropriate for local councils to be involved in the establishment of local infrastructure. The area of rates and service charges clarifies the powers of councils to collect these fees, with concession rates and rebates. We oppose the provision relating to the suspension of councils because we believe that local government is government of the people by the people and it is a bit rich for the state government to have the power to suspend councils. We do not have a problem with councillors—that is quite clearly their role—but when it comes to the minister having the power to intervene in a council without inquiry, without a commission, maybe just on a whim at some stage in the future, we find that is detrimental to the third tier of government. As we have already stated, there are three tiers of government in Australia and we consider the third tier of government to be one of the most important and reflective of community.

When we go through the notes provided by Local Government Managers Australia and the position of WALGA, it is interesting to note that there is uniform support for some things and not for others. We will be supporting the legislation but in committee we will be opposing the provision relating to the suspension of councils.

HON MAX TRENORDEN (Agricultural) [8.57 pm]: I will present the National Party's view on the Local Government Amendment Bill 2011. I will do something a little different and quote from a letter I received from Mr Stephen Cole, chief executive officer of Local Government Managers Australia WA. I will read this short letter to put some of our concerns into context, because we agree with a few of these issues. The letter states —

> I refer to the recent discussions LGMA representatives have had with you in relation to the above and greatly appreciate your willingness to consider the fundamental objections to the Bill's provisions raised by LGMA (WA). Those concerns, on behalf of members, especially those in the non-metropolitan area relate to Local Government CEOs remuneration and the Salaries and Allowances Tribunal Bands.
>
> You will recall that the main objections to the Bill raised by LGMA were:
>
> - that no proper consultation had taken place on the proposal,
> - that the proposal overrode the traditional employer/employee relationship,
> - that there are issues with one level of Government determining remuneration for an employee of another level of Government,

- that the Local Government sector had not been properly consulted by the Salaries and Allowances Tribunal when it set the Bands and determined the "inclusive" and "exclusive" factors and their relative weightings,
- that "capping" the remuneration of Local Government CEOs, effectively "caps" the remuneration of all other Local Government officers, with significant implications at a time when the State is experiencing a boom and attracting and retaining staff is increasingly difficult, especially for rural and remote Local Governments,
- the 48% of Local Government CEOs in remote parts of the State who currently exceed the relevant SAT Band will be forced to accept a reduction in remuneration when their contract is next under consideration.

The Amendments you propose raising to Clause 43 of the Bill effectively add a "grandfather" provision which will allow those Local Government CEOs whose remuneration exceeds the relevant SAT Band to continue to be paid at that level whilst they remain at that Local Government.

Although LGMA (WA) would rather the Local Government Act was maintained in the current form, the sector does recognise the need for a pragmatic approach given the "political" realities.

As such LGMA (WA) supports the Amendments you propose and appreciates the endeavours you have made to address the sector's concerns and issues.

I would be happy for you to quote from this advice, in full or part, …

When we received a briefing—I thank the minister for supplying that briefing—there was immediate concern in the National Party about the capacity of CEOs. The reality of the world is that the market prevails. If we cannot pay a person who has sufficient capacity to meet our needs, we are in a serious position.

I have some views that have been heard from time to time on the issue of local government, but I will argue that of the 140 or whatever is the number of local bodies in Western Australia, the most viable one is Wiluna because all Wiluna has to do is receive money for roads and spend it and that is the end of the process. How does a shire go broke doing that?

Hon Ljiljanna Ravlich: The cost of bitumen rises?

Hon MAX TRENORDEN: Yes, but it cannot spend any more than the amount of money that comes in. I have some strong concerns about this but we will not go into that area.

I will run through a couple of issues here. I know we will be a bit squeezed for time and I understand the minister may not be here tomorrow but the house might have to deal with that. I have referred to the points made by previous speakers so I do not want to run over them a lot, but there are some issues the National Party wants to bring to the fore, which are listed in the explanatory memorandum. The first dot point is as follows —

- new disqualification provisions for council members so that they cease to hold office when elected to Parliament or when convicted of a major crime;

I have been a member of both the other place and this place for 25 years and I have seen many members come into Parliament who have served in local government. Personally, I think it is a good amendment, and the National Party has no argument about that. The next point reads —

- modifying the current power for the Salaries and Allowances Tribunal to recommend the levels of local government chief executive officer salaries and remuneration to making a binding determination which must be complied with by local governments;

That is where we had our difficulty, and I will come back to that in a moment. The next point reads —

- the inclusion of a new power for the Salaries and Allowances Tribunal to set the levels of fees and allowances paid to council members;

I still have a problem with this. The good people of the Salary and Allowances Tribunal announced the other day that they are now looking at the next round of our salaries, a matter very close to our hearts! But I worry about that good band of people, because it is a tiny band of people. I think there are three in that office—a very small number. I know a commitment has been made to increase the number of people in that office, but I still worry about their capacity to reach out to Wiluna or even Port Hedland and understand the conditions and purposes of those councils. I am not in any way critical of the current SAT operation. I think it has served us, judges and a range of other people very well and has done its job in an independent and resourceful manner. But I still have a concern. The National Party expressed concern during the briefing that we will want to know that SAT has the capacity to really understand what it is like to be a CEO at Wiluna, Cue or wherever it may be. That is yet to be proved but it is a concern to the Nationals. The next point reads in part —

- the addition of a new head of power to enable regulations to be made to regulate the types of investments …

We congratulate the minister for that effort. We were very concerned for a while about the proposed restrictions on investments, but that worked its way through and has come to a good and logical result. It means that, particularly in some rural communities, as well as in some metropolitan communities, there are some favoured institutions that they wish to deal with. They have relationships with institutions other than the big four banks and it is important that they can keep those relationships going. We congratulate the minister for working through that and coming to a good outcome there. The next point reads —

- clarifying the powers of local government to impose service charges for underground power and the ability for rebates to be paid under the *Rates and Charges (Rebates and Deferments) Act 1992*;

We have no argument with that. The next point reads in part —

- the inclusion of a new power to enable the minister to suspend a council for up to six months …

We have no argument with that or the remaining couple of dot points on the list. We know from what we hear in our electorates that the local government CEOs' salaries are an issue for ratepayers. The National Party also knows, because it works with and has a relationship with its local governments, that the capacity of the chief executive officer is an important issue to the community. If a local government's capacity to pay for a quality CEO is reduced, then the capacity of the community is reduced. We were not at all happy with that aspect of the bill, and I thank the minister, and the minister representing the minister in this place, for allowing us the opportunity to negotiate on that. I will talk about that during the Committee of the Whole.

I do not want to say any more. We have sort of had a real problem today in that we are breaking out in agreement, which is not a good thing; it may, nevertheless, reduce the hours we spend in this place! I thank Hon Ljiljanna Ravlich for her kind words. She works closely with us in matters of local government, and we appreciate that. She tells us when she is unhappy and she tells us when she is happy. The same could be said of the minister, and the National Party appreciates the efforts of the minister's staff. We also appreciate the opportunity to move the amendment I will be moving a little later, and I will have one small question when I move that amendment. The National Party presumes that its amendment will get up, and it supports the bill.

HON ROBYN McSWEENEY (South West — Minister for Child Protection) [9.07 pm]: — in reply: I would like to thank Hon Ljiljanna Ravlich for her contribution, and her support of the Local Government Amendment Bill 2011, and also that of Hon Robin Chapple; I did not know whether he was going to support the bill, but I found out at the end and I thank him for his support. I also thank Hon Max Trenorden.

Hon Ljiljanna Ravlich made some disparaging remarks about Michael Sutherland, the member for Mount Lawley.

Hon Ljiljanna Ravlich: It was not disparaging; it was from the media!

Hon ROBYN McSWEENEY: No, I thought it was disparaging, so I am going to say so. Her remarks were about being a councillor and a member of Parliament at the same time. So, although it related to the bill, I still think she needs to be chided for talking about Michael Sutherland in that way.

Hon Ljiljanna Ravlich: Are you saying that he didn't stay on council?

Hon ROBYN McSWEENEY: I am saying that the way the member spoke about him was very disparaging.

Hon Ljiljanna Ravlich: He stayed on council; he should not have. I don't agree with the fact that he did—big deal!

Hon Max Trenorden interjected.

Hon Ljiljanna Ravlich: Give it a rest!

Hon ROBYN McSWEENEY: I am trying to be serious now, and I am, because Michael Sutherland is, of course, the member for Mount Lawley and a very fine parliamentarian.

Hon Kate Doust: Not for long!

Hon ROBYN McSWEENEY: If that is the best Hon Kate Doust can come up with!

Several members interjected.

Hon ROBYN McSWEENEY: The opposition has to put in a has-been and go round twice!

Hon Ljiljanna Ravlich: So you don't like seniors now?

Hon Nick Goiran: I don't even think they've finished their preselection!

Hon ROBYN McSWEENEY: I actually think that Bob Kucera is a nice bloke, but the best the Labor Party can come up with is somebody who has been here before, and I just wonder why.

Several members interjected.

The DEPUTY PRESIDENT (Hon Michael Mischin): Order, members!

Hon ROBYN McSWEENEY: Actually, that was quite a fantastic comeback for Hon Kim Hames! What a fantastic comeback! What a great Deputy Premier he is!

Hon Ken Travers: Why are you picking on seniors?

The DEPUTY PRESIDENT: Order, members! We have had our fun. Minister.

Hon ROBYN McSWEENEY: Excuse me; I never mentioned Bob Kucera as a senior.

Hon Ljiljanna Ravlich: You did!

Hon ROBYN McSWEENEY: That never entered my head.

Hon Ljiljanna Ravlich: You said that he was old.

Hon ROBYN McSWEENEY: I said that he had gone around twice—gone around twice.

The DEPUTY PRESIDENT: Getting back to the debate.

Hon ROBYN McSWEENEY: Hon Ljiljanna Ravlich certainly gave us a good description of the overview of the bill and said that she had high regard for CEOs of local government, as do most of us. Most local government CEOs put the community first, as do local government councillors. Keeping staff in local government certainly is a challenge. When I was on council many years ago, it was a problem getting grader drivers. People might think that grader drivers are just —

Hon Max Trenorden: It is a major skill.

Hon ROBYN McSWEENEY: Yes, it is absolutely a major skill, especially on those gravel roads in the country and how they go along the edge of the road; it is a great skill. That is something that I learnt on council. I just thought anybody could be a grader driver, but no, they cannot. If they get a really good one, they keep them. There are many levels of staffing in local government, and a lot of people go off to the mining industry, and it is a challenge to keep good staff in the community.

The agreement we have reached with Hon Max Trenorden with his amendment at clause 33 has been a good compromise. I think we are in agreement with the Labor Party and the Nationals on that. We talked about regulating investments. Sixty million dollars was lost from local government in bad investments, so that is why we are going to regulate investments. One small council I know lost $8 million, which is a lot of money to lose out of a small rate base. So $60 million overall is quite a loss when we think of some of those smaller councils.

Hon Robin Chapple talked about the proposals and said that in the main he would support the legislation. He was concerned about the SAT bands and said that, even though he supported the bill, he would vote against some clauses. I thank Hon Max Trenorden for his contribution. I know that local government is very close to Hon Max Trenorden's heart, as it is to mine. I think most rural members of this place are very close to their local governments and their CEOs, and know their councillors personally.

I think Hon Ljiljanna Ravlich said something about councils being political. When I was on council for six years most people knew that I was Liberal, but that did not really enter into it when I was in council, because councillors were community people and worked for the community. Whether someone is Labor, Liberal or National, if they sit on council, they still work really hard for the community. I would hate to see it polarised one way or the other.

A couple of members mentioned suspending a council for up to six months. I know that Hon Robin Chapple was not very keen on that clause, but I think a minister should have the right to go in and suspend a council. I have seen councils deadlocked and I have seen very dysfunctional councils.

Hon Robin Chapple: There is a process under which he can still can do that. He doesn't need this.

Hon ROBYN McSWEENEY: Yes. Having been in local government and having been the shadow Minister for Local Government, I believe this clause is very relevant, especially in relation to some of the councils in the past that I have seen. I thank all members for their contributions. As we go through this legislation clause by clause, I know that some members have some concerns that they are going to raise. Hopefully, we can put those to rest in the committee stage.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Michael Mischin) in the chair; Hon Robyn McSweeney (Minister for Child Protection) in charge of the bill.

Clauses 1 to 21 put and passed.

Clause 22: Part 8 Division 2A inserted —

Hon ROBIN CHAPPLE: The Greens (WA) take the position of opposing clause 22. It is the position of Local Government Managers Australia and the Western Australian Local Government Association to oppose this clause. We do so because although LGMA and WALGA supported amendments to the legislation to allow temporary suspension of elected members subject to serious complaints, they made it very clear to the minister that they did not support the ability of the minister, in some cases with little or no recourse, to actually suspend a council. WALGA was very concerned about this, as was LGMA; therefore, we oppose this clause.

Hon LJILJANNA RAVLICH: The Labor Party also opposes this clause. We do not believe that there are enough checks and balances to provide protections, so Labor will join with the Greens in opposing this clause.

Hon ROBYN McSWEENEY: Suspending a council would not be undertaken lightly. I will give examples of when this provision may be used. As I said, it can be used when councils are deadlocked and dysfunctional or when councillors are infighting and it is impacting on their ability to make decisions—for example, when they walk out of meetings or there is no quorum. The Western Australian Local Government Association wanted individuals sacked, not councils. Other examples in which a council could be suspended are if councillors sue each other or if there are levels of complaints. The process would be that the minister would take advice from the department. The minister would then issue a show-cause notice. The local government has a minimum of 21 days to provide a written response; the minister can set a longer period if he or she wants. The minister considers the response and decides on an appropriate course of action. The decision sits fully with the minister and there is no right of appeal. The possible decisions include taking no action; requiring one or more, or all, councillors to undertake remedial action—for example, training or remediation; suspending the council for up to six months; or both suspending and requiring remedial action. If the council is suspended, a commissioner is appointed for the duration. The suspension ends when the minister decides the issues appear to have been resolved—that is, the minister reinstates the council before the end of the six months; the minister decides that there are very serious underpinning issues and institutes a panel of inquiry; or the suspension expires in six months and the council is automatically reinstated.

Hon ROBIN CHAPPLE: Minister, the issue for us is that proposed section 8.15C(1)(b) provides for "such other factors as the minister considers relevant". The Greens support local government as a third and important tier of government elected by the people. If there is a dysfunctional council, which there is from time to time, not only can the minister already intercede, but also it is basically the community that then makes a decision about its elected members at the next election. If we were a dysfunctional house or a dysfunctional government, the electors would make the decision; we would not have somebody else tell us what to do. I respect the values of that third tier of government. As dysfunctional as some local governments may be from time to time, they comprise people who were elected by the community and they, like us, have to learn to work together. Therefore, the ability for the minister to use any "such other factors as the minister considers relevant", in my view, in the view of the Western Australian Local Government Association and in the view of Local Government Managers Australia is not an acceptable position. If the state wants to run local government, this is one of the first ways that it can start to do that.

Hon ROBYN McSWEENEY: No minister would undertake this lightly. No minister would go into a community and undertake to dismantle a council lightly. That has been proven through the ages; ministers do not like going into communities and disbanding councils. I can clearly say that whether it was an opposition party minister or one of our ministers, it would not be done lightly.

Clause put and a division taken with the following result —

Ayes (17)

Hon Liz Behjat	Hon Donna Faragher	Hon Robyn McSweeney	Hon Max Trenorden
Hon Jim Chown	Hon Philip Gardiner	Hon Michael Mischin	Hon Ken Baston *(Teller)*
Hon Peter Collier	Hon Nick Goiran	Hon Norman Moore	
Hon Mia Davies	Hon Alyssa Hayden	Hon Helen Morton	
Hon Wendy Duncan	Hon Col Holt	Hon Simon O'Brien	

Noes (12)

Hon Matt Benson-Lidholm	Hon Kate Doust	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon Helen Bullock	Hon Sue Ellery	Hon Linda Savage	Hon Alison Xamon
Hon Robin Chapple	Hon Lynn MacLaren	Hon Ken Travers	Hon Ed Dermer *(Teller)*

Pairs

Hon Nigel Hallett	Hon Jon Ford
Hon Brian Ellis	Hon Sally Talbot
Hon Phil Edman	Hon Adele Farina

Clause thus passed.

Clauses 23 to 32 put and passed.

Clause 33: Schedule 9.3 Division 2 inserted —

Hon MAX TRENORDEN: I move —

Page 17, lines 16 to 26 — To delete the lines and insert —

43. Saving provisions for CEOs

(1) In this clause —

preserved CEO, in relation to a local government, means a person who is employed, other than in an acting or temporary capacity, as the CEO of the local government on 19 October 2011.

(2) Section 5.39(7) does not apply in respect of —

(a) a CEO for such time as that person is employed under a contract of employment —

(i) that was entered into or renewed before section 13 of the amending Act came into operation; or

(ii) for a position that was advertised before section 13 of the amending Act came into operation;

or

(b) a preserved CEO of a local government if —

(i) the remuneration paid or provided to the CEO on 19 October 2011 under a contract of employment was more than the amount recommended by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* section 7A to be paid or provided to the CEO at that time; and

(ii) the CEO continues to be employed as the CEO of that local government.

(3) Section 5.39(8) does not apply to a local government that is renewing a contract of employment with its preserved CEO in the circumstances set out in subsection (2)(b).

(4) Before a local government renews a contract with its preserved CEO in circumstances set out in subsection (2)(b), the local government must take into account any determination by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* section 7A as to the remuneration to be paid or provided to a CEO of a local government that is of a comparable size and location.

Hon ROBIN CHAPPLE: If I may, I will take a bit of licence here. This is the provision that enables SAT to determine the levels. Earlier this evening, I read out some figures provided to me by Local Government Managers Australia and I have received a note to say that I referred to Chapman Valley $197 000 over the limit. I have been advised by way of a note that the figure is $19 700. The stat sheet given to me by the LGMA was incorrect. I need to put that on the record, if I may.

However, the Greens will not be supporting Hon Max Trenorden's proposed amendment, again because we think the intent of the bill as presented by the government was the way to go. We believe that local government managers' levels should be set by SAT. Hon Max Trenorden's proposed amendment seeks in some way to water down the government's proposal and therefore does not have our support.

Hon MAX TRENORDEN: I just wish to get the minister's response to this question. I have spoken to a few people today about the words "must take into account" in the second line of proposed subclause (4) of the amendment. I just want to clarify with the minister the interpretation of those words. A strict interpretation of the word "must" means that there is a compulsion. I know that we have had debate after debate about the words "may", "must" and so forth, but I just want it to be clear for those people who will operate under this act in the future. Hopefully, my amendment will be carried, so I will not debate it any further. The question over the words "must take into account" is: is it a compulsion?

Hon ROBYN McSWEENEY: I can see what the member means. It could have a double meaning. The proposed subclause provides that the local government must take into account any determination, so it must look at any determination. It is compulsory because it provides that a local government is to ensure that it complies with section 5.39(7) in entering into or renewing a contract of employment with a CEO. This amendment gives flexibility, so it is not compulsory.

Hon Max Trenorden: I accept that, minister; thank you.

Hon ROBYN McSWEENEY: I can see what the member meant very clearly.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 34 to 37 put and passed.

Clause 38: Section 7A replaced —

Hon ROBYN McSWEENEY: I move —

Page 22, line 10 — To delete "remuneration" and insert —

amount of remuneration, or the minimum and maximum amounts of remuneration,

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 39 to 41 put and passed.

Title put and passed.

Bill reported, with amendments.

MENTAL HEALTH BILL 2011 — STERILISATION PROCEDURES

Statement

HON LJILJANNA RAVLICH (East Metropolitan) [9.37 pm]: I raise the matter of the questions that I put to the Minister for Mental Health today in relation to the sterilisation provision in the new draft mental health bill 2011 and the response that I received from the minister. I asked some very simple questions in relation to the matter of sterilisation. In fact, the questions were —

> I refer to part 12 of the draft mental health bill 2011, which sets out the process for the authorisation and sterilisation procedures and non-psychiatric medical treatment of involuntary patients and mentally impaired accused.
>
> (1) Which individuals or organisations specifically recommended including permanent sterilisation of boys, girls, adolescents and adults as a treatment for mental illness?
>
> (2) When did they make the recommendation to the minister?
>
> (3) Will the minister table all submissions that supported permanent sterilisation as a treatment for mental illness; and, if not, why not?

I was just flabbergasted when I had a look at the response from the minister to those questions. I want to go to the minister's concluding remarks, where she states —

> Mr President, I had my very final couple of dot points to make.

Hon Helen Morton: Are you reading from an uncorrected *Hansard*?

Hon LJILJANNA RAVLICH: This is an uncorrected *Hansard*; no big deal. I will put it on the record. The minister then stated —

> To finalise, who put the drafting instructions in place?

This was the question posed by the honourable minister —

> It was Hon Ljiljanna Ravlich …

According to the Minister for Mental Health, I put in place the drafting instructions for the draft mental health bill. She said —

> It was Hon Ljiljanna Ravlich and members of the cabinet of the day.

In fact, it was the parliamentary drafters, with input from the Department of Health. The argument was that I was in cabinet. Well, I was not in cabinet; I was not in cabinet until 21 November 2004. That is the first thing; it cannot be me. Secondly, why did the minister take three and a half years to bring into this place a bill that, according to her, was drafted by me almost a decade ago? I have to say this is just incomprehensible. It is just an outright lie. I am so angry about this assertion.

Hon Robyn McSweeney: You're angry?

Hon LJILJANNA RAVLICH: I am angry about it, as I imagine the minister would be angry, too, because how incompetent can her Minister for Mental Health be!

Hon Norman Moore: So why didn't you say anything when she said it? You couldn't remember! That was your problem!

Hon Alyssa Hayden: Why didn't you bring a point of order when she talked about it?

The PRESIDENT: Order, members!

Hon Simon O'Brien: Come on, girls! Settle down!

Hon LJILJANNA RAVLICH: Oh, from the biggest boy on the block! You have got to be kidding, Leader of the House!

Hon Norman Moore: It wasn't me!

The PRESIDENT: Order! In view of the fact that tomorrow is International Women's Day, I did not hear that interjection.

Hon LJILJANNA RAVLICH: But I would like it recorded on *Hansard* nevertheless, Mr President!

Hon Norman Moore: And it wasn't me who said it, either, so get it right!

Hon LJILJANNA RAVLICH: According to the Minister for Mental Health, the work on the mental health bill started in 2003. I would have thought that, given that it has taken the Minister for Mental Health three and a half years to get something to this place, called the draft mental health bill, she would have started from scratch. I do not know what was drafted in 2003. I have not looked at anything that was drafted in 2003. I would have thought that a new Minister for Mental Health, under a new government, a minister who was responsible for putting together the election commitments for this government, would have, after three and a half years, been able to bring a draft bill to this place that was a bill of her own. Clearly, the minister claims that I drafted a bill—which I have no recollection of ever drafting, and I have no idea what she is talking about, so I do not know how far wrong she can be—and, secondly, she has no idea what is in this bill, because she goes on to say —

> I know that it is my bill, so I am very pleased to be looking after it. Nevertheless, when I saw it in the bill, I thought to myself, "This is not a mental health treatment.

This is a reference to sterilisation —

> No-one is suggesting that it is a mental health treatment, so why is it in the mental health bill?"

The minister is asking herself why sterilisation is in her mental health bill. That says to me that the minister does not even know what is in her bill. The minister goes on to say —

> I questioned it and found out that, once again, the drafting instructions were given by the Labor government while Hon Ljiljanna Ravlich was a member of cabinet.

First of all, no-one gave the minister anything. The minister stole whatever she stole to put into her draft bill. The minister does not even know what she put into the draft bill, because clearly there is evidence here that indicates that she said to herself, "This is not a mental health treatment. No-one is suggesting that it is a mental health treatment, so why is it in the mental health bill?" I cannot believe that the minister does not even know what is in her mental health bill. I will repeat what the minister said —

> I questioned it and found out that, once again, the drafting instructions were given by the Labor government while Hon Ljiljanna Ravlich was a member of cabinet.

Who in the Labor government gave the minister drafting instructions? These are the minister's words to this place.

Hon Helen Morton: No they are not.

Hon LJILJANNA RAVLICH: Who in the Labor government give the minister these drafting instructions, and why did the minister take them? The minister is not a member of the Labor Party. She never was. She is a member of the Liberal Party. The minister has a responsibility to draft a bill that is reflective of her government's policy, and to bring that draft bill to this place as a work of her own.

She goes on —

> The objective was to remove and make absolutely clear that the Chief Psychiatrist would not approve sterilisation for anything—in particular, non-therapeutic sterilisation. Hon Ljiljanna Ravlich had great difficulty understanding that concept yesterday, but non-therapeutic sterilisation means for reasons other than cancer or something like that.

Quite frankly, it is not defined. The draft bill does not define "therapeutic sterilisation" and "non-therapeutic sterilisation"; it just refers to "sterilisation". The minister does not even know what is in her bill. The minister's comments about me basically picking up this issue and it being peddled by some religious group are not an accurate reflection of what is going on here. I watched the news tonight. I watched the head of the Mental Health Law Centre in this state on TV, putting her concerns about this matter of sterilisation. The minister's response that a competent minor, who could be a 12-year-old with mental ill health, is capable of making a decision on sterilisation —

Hon Helen Morton: You are ridiculous!

Hon LJILJANNA RAVLICH: No, I am not ridiculous because that is what the draft legislation states. Quite frankly, as an ordinary citizen I find that very, very concerning. I am sure that many other people would also find that very, very concerning. The truth is that the minister finds that very concerning. She did not even know it was in her legislation and now she is trying to play catch-up. I am running out of time, unfortunately, but I think the minister's performance on this issue today is breathtaking.

SCHOOLS – PARENTING HUBS

Statement

HON LINDA SAVAGE (East Metropolitan) [9.48 pm]: I spoke last night about the Premier's promise that he made on 21 February 2012 that —

> We will shortly provide the details of our previously announced plan to co-locate children and family services on school and other community sites, particularly in low socioeconomic areas.

Tonight I would like to continue my comments on this matter. That promise to co-locate services was first made in December 2010 along with a promise that there would be funding in the 2011–12 budget. As I said last night, no funding was provided in that budget. I also spoke about the early years collaborative planning team. I do not know whether I have the time to mention all the members it was made up of. The team included members of the Department of the Premier and Cabinet, the Department of Education, the Department for Communities, the Department of Health, the Department for Child Protection, the Department of Treasury, the Department of Finance and also representatives from the Western Australian Council of Social Service, Child Australia, Playgroup WA, the Telethon Institute for Child Health Research, Community Link and Network WA, the Smith Family, the YMCA, Ngala, the Chamber of Commerce and Industry of Western Australia, Kwinana family day care and the Western Australian Local Government Association.

The report from that team was provided to the government in August 2011. That is now nearly eight months ago. It has not been tabled. There has been no outcome and no action has been taken. There is no early years strategy. There is no well-developed overarching framework for the early years and no whole-of-government strategy. It is of real concern that such a high-powered committee with the resources of government has not yet been able to produce a report from which we have been able to see any action taken. As I said last night, I am hoping this report will be of real substance, not like some of the lightweight reports that I have seen presented to this Parliament before—some at huge cost to the taxpayer.

In answer to a question I asked on 2 November last year in regard to the Early Years Collaborative Project Team, part of the answer I received stated —

> The Liberal–National government is continuing to focus on progressing more early childhood centres on school sites, particularly in geographic areas where more children require early intervention and support.

I spoke last night about existing examples of two schools and a childcare centre that have, on their own initiative, established services by rearranging budgets to try to put in place crucial support in the early years—appreciating of course that it is often too late to wait until a child enters the school system. Infants, toddlers and parents need support far earlier than that. I mentioned Challis Parenting and Early Learning Centre, and I also mentioned Midvale Early Childhood and Parenting Centre, and Roseworth Primary School. They are in areas where there are particularly vulnerable children. As I said, they have done it themselves. I could not speak more highly of the people who have taken the lead.

The Midvale Early Childhood and Parenting Centre provides child care and kindy. The City of Swan owns the building. Running costs and salaries are paid by the Shire of Mundaring; obviously, they also receive childcare fees. This is not a government-run centre. Raeleen McAllister is the coordinator. I admire Raeleen enormously, and I have got to know her well over the two years because of the Midland Early Years Action Group. Raeleen has been very inspiring in her efforts to bring services to some of the most disadvantaged children in this state. The local child health nurse is contacted to make a visit. They have parent and community engagement workers and Australian Early Development Index funding—both of which are federal programs. Derbarl Yerrigan visits, and I understand that Peter Conran from the Department of the Premier and Cabinet visited quite some time ago. That is not a state-funded centre. I have seen the centres at Midvale and Challis. I have seen—anyone who has gone there would have seen, over at least the past two years that I have been a member of this place—that they need resources and support. There has not been any forthcoming.

Roseworth Primary School is a different situation. It is a state-of-the-art primary school with a range of extended services including health, dental services, and the Smith Family. I understand it was funded by selling one primary school site and using that money to build the school on another site. Private foundations such as the

Fogarty Foundation provide extensive support. In answer to questions I asked in June 2011, I was told there was no funding in the 2011–12 budget for more schools like Roseworth.

Last year I visited South Australia. Compared with WA, South Australia has made enormous strides in the provision of services, particularly for parents and children. I would like to put those on the record. As of July 2011, there were 23 children's centres open in South Australia and 38 in development. Only four centres were federally funded under the Closing the Gap initiative. Five of those services will be built in Western Australia under Closing the Gap—a federal government–funded initiative—as well as four early learning and care centres, which, one by one, are coming on board. Again, they are federally funded. Unfortunately, Western Australia has not been able to build on funds flowing from the federal government to open centres itself.

The Premier made another promise this year. Like his previous promises, I have welcomed the promise that he made. This promise was made and reported in *The Weekend West* on 31 December 2011. When the Premier was asked: "Personally, what is the number one thing you hope to achieve in 2012?" he answered, "To focus on making sure every child in WA benefits from the prosperity of our State." As I said, this is a promise that I welcome, just as I welcomed the promise in 2010. Unfortunately, the previous promise was not delivered. I think that this time there is no excuse for the government and the Premier to not make good on that promise, but the promise has to be delivered soon. As I pointed out when I spoke last night and tonight, it must be done not by piggybacking on the facilities that either already have been established—even those that desperately require funding but have not been funded—or on federal ones. This is the time for the government, if it is really committed to these services, to take the initiative and establish and develop additional services to meet this need.

I am calling on the Premier, who I have observed being very passionate about causes that he supports, to also bring some of that passion and support to advocate and provide services for the youngest Western Australians. I look forward to the co-located children and family centres that he intends to announce, he has said shortly, as a really new initiative for this state. I would like it to be funding for existing services, which I pointed out are several, and obviously I also pointed out those that are federally funded. I am looking for something over and above that—a new initiative, which hopefully is not an election promise in the next budget and is to be delivered in another term of government. I hope that it is something that can be done in this term of government.

The PRESIDENT: I give the call to Hon Alison Xamon. I have noted that Hon Helen Morton and two other members have indicated that they want to make a contribution. If there is no time left in members' statements, then there is the provision that I outlined last night.

TEENAGE ASYLUM SEEKERS — SCHOOL ATTENDANCE

Statement

HON ALISON XAMON (East Metropolitan) [9.56 pm]: I rise tonight to speak further about an issue that I raised yesterday in question time about the current situation of the unaccompanied minors who are being detained at Leonora detention centre not being able to attend Leonora District High School. For those who may not know, the Leonora district centre is called an alternative place of detention, or APOD. The Gillard government has made a lot of noise about taking children out of detention centres, and probably for good reason because, frankly, in Australia the two large parties are fighting for some hideous middle ground over which party can punish asylum seekers the most because it is deemed to be electorally popular. However, a significant number of Australians recognise that the imprisonment of children is probably a bridge too far and therefore we have seen the creation of these so-called APODs. I have been to Leonora and visited the so-called APODs and, to be clear, these places are still detention centres. They may not have quite as much razor wire as hellholes like Curtin detention centre, where I have also been, but by anyone's reckoning these places are still prisons.

Leonora detention centre was established specifically to house families with children. When the centre was set up, the federal and state governments enabled the school-age children in these camps to attend the local school. Rightfully, the decision was made that the federal government would have to foot the bill for the extra teaching services because it is after all the federal government's fault that these children are imprisoned at all. Last year I spoke in this place about my experiences at Leonora and the level of despair of the parents, and the mental health issues that the detainees were experiencing as a direct result of the prolonged detention they were subjected to. I also spoke to parents who were dreading the upcoming Christmas holidays because they knew that, far from getting a holiday, they were facing the prospect of their children receiving precious little or no respite from the detention facilities. I suppose that that dread really served to highlight how important the access to schools was for those children and their parents. Every day the kids were bundled into a Serco bus and driven to the Leonora school where for six hours they got to be normal kids with normal lives. There they were being immersed in the Australian way of life, learning English and, importantly, getting an education. Surely that is important for every child.

In addition, it is important to remember that the vast majority of children who arrive on our shores on boats as asylum seekers are subsequently found to be genuine refugees; that is, it has been proven that these little humans

are legitimately entitled by international law to be here. They are escaping fear and persecution and often from great trauma in their countries of origin. So schooling these children is not just an act of common decency to imprisoned and, I want to point out, utterly innocent children; it is also an important first stepping stone into their lives as new Australians, and the sooner we act on that, the better. In fact, in 2010, Leonora District High School won the district education excellence award for its work with these asylum seeker children.

Leonora is isolated and remote. The detention centre facilities are substandard and depressing. These are people who should not even be in prison, but at least the welcoming attitude of the vast majority of Leonora residents, coupled with the good work of the school, offered some kind of respite to an absolutely disgraceful situation. Since then, the families who were there have been moved on. Some people have been released into the Australian community, because they are, of course, genuine refugees, but, sadly, many more have simply been moved to other alternative places of detention around Australia, and they are still waiting for their applications to be processed.

So fast forward to this year, and in answer to my question in Parliament yesterday, the Premier confirmed that currently 185 unaccompanied children between the ages of 14 and 18 years—so the majority are of school age—are staying at Leonora. I want to reflect on what it means to be unaccompanied. These are children who have arrived on our shores, again escaping some unimaginable situations, and who are without their parents or their families. I think about my 15-year-old daughter and I wonder how she would cope. It is a perilous journey; they have no parents; it is a foreign country; they have little or no English, and then they find themselves in detention.

Last year I had quite a bit of difficulty pinning down exactly how many children were still at Leonora and trying to get information on how many were still attending school. Yesterday was a different matter, and it is good that the Premier has been able to provide this data so readily.

Hon Robyn McSweeney interjected.

Hon ALISON XAMON: But the reason Leonora is back on the public agenda—because for some of us it never went off—is that we now —

Hon Robyn McSweeney interjected.

The PRESIDENT: Order! Without interjections, I am sure the member does not have to raise her voice, and —

Hon Robyn McSweeney interjected.

The PRESIDENT: Order! Do not interject.

Hon ALISON XAMON: Thank you, Mr President.

We now have the news that the children who are currently being detained at Leonora are not being given the opportunity to go to school. Now, I accept that the responsibility to fund these children going to school is a federal responsibility, but I am asking the state government to step up, to take the high moral ground and to make urgent arrangements for these children to be able to attend school. Then this government can shame the federal government into meeting its responsibilities, because in the meantime I am concerned that these children are simply being treated as political footballs, and I believe, if that is the case, it is to our great shame. These children should not even be in detention; they should be living in the community and attending whatever their local school would be. But the state government agreed to allow these detention centres here, so I firmly believe with that agreement comes the obligation to make sure that these children are being given every possible opportunity for normality. The Premier has been up-front in his opposition to children being kept in detention, and he cannot have it both ways. As far as I am concerned, he should be hammering the immigration department and the federal government for keeping these kids' lives in limbo.

I spoke in this place last year about the distressing research that has been conducted on the mental health of children who have been subject to long-term detention. The research demonstrates that these children, who were already traumatised by the experiences that forced them to seek asylum in the first place, post-detention, were experiencing dramatically increased levels of serious mental illnesses, self-harm and suicide attempts, because children are so much more vulnerable to these experiences, and that includes teenage children. The simple act of going to school and having a few hours of normality and hope offers a critical respite and circuit-breaker to the desolation and long-term psychological damage of detention.

I say to the Premier that he agreed to this detention centre. He knows that children should not be there, but he can make sure that these children urgently receive the opportunity to go to school. So would he please make this happen and stand up to the feds. He should not let these children become the collateral damage in the ongoing battle between this state and the federal government. This is not the issue to make his point. These children need our help now.

WATER QUALITY — TOTAL DISSOLVED SOLIDS LEVELS

Statement

HON MATT BENSON-LIDHOLM (Agricultural) [10.04 pm]: I want to make a few remarks tonight about some questions that I asked in question time today of the Minister for Water. Those questions were answered by the Minister for Mental Health; however, it is the Minister for Water that I have a bit of an issue with. I asked questions specifically relating to total dissolved solids levels in drinking water according to Australian Drinking Water Guidelines. I will quickly repeat the questions I posed. I asked: What are the minimum TDS requirements for Australian drinking water; can the minister name the 10 sites meeting those levels in the 52 midwest sites tested; and what action is the government taking to address the unsatisfactory TDS levels in the remaining 42 testing locations? I draw members' attention to the fact that earlier I quoted standing order 105, which states that an answer shall be concise and relevant. I know this happens in legislatures throughout the Westminster system but the responses I received today were —

(1) This information is publicly available on the web. Please refer to the Australian Drinking Water Guidelines.

(2) This information is publicly available on the web. Please refer to the Water Corporation's "Drinking Water Quality Annual Report".

Hon Helen Morton interjected.

Hon MATT BENSON-LIDHOLM: I will not respond to the minister but I will say that government by Wikipedia or Google is totally inappropriate. If ministerial staff are employed to gather information and put it in the public domain, to then turn around to a backbencher in the opposition and say, "You go find out the answer" is totally irresponsible and I do not believe it is in the right spirit of this legislature.

Hon Ed Dermer: Is it bordering on contempt?

Hon MATT BENSON-LIDHOLM: I do not know whether I would go quite that far. We genuinely need to adhere to a spirit of cooperation, fairness, accuracy or transparency—we can call it whatever we like. I would not have asked the question if I had a countless amount of time to go away —

Hon Helen Morton: You have the time.

Hon MATT BENSON-LIDHOLM: I ask the minister to wait a second. There are people out there who listen to Parliament and who carry out research, whether they are in libraries or elsewhere. They do not necessarily have recourse to this information or to the websites or they might not have the time. This is the reason we have a fairly civilised question time in the Legislative Council. If it happened in the other place, I would say "so what". I can understand the sort of things that happen over there, though I do not agree with them. I think that ministers and parliamentary secretaries in this chamber need to observe the standing orders protocols. I suppose the answers were concise; as they said, I should look at the website. That is fairly concise. However, the answers were totally irrelevant and totally inappropriate. I call upon the Leader of the House to perhaps take up this issue with the government. If the answers cannot be provided, that is fine; we all accept that, and that is a frequent occurrence. When we were on the government side, that happened and it certainly happens now. But to say that the information is publicly available on the web and we should find the answer ourselves, particularly when there are people in the broader public who want responses to questions and who are seeking information themselves, is not in the right spirit of the Legislative Council of Western Australia.

Hon Ed Dermer: Also, what's on the web today might be different tomorrow, I suppose.

Hon MATT BENSON-LIDHOLM: That may well be so.

The PRESIDENT: I will give the call to Hon Helen Morton. If you take the call as it is, you have seven minutes and 52 seconds. If you make a request to speak under that new provision that I mentioned last night, you will have 10 minutes.

MENTAL HEALTH BILL 2011 — STERILISATION PROCEDURES

Statement

HON HELEN MORTON (East Metropolitan — Minister for Mental Health) [10.10 pm]: I will probably need 10 minutes because as much as I have tried to make this information as simple as I can and able to be understood by Hon Ljiljanna Ravlich, she is confused.

The PRESIDENT: I will take that as a request for 10 minutes. Because of the issues raised, I will grant that 10 minutes.

Hon HELEN MORTON: Thank you, Mr President.

I will actually enjoy the privilege of going over this again because I want to make it absolutely clear. The questions asked by Hon Ljiljanna Ravlich, and some of the comments she made in her statement yesterday, once again were really quite ridiculous, so I will go over them. The review of the existing Mental Health Act commenced in 2003 with the review by Professor Holman, who provided a report to the government of the day. After extensive consultation during that phase, that report was provided to the Labor Party, which was then the government. The Labor government's response was that it would support all but one of the recommendations in Professor Holman's report, including the recommendation that the provisions around sterilisation would go into its draft bill.

A very public process led to the commencement of the drafting and the minister of the day—assuming the Labor government intended to do the same as we are doing—would have taken the information to cabinet, with all the drafting instructions sitting behind it, and got approval from the cabinet of the day.

Hon Ljiljanna Ravlich: You don't know that.

Hon HELEN MORTON: Nor does Hon Ljiljanna Ravlich, obviously, because she would not have read it.

Hon Ljiljanna Ravlich: I wasn't there. But you said half an hour ago I was.

Hon HELEN MORTON: Hon Ljiljanna Ravlich does not even know in which year it happened.

The PRESIDENT: Order! Order! Order! Settle down.

Hon HELEN MORTON: The honourable member is making an assumption that she knows in which year this occurred. But she does not.

Hon Kate Doust: You said the year.

Hon HELEN MORTON: I said that the report came down in 2003 and that the drafting instructions were put in place progressively after that. Somewhere in that time frame the Labor government of the day determined that this particular issue needed to be included.

The new government took over in 2008, thank goodness, but the drafting was not complete. The Labor government had had four or so years to do that but could not get it completed in that time. The drafting was recommenced in 2009 with an expert group and consultation with some specialists both nationally and internationally and interested stakeholders here in Western Australia. By the time I became the minister at the end of 2010 and the beginning of 2011, the work was almost complete. It needed some further adjustments because a number of new events had occurred such as the establishment of the Mental Health Commission and changes around the Chief Psychiatrist, the Mental Health Tribunal and the Mental Health Advocate. Some of those things needed to be tweaked and brought into where mental health was heading at the time. Nevertheless, it was fairly much agreed by the expert group and by those of us who were involved in this matter that the amount of drafting that had taken place, with some minor amendments, would stay as it was. We wanted to develop the charter of rights of course because that is something Liberal governments like to do for people.

Hon Ljiljanna Ravlich: You didn't enshrine it in the legislation though.

Hon HELEN MORTON: We released the final draft in December 2011 and it was open for public consultation for three months given the enormous amount of consultation that had already occurred over eight years. Discussion forums were held all over the state. I attended one in Esperance. I was in Albany but did not get to the one there when it was held. I certainly heard about it. I have been to forums at Midland and Joondalup, and a group of clinicians met with me over the time to indicate the things they thought were good, bad or indifferent. The date for submissions closes this Friday. As I have indicated to the house, it does not matter whether it closes this Friday; if people have a couple of outstanding issues to submit, the Mental Health Commission will accept them. As long as submitters are quite happy for their work to go onto the internet, every one of the submissions will go onto the internet. The Mental Health Commission has to consider the submissions and recommend any change to the draft. Then it will go to cabinet again and, assuming cabinet supports it, it will go to print and be tabled, hopefully, around mid-2012. There will be further opportunities for changes to be made, obviously, as the bill progresses through both houses of Parliament if a majority of people want them to happen.

The bit that Hon Ljiljanna Ravlich has been on about is the bit about sterilisation. I have made it absolutely clear that it is not in there because it is a mental health treatment, and I have made it very clear that I questioned why it was there when I first became aware of it.

Hon Ljiljanna Ravlich: But you should have known about it.

Hon HELEN MORTON: I cannot until I read it, can I? So the first time I read it, I thought: "Oh, what's this in here for?" I am not so intuitive as to know what is on a piece of paper until I read it.

Hon Liz Behjat: She's good, but not that good!

Hon HELEN MORTON: Yes!

As I have indicated to Hon Ljiljanna Ravlich, the drafting instructions were provided by the government that she was a cabinet member of.

Hon Ljiljanna Ravlich: No, I wasn't in cabinet!

Hon HELEN MORTON: The member does not know what year that happened; it could well have happened in the time she was a member of cabinet —

Hon Ljiljanna Ravlich: You don't know either!

Hon HELEN MORTON: — so the member should not say she did not do it!

Hon Ljiljanna Ravlich: You don't know either!

The PRESIDENT: Order!

Hon HELEN MORTON: Hon Ljiljanna Ravlich needs to keep her voice down.

Hon Ljiljanna Ravlich: I take objection to this nonsense line of argument!

Hon HELEN MORTON: The Labor government of the day first introduced that particular issue into the drafting.

Hon Ljiljanna Ravlich: So you weren't capable of doing a bill on your own?

Hon HELEN MORTON: And when I questioned why it was in there —

Hon Ljiljanna Ravlich: You would be kidding me!

Hon HELEN MORTON: If Hon Ljiljanna Ravlich could really try to listen to this little bit —

Hon Ljiljanna Ravlich: They should just get rid of you because you are just total rubbish!

Hon HELEN MORTON: — it would help her immensely if she could understand this.

Withdrawal of Remark

Hon LIZ BEHJAT: The member sitting to my right, Hon Ljiljanna Ravlich, just used some fairly unparliamentary language towards the minister, saying, "You are just total rubbish." I ask that she withdraw that comment.

Hon Ljiljanna Ravlich: Oh, big deal! I withdraw! Sorry, Mr President.

The PRESIDENT: That is resolved.

Hon Ljiljanna Ravlich: Well, really—this is just breathtaking.

The PRESIDENT: Hon Helen Morton.

Debate Resumed

Hon HELEN MORTON: I know that Hon Ljiljanna Ravlich cannot stand it when the issue she does not want to acknowledge is thrown straight back in her face—she cannot stand it!

The issue about sterilisation is that it was not a mental health treatment, and it was never intended to be. I questioned, when I first read the draft bill, why it was in there, and I have made it clear why it was in there. The reason I am prepared to leave it in there for the time being is that the Holman report recommended it and the clinicians recommended it. It was recommended that it be in there to remove the doubt and make absolutely clear that the Chief Psychiatrist would not approve sterilisation as a mental health treatment or even consider it as a mental health treatment. Under the current Mental Health Act, it is possible that an involuntarily detained patient could be sterilised as a medical treatment with the written approval of the Chief Psychiatrist. That was what they wanted removed. That is why it is in the bill! If the member can see the light about that, she will understand it.

The draft bill currently provides that a person must not perform sterilisation on a child who has sufficient maturity and understanding to make reasonable decisions about matters relating to him or herself, unless the child has given informed consent to the sterilisation being performed. That is another issue that the member does not understand. What is this issue about children being able to give consent? It is absolutely the position at common law that persons or people or children under the age of 18 years may receive medical treatment without their parents' consent if the clinicians consider them to be sufficiently mature and to have the capacity—remember that word "capacity"—to understand the implications. It is very unlikely that a 12-year-old child with a mental illness would have the capacity or would be capable, but consideration is given to that. It is common law; it can happen right now. It can happen in any field of health or medicine right now, and why do we want to treat somebody with a mental illness any differently?

As I said, this reflects the position at common law. It is highly unlikely that a 12-year-old would be considered a competent minor, but the word "competent" is very important in this; however, as children get older and obtain

sufficient maturity to make informed choices about any medical treatment, then a medical practitioner may consider informed consent. They do that right now. There are young people under the age of 18 who go and give consent for all sorts of things, including abortion, for example.

Hon Kate Doust: Unfortunately.

Hon HELEN MORTON: Unfortunately, I know, but that is how it is. That is common law, and that is the practice as it is at the moment. The whole area of the member's concern around this is that we have put extra safeguards in here to ensure that these children are better protected.

Hon Ljiljanna Ravlich: It doesn't sound like it to me.

Hon HELEN MORTON: I know, because Hon Ljiljanna Ravlich cannot read it the way it is meant to be read.

House adjourned at 10.21 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

DEPARTMENT OF EDUCATION — EMPLOYEE SUPERANNUATION

4980. Hon Linda Savage to the Minister for Energy representing the Minister for Education

(1) How many of the Department of Education's employees are aged 70, or older?

(2) How many of the Department of Education's employees who are aged 70 and older receive the superannuation guarantee levy that they would otherwise compulsorily receive if they were aged less than 70 years?

Hon PETER COLLIER replied:

I am advised by the Department of Education as follows:

(1) Fixed-term/Permanent — 239; Casual — 241

(2) Fixed-term/Permanent — 186; Casual — 241

Please note that:

(i) The number of fixed-term/permanent employees are those employed as at 14 November 2011;

(ii) Because of their "on again off again" employment arrangements, the total number of casuals employed between 1 January 2011 and 14 November 2011 has been included in (1)–(2); and

(iii) The fixed-term/permanent employees who did not receive the superannuation guarantee levy (2) are GESB Gold State members.

EDUCATION ASSISTANTS

4981. Hon Ljiljanna Ravlich to the Minister for Energy representing the Minister for Education

(1) How many education assistants are employed in Western Australian schools?

(2) What are the employment categories under which education assistant are employed?

(3) For each of the categories in (1), how many education assistants have education support worker qualifications at —

(a) Certificate I level;

(b) Certificate II level;

(c) Certificate III level;

(d) Certificate IV level; and

(e) higher than Certificate IV level?

Hon PETER COLLIER replied:

(1) As at 10 November 2011, there were 9 012 (headcount) education assistants employed by the Department of Education, including staff on paid and unpaid leave.

(2) The education assistants as at 10 November 2011 are employed as either under probation, fixed term or permanent.

(3) This data is currently not captured in the Department's Human Resource Information System. .

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